Initial Study/
Mitigated Negative Declaration

Canyon Creek Plaza Retail/
Commercial Building

File No. PDC15-022

CITY OF
SAN JOSE
CAPITAL OF SILICON VALLEY

December 2015

DRAFT
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: Canyon Greek Plaza Retail/Commercial Building

PROJECT FILE NUMBER: PDC15-022

PROJECT DESCRIPTION: Planned Development rezoning of the existing Canyon Creek Plaza shopping center from A(PD) Planned Development to CG(PD) Planned Development to allow for the construction of an 8,413 square foot retail/commercial building in addition to the existing retail commercial uses within the existing shopping center. The Canyon Creek Plaza shopping center covers 8.33 acres and is currently development with 62,724 square feet of commercial/retail uses.

PROJECT LOCATION & ASSESSORS PARCEL NO.: 5601-5667 Silver Creek Valley Road, APNs 679-29-006 and 679-29-007

COUNCIL DISTRICT: District 8

APPLICANT CONTACT INFORMATION:

Canyon Creek Plaza, LP
3750-B Charter Park Drive
San Jose, California 95136
Ken Conners
408.448.8270
crwdev@sbcglobal.net

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

I. **AESTHETICS** – The project will not have a significant impact on this resource, therefore no mitigation is required.

II. **AGRICULTURE RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

III. **AIR QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.

IV. **BIOLOGICAL RESOURCES** – The project could have a significant impact on nesting birds. This impact would be reduced to a less than significant level with implementation of Mitigation Measure BIO 1-1, BIO 1-2, and BIO 1-3:

BIO 1-1 Construction and tree removal/pruning activities shall be scheduled to avoid the nesting season to the extent feasible. If feasible, tree removal and/or pruning shall be completed before the start of nesting season to help preclude nesting. The nesting season for most birds and raptors in the San Francisco Bay area extends from February 1 through August 31.

BIO 1-2 If it is not possible to schedule construction activities between 1 September and 31 January then a qualified ornithologist shall conduct a preconstruction survey within onsite trees as well as all trees within 250 feet of the site to identify active bird nests that may be disturbed during project construction. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities (including tree removal and pruning). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests.

If the survey does not identify any nesting birds that would be affected by construction activities, no further mitigation is required.

BIO 1-3 If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist (in consultation with the California Department of Fish and Wildlife) shall designate a construction-free buffer zone (typically 300 feet for raptors and 100 feet for non-raptors) to be established around the nest to ensure that no nests of species protected by the MBTA and California Fish and Game Code will be disturbed during construction activities. The buffer shall remain in place until the ornithologist has determined that the nest is no longer active.

V. **CULTURAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

VI. **GEOLOGY AND SOILS** – The project will not have a significant impact on this resource, therefore no mitigation is required.

VII. **HAZARDS AND HAZARDOUS MATERIALS** – The project will not have a significant impact on this resource, therefore no mitigation is required.

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

IX. LAND USE AND PLANNING – The project will not have a significant impact on this resource, therefore no mitigation is required.

X. MINERAL RESOURCES – The project will not have a significant impact on this resource, therefore no mitigation is required.

XI. NOISE – The project will not have a significant impact on this resource, therefore no mitigation is required.

XII. POPULATION AND HOUSING – The project will not have a significant impact on this resource, therefore no mitigation is required.

XIII. PUBLIC SERVICES – The project will not have a significant impact on this resource, therefore no mitigation is required.

XIV. RECREATION – The project will not have a significant impact on this resource, therefore no mitigation is required.

XV. TRANSPORTATION / TRAFFIC – The project will not have a significant impact on this resource, therefore no mitigation is required.

XVI. UTILITIES AND SERVICE SYSTEMS – The project will not have a significant impact on this resource, therefore no mitigation is required.

XVII. MANDATORY FINDINGS OF SIGNIFICANCE – The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no additional mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **January 8, 2015** any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or

2. Submit written comments regarding the information, analysis, and mitigation measures 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.

Harry Freitas, Director
Planning, Building and Code Enforcement

Circulated on: 12-16-2015

Meenaxi R. P.
Deputy

Adopted on: _____

_____
Deputy

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APPENDICES

SECTION 1.0 INTRODUCTION AND PURPOSE

This Initial Study of environmental impacts was prepared to conform to the requirements of the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations §15000 *et.seq.*), and the regulations and policies of the City of San José (referred to as "the City" hereafter), California. The purpose of this Initial Study is to provide objective information regarding the environmental consequences of the proposed project to the decision makers who will be reviewing and considering the project.

The City of San José is the Lead Agency under CEQA and has prepared this Initial Study to evaluate the environmental impacts that might reasonably be anticipated to result from the construction and operation of an 8,413-sqaure-foot retail/commercial building in the southeast corner of an existing shopping center (Canyon Creek Plaza) parking lot. The shopping center is located at 5601-5667 Silver Creek Valley Road in the City of San José.

All documents referenced in this Initial Study are available for public review in the Office of Planning, Building, and Code Enforcement at San José City Hall, 200 East Santa Clara Street, during normal business hours.

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE AND FILE NUMBER

Canyon Creek Plaza Retail/Commercial Building; Planned Development Rezoning application file number PDC15-022.

2.2 PROJECT LOCATION

The project is located in the southeast corner of the existing Canyon Creek Plaza shopping center parking lot. The shopping center is located at 5601-5667 Silver Creek Valley Road in the City of San José. Regional, vicinity, and aerial maps are shown on Figures 2.2-1 through 2.2-3.

2.3 ADDRESS AND ASSESSOR'S PARCEL NUMBERS

5601-5667 Silver Creek Valley Road, San José, CA 95138
Assessor Parcel Numbers: 679-29-006, 679-29-007

2.4 GENERAL PLAN DESIGNATION, DEVELOPMENT POLICY, ZONING DESIGNATION, AND PRIOR DEVELOPMENT PERMIT

General Plan Designation: *Neighborhood/Community Commercial*

Development Policy Area: *Evergreen-East Hills Development Policy (EEHDP)*

Existing Zoning Designation: *Planned Development A(PD) file number PDC03-001*

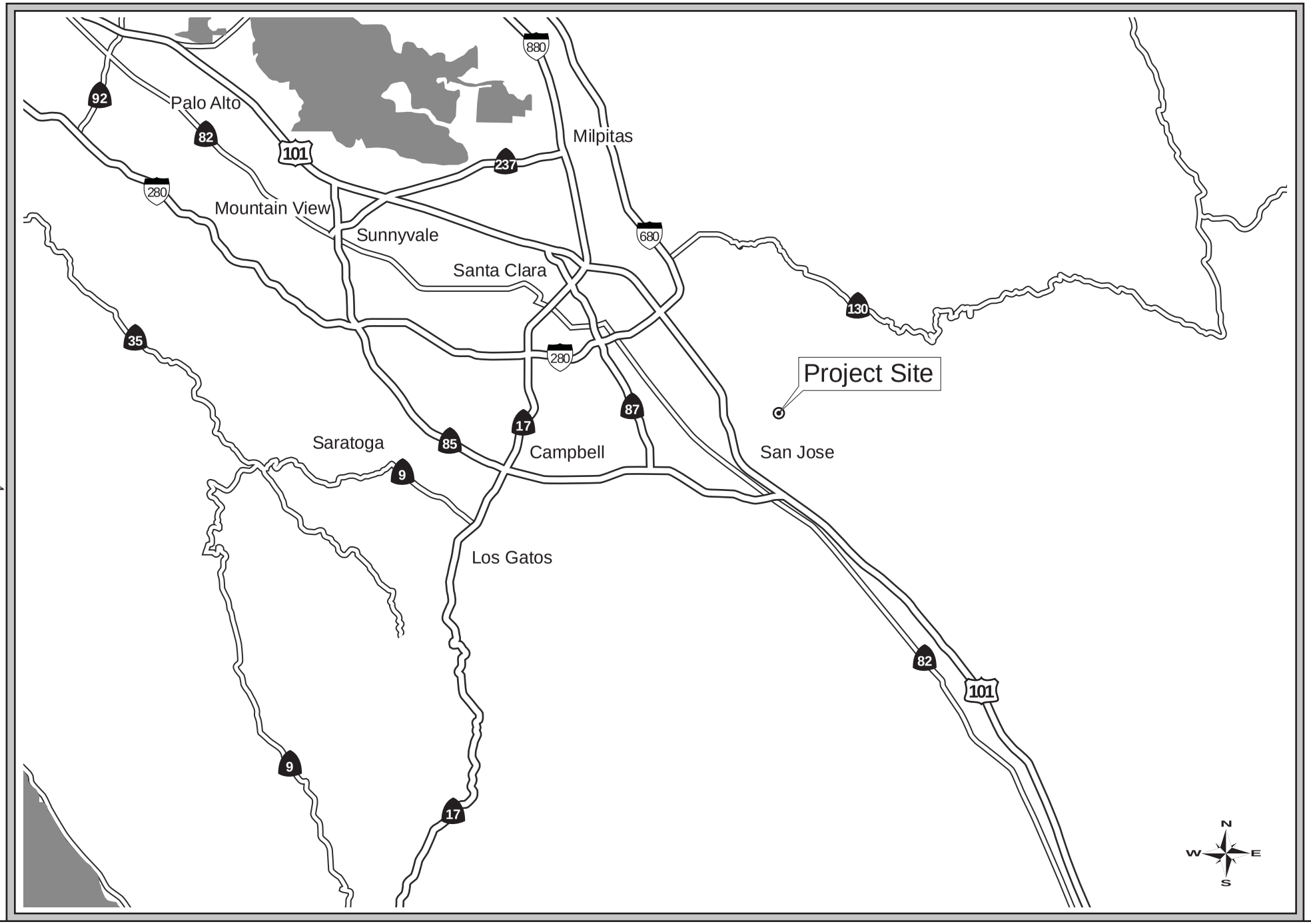
Existing Development Permit: *Planned Development Permit; file number PD03-002*

2.5 HABITAT PLAN DESIGNATIONS

Land Cover Designation:	*Urban-Suburban and Willow Riparian Forest and Scrub*
Development Zone:	*Private Development Covered*
Fee Zone:	*Urban Areas (No Land Cover Fees), Fee Zone A (Ranchlands and Natural Lands), and Willow Riparian Forest and Scrub Wetland Fee Zone*
Wildlife Survey Area:	*Tricolored Blackbird*
Known Occurrences of Covered Plants:	*Mount Hamilton Thistle and Santa Clara Valley Dudleya*
Category 1 Streams and Setback:	*Yes*

2.6 PROJECT-RELATED APPROVALS

Planned Development Rezoning Application
Planned Development Permit
Grading Permit
Building Permit



REGIONAL MAP

FIGURE 2.2-1

VICINITY MAP

FIGURE 2.2-2

AERIAL PHOTOGRAPH AND SURROUNDING LAND USES

FIGURE 2.2-3

SECTION 3.0 PROJECT DESCRIPTION

3.1 PROJECT DESCRIPTION

The project proposes to rezone the Canyon Creek Plaza shopping center from A(PD) *Planned Development* to CG(PD) *Planned Development* to allow for the construction of an 8,413-square-foot retail/commercial building in addition to the existing retail/commercial uses within the existing shopping center. The Canyon Creek Plaza shopping center covers 8.33 acres and is currently developed with 62,724 feet of retail/commercial uses. The proposed retail/commercial building would provide professional office space (e.g., realtors, accountants, insurance brokers, etc.) and retail space for services such as a yoga studio, salon, or chiropractor. If the subject rezoning application is approved, the applicant would implement a *Planned Development (PD) Permit* to construct and operate the 8,413-sqaure-foot retail/commercial building on the southeast corner of the existing shopping center parking lot.

The total area of development would encompass approximately 0.53 acres that is currently developed as a landscaped, paved parking area for the existing shopping center. The project would eliminate a portion of the parking area (43 parking spaces) to construct the proposed retail/commercial building and ancillary features (e.g., landscaping and hardscape). The project would connect to existing utilities in the area and consists of the elements listed below. The conceptual site plan, land use plan, conceptual building elevations, and conceptual grading plans are shown on Figures 3.1-1 through 3.1-5.

- One new 8,413-square-foot retail commercial building with a maximum height of 28 feet that would include the following:
  - Seven offices, each approximately 300 square-feet in size.
  - Five retail spaces ranging in size from approximately 550 to 1,100 square-feet.
  - Ancillary uses (e.g., lobby, restrooms, utility room, trash enclosure, etc.)

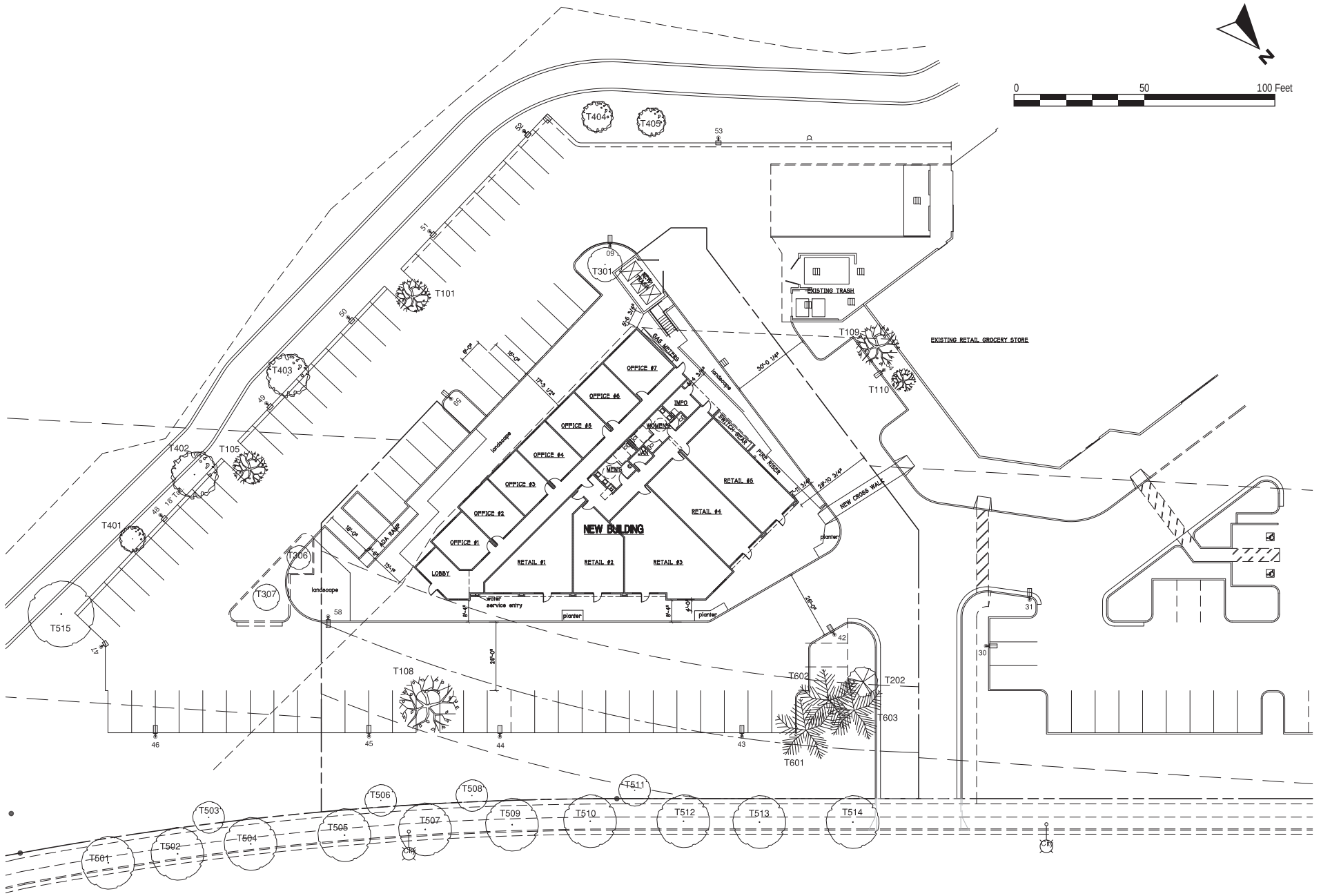
3.1.1 General Plan and Zoning Designations

The shopping center's existing General Plan designation and zoning are *Neighborhood/Community Commercial* and *A(PD) Planned Development,* file number PDC03-001, respectively.

The subject site is within the Evergreen Planning Area and is subject to the Evergreen-East Hills Development Policy (EEHDP). The project is consistent with the General Plan designation and the EEHDP (refer to *Section 4.10 Land Use*), but the shopping center's *Planned Development* zoning must be modified to allow for the proposed retail/commercial building in addition to the existing shopping center.

3.1.2 Site Access and Parking

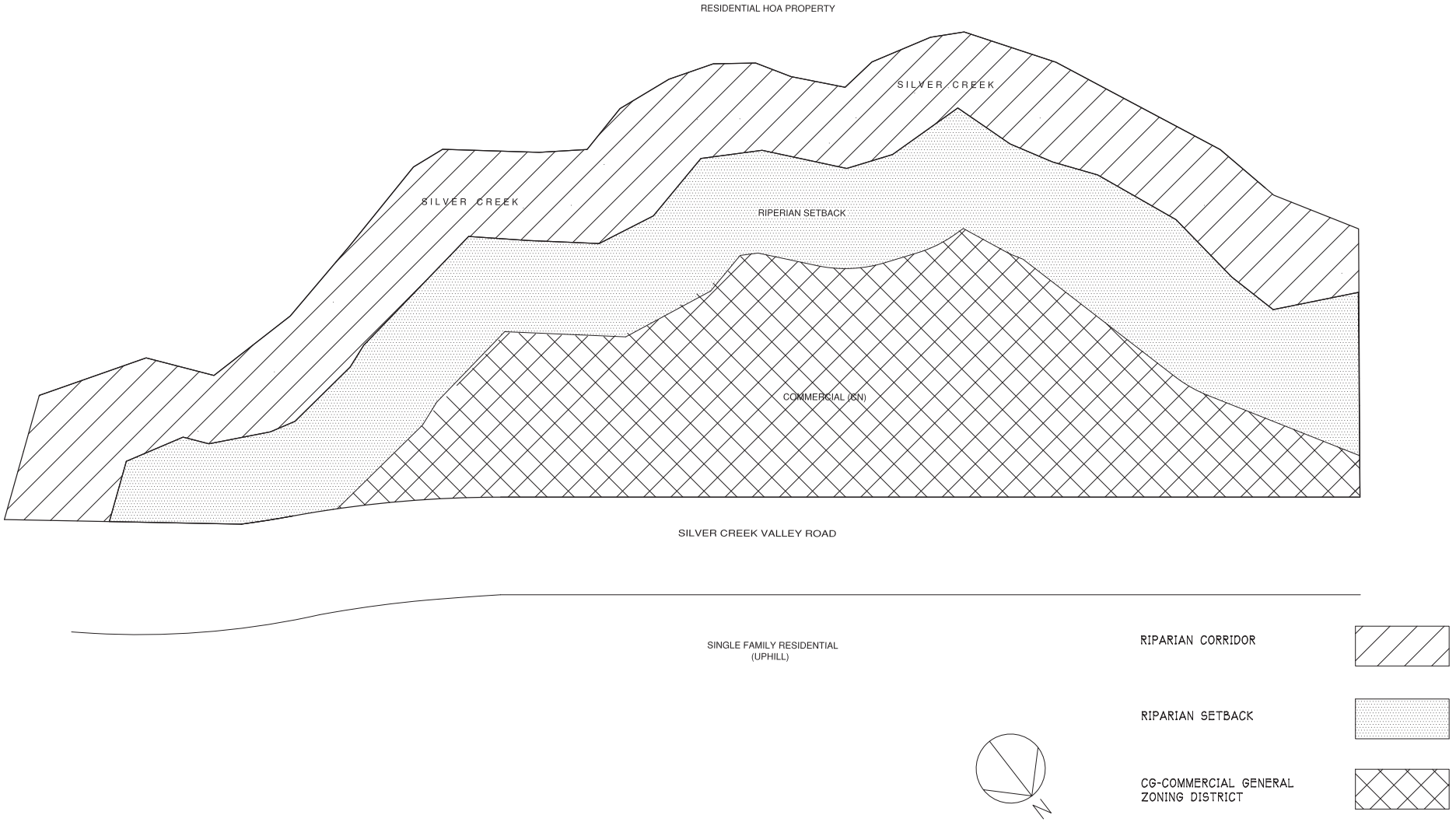
The three existing driveways onto Silver Creek Valley Road that provide vehicular access to the existing shopping center would also serve the proposed retail/commercial building. No new driveways onto Silver Creek Valley Road are proposed by the project.



Source: LPMD Architects, June 3, 2015.

CONCEPTUAL SITE PLAN

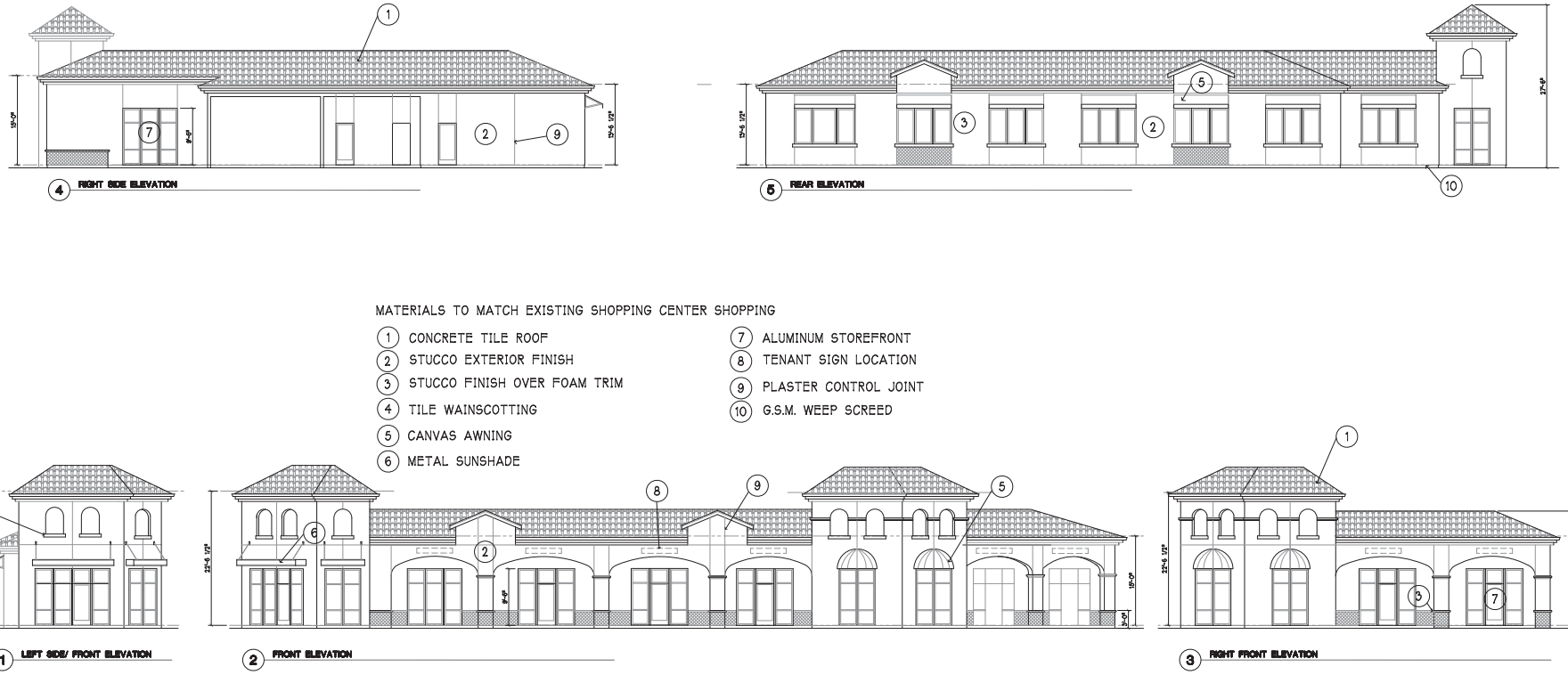
FIGURE 3.1-1



Source: LPMD Architects, June 3, 2015.

LAND USE PLAN

FIGURE 3.1-2



Source: LPMD Architects, June 3, 2015.

CONCEPTUAL BUILDING ELEVATIONS

FIGURE 3.1-3

LEGEND

EXISTING	PROPOSED	DESCRIPTION
		PROPERTY LINE
		CENTERLINE
		WATERSHED AREA
100		CONTOUR
		CONCRETE CURB & GUTTER
		DEPRESSED CURB
		RETAINING WALL
		VERTICAL CURB
□		V-12 CHRISTY DRAIN
△		STANDARD HOODED INLET
		POSITIVE RELEASE
		FLOW ARROW
	FF 161.00	FINISHED FLOOR ELEVATION
	PAD 160.00	PAD ELEVATION
	TC 160.00	TOP OF CURB ELEVATION
	FL 160.00	FLOW LINE ELEVATION
X160.00	X160.00	GRADE
	S=.004>	SLOPE
	BF	BOTTOM OF FOOTING
	BW	BOTTOM OF WALL
	EX	EXISTING
	GB	GRADE BREAK
	HP	HIGH POINT
	INV	INVERT
	LP	LOW POINT
	TW	TOP OF WALL
	A 4.1	SECTION NAME

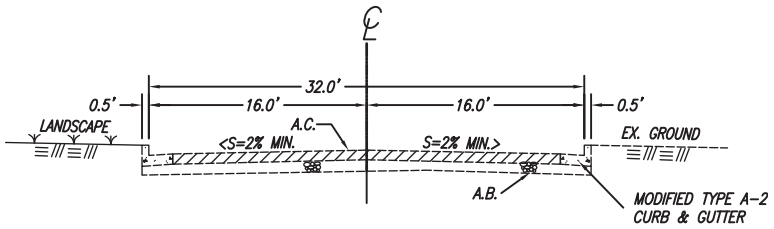
GRAPHIC SCALE
1" = 20'
0 10 20 30 40 50 100

EXISTING PAVED TRAIL
LIMIT OF WORK
EXISTING GROCERY STORE
23'-4" PVC PERF PIPE @ 0.5%
INV 340.85
INV 340.74
20'-8" PVC PIPE @ 0.5%
97'-12" PVC @ 0.50%
RIM 342.80
INV 336.99-OUT
INV 339.80-IN (NE)
INV 340.64-IN (W)
94.3' OF 3 MAX RET
FF 347.64
RAMP DOWN TO FF 346.29
RAMP DOWN TO FF 346.64
RIM 347.20
INV 344.51
51'-4" PVC PIPE @ 0.5%
41'-4" PVC PIPE @ 0.5%
67'-6" PVC SDR35 @ 0.50%
RIM 345.60
INV 338.68

Source: Charles W. Davidson Co., Aug 19, 2015.

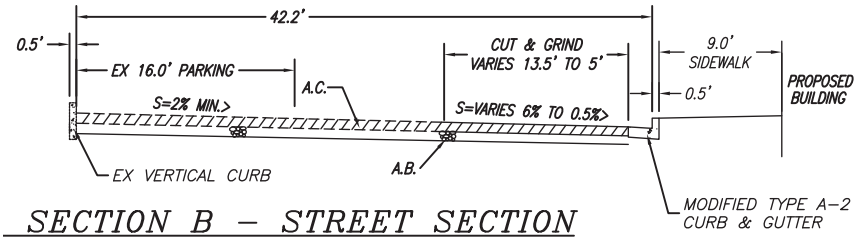
CONCEPTUAL GRADING PLAN – SHEET 1

FIGURE 3.1-4



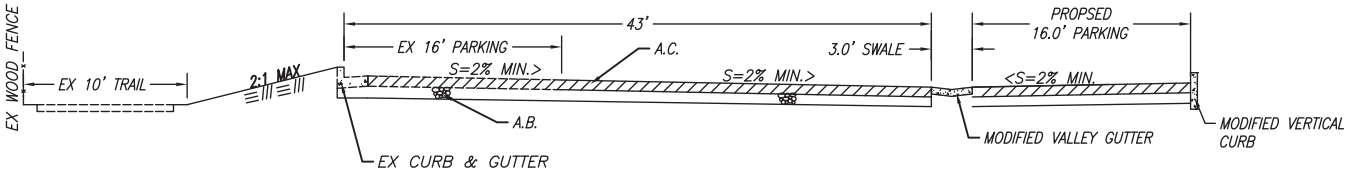
SECTION A EX 32' DRIVE

N.T.S.



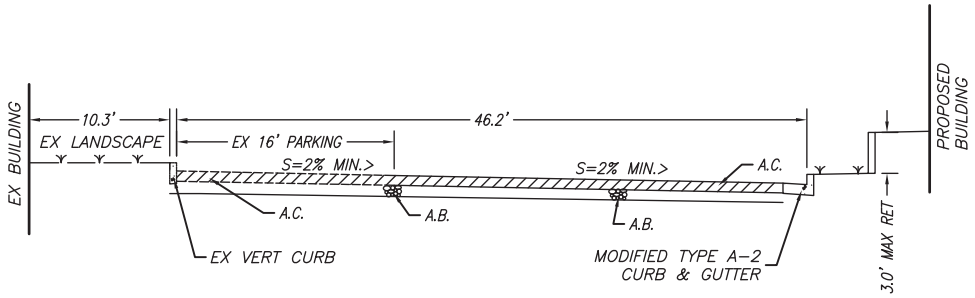
SECTION B – STREET SECTION

N.T.S.



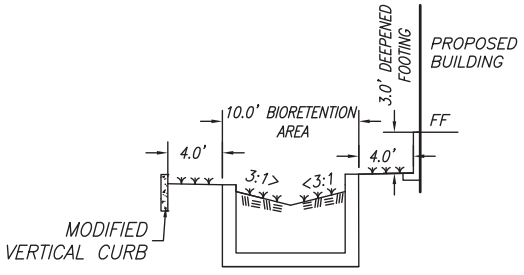
SECTION C – STREET CROSS SECTION

N.T.S.



SECTION D – STREET CROSS SECTION

N.T.S.



SECTION E – BIORETENTION SECTION

N.T.S.

Source: Charles W. Davidson Co., Aug 19, 2015.

CONCEPTUAL GRADING PLAN – SHEET 2 FIGURE 3.1-5

3.1.2.1 Vehicle Parking

A parking study was completed for the project (refer to *Section 4.16 Transportation*), which was based on the observed peak demand at the existing Canyon Creek Plaza shopping center. There are 317 existing parking spaces in the Canyon Creek Plaza shopping center. The proposed retail/commercial building would eliminate 43 parking spaces, leaving a total of 274 spaces in the shopping center. The peak parking demand for the existing shopping center is 212 vehicles. The proposed retail/commercial building would generate demand for an additional 36 spaces, resulting in a total peak parking demand of 248 vehicles with the proposed project. The total peak parking demand (i.e., 248 vehicles) is less than the total number of shopping center parking spaces proposed by the project (i.e., 274 spaces). Therefore, the parking study determined that sufficient parking would be provided for all uses on the site, including the proposed retail/commercial building.

3.1.3 Landscaping and Other Improvements

Landscaping would be modified to construct the proposed retail/commercial building. A total of 17 parking lot landscape trees would be removed to construct the proposed retail/commercial building. These trees would be replaced on-site in the area of the proposed retail/commercial building at a 1:1 ratio, resulting in no net loss of trees. The conceptual landscape plan is shown on Figure 3.1-6.

3.1.4 Geologic/Seismic Hazard Clearance and Liquefaction

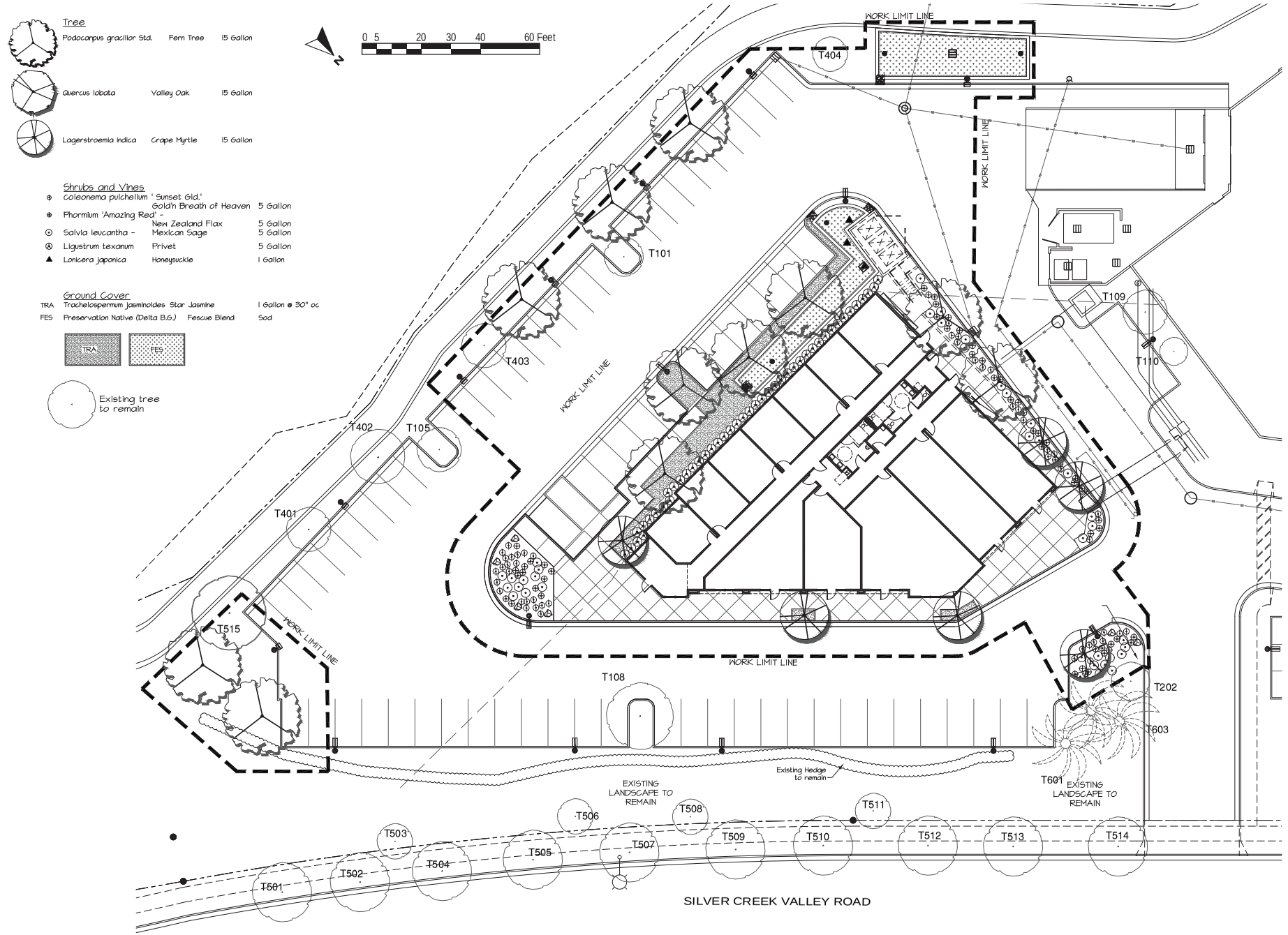
The area of the proposed retail/commercial building is located within a City of San Jose Geological Hazard Zone, the City of San Jose Silver Creek Fault Hazard Zone, and a State of California Liquefaction Hazard Zone. Consistent with existing City policy, a Certificate of Geologic Hazard Clearance from the City Geologist will be required prior to issuance of the Grading or Building Permits for the project site. The proposed retail/commercial building would be set back 25 feet from the fault.

3.1.5 Seismic Setback Easement Vacation or Modification

An existing seismic fault easement is located on the front portion of the site parallel to Silver Creek Valley Road. The proposed retail/commercial building encroaches into this seismic fault easement area. In order to develop the project as currently designed, this easement line needs to be relocated, reduced in size, or removed from the site. Consistent with existing City policy, a modified fault line easement from the City Geologist will be required prior to issuance of the Grading Permit.

3.1.6 Hours of Operation

The proposed hours of operation for the retail/commercial building are from 6:00 A.M. to 12:00 A.M. The operating hours of the existing shopping center uses range from 6:00 A.M. to 10 P.M.



Source: Ciardella Associates, Apr. 22, 2015.

CONCEPTUAL LANDSCAPE - TREE REPLACEMENT PLAN FIGURE 3.1-6

SECTION 4.0 SETTING, ENVIRONMENTAL CHECKLIST AND IMPACTS

This section describes the existing environmental conditions on and near the project area, as well as environmental impacts associated with the proposed project. The environmental checklist, as recommended in the California Environmental Quality Act (CEQA) Guidelines, identifies environmental impacts that could occur if the proposed project is implemented.

The right-hand column in the checklist cites the source(s) for the answer to each question. The sources cited are identified at the end of this section. Mitigation measures are identified for all significant project impacts. "Mitigation Measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines §15370). Measures that are standard and required by the City or law are categorized as "Standard Permit Conditions." All measures shall be printed on all documents, contracts, and project plans.

For purposes of this Initial Study, the approximately 0.53-acre portion of the existing shopping center parking lot upon which the proposed retail/commercial building would be constructed is referred to as the "project site." The entire Canyon Creek Shopping Center which would be rezoned to allow for the proposed retail/commercial building is referred to as the "subject site."

4.1 AESTHETICS

4.1.1 Setting

The approximately 0.53-acre portion of the existing shopping center upon which the proposed retail/commercial building would be constructed is currently developed with a paved parking lot including light standards and landscape strips and islands. The areas to the south and west are bounded by the Silver Creek Valley Trail, which separates the shopping center from Silver Creek. Silver Creek Valley Road borders the north and east. Silver Creek Valley Road is four lanes with a bike lane and landscaped median.

The shopping center faces Silver Creek Valley Road on a flat terrace surrounded by hills. The hills consist of residential development and open space. The shopping center consists of three main buildings constructed in 1999 and 2000. Building One is adjacent to the project site and currently houses a supermarket. Building One is 26,845 square feet in size and 33 feet high at its tallest point. Building Two is 20,955 square feet in size and 38 feet high at its tallest point. Building Three is 13,892 square feet in size and is 34 feet high at its tallest point. Both Building Two and Three house a variety of retail and commercial businesses. All three buildings are painted a combination of greens, yellows, whites, and browns to match the natural setting of the area.

The existing lighting at the shopping center currently operates with two distinct pole light circuits spread evenly across the entire shopping center. One circuit turns on at dusk and goes off at dawn, providing a low level of security lighting across the entire shopping center. The second circuit provides operational lighting for the shopping center, turning on at dusk and turning off when the last businesses close shop and their employees have left the shopping center. Sources of light and glare

in the surrounding area are those typical of suburban development areas, including headlights, streetlights, security lights, and reflective surfaces such as windows.

4.1.1.1 *Regulatory Background*

General Plan

The *Envision San José 2040 General Plan* includes the following aesthetic policies applicable to the proposed project:

Community Design - General City Design

Policy CD-1.1: Require the highest standards of architecture 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.

Community Design – Scenic Corridors

Silver Creek Valley Road in the vicinity of the project site is designated a Rural Scenic Corridor on the General Plan Scenic Corridors Diagram (refer to Appendix A). The following General Plan Scenic Corridor policies are applicable to the proposed project:

CD-9.1: Ensure that development within the designated Rural Scenic Corridors is designed to preserve and enhance attractive natural and man-made vistas.

CD-9.3: Ensure that development along designated Rural Scenic Corridors preserves significant views of the Valley and mountains, especially in, or adjacent to, Coyote Valley, the Diablo Range, the Silver Creek Hills, the Santa Teresa Ridge and the Santa Cruz Mountains.

Outdoor Lighting Policy

The City of San José's Outdoor Lighting Policy (City Council Policy 4-3) promotes energy efficient outdoor lighting on private development to provide adequate light for nighttime activities while benefiting the continued enjoyment of the night sky and continuing operation of the Lick Observatory by reducing light pollution and sky glow.

City of San José Riparian Corridor Policy Study

Silver Creek is a designated Trails and Pathway Corridor. As stated in the Riparian Corridor Policy Study (RCPS), land development along designated Trails and Pathway Corridors should be controlled to provide sufficient trail right-of-way and ensure new development adjacent to the corridors does not detract from the scenic and aesthetic qualities of the corridor. This includes building designs that blend with the surrounding landscape using materials that do not create glare and lighting that is angled downward to avoid visibility from the riparian corridor.

State Scenic Highway Program

Many state highways are located in areas of outstanding natural beauty. California's Scenic Highway Program was created by the Legislature in 1963. The purpose of the program is to protect and enhance the natural scenic beauty of California highways and adjacent corridors, through special conservation treatment.

Highway 9, from the Santa Cruz County line to the Los Gatos city limits, is the only officially designated state scenic highway in Santa Clara County.[1] Starting at Skyline Boulevard, this two-lane roadway winds downward from the summit at Saratoga Gap. Along the route, the scene changes from a forested landscape to a mixed forest and an abandoned apple-pear orchard farmland. The route then joins the Saratoga-Los Gatos Road at Blaney Plaza in Saratoga. Saratoga-Los Gatos Road traverses the cities of Monte Sereno and Saratoga curving through a comparatively level area at the foot of wooded mountains. Its protected corridor includes Villa Montalvo, a Mediterranean type structure built in 1912, which is now a community cultural center and county arboretum; and the Hakone Gardens - authentic Japanese gardens and buildings recreated from the 1915 Pan American Exposition in San Francisco.

[1] California Department of Transportation. California Scenic Highway Mapping System <http://www.dot.ca.gov/hq/Land Arch/scenic_highways/> Accessed August 26, 2014.

4.1.2 Environmental 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:					
1. Have a substantial adverse effect on a scenic vista?	☐	☐	☒	☐	1, 2
2. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒	1, 2
3. Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☒	☐	1, 2
4. Create a new source of substantial light or glare which will adversely affect day or nighttime views in the area?	☐	☐	☒	☐	1, 2

4.1.2.1 *Impacts to Scenic Vistas and Other Scenic Resources (Checklist Questions 1 and 2)*

Scenic Highway

The project site is not located along or visible from Highway 9; therefore, the construction and operation of the proposed 8,413-square-foot retail/commercial building within an existing shopping center will not damage any resources within a state scenic highway. **(No Impact)**

Scenic Corridor

The portion of Silver Creek Valley Road located in the vicinity of the project site is designated a Rural Scenic Corridor on the General Plan Scenic Corridors Diagram (refer to Appendix A). Silver Creek is a designated Trails and Pathway Corridor in the RCPS. The approximately 0.53-acre portion of the existing shopping center upon which the proposed retail/commercial building would be constructed is currently developed with a paved parking lot including 14 light standards and landscape strips and islands. The shopping center is not located prominently upon a hill or hillside. There are no existing natural features on the project site. The riparian corridor of Silver Creek is located adjacent to the project site. The proposed retail/commercial building would be integrated with the developed shopping center, using the same architectural elements and design features as the existing buildings. As discussed in further detail below, the maximum height of the proposed building would be less than the nearest existing building within the shopping center and the proposed lighting, consistent with the City of San José Outdoor Lighting Policy, would be similar to the existing lighting on the site and in the shopping center (i.e., fully shielded and angled down towards the ground). While the proposed project would partially block existing views of the Silver Creek riparian corridor, existing views of the riparian corridor through the shopping center are currently blocked by the existing buildings and development within the shopping center and parked cars in the parking lot. For these reasons, the proposed retail/commercial building would not substantially

degrade views of the project site or surrounding area from Silver Creek Valley Road or the adjacent Trail and Pathway Corridor along Silver Creek. **(Less Than Significant Impact)**

4.1.2.2 *Visual Character (Checklist Question 3)*

The proposed retail/commercial building would be located immediately adjacent to Building One within the existing shopping center. Building One is 29,335 square feet in size and 33 feet tall at its tallest point. The proposed retail/commercial building would be located approximately 65 feet from Building One and would be 28 feet at its tallest point.

The existing landscaping in the area of the proposed retail/commercial building would be modified as part of the proposed project. A total of 17 parking lot landscape trees would be removed to construct the building. These trees would be replaced on-site in the area of the proposed building at a 1:1 ratio, resulting in no net loss of trees. The conceptual landscape plan is shown on Figure 3.1-6. As shown in the conceptual landscape plan, the amount of landscaping in the area of the proposed building will be similar to existing conditions.

The proposed project would construct a retail/commercial building in the parking lot of an existing shopping center. The proposed development would be in scale with and would incorporate the same architectural elements as the existing shopping center. For these reasons and those stated above, the proposed project would not substantially degrade the visual character of the existing shopping center and the surrounding area. **(Less Than Significant Impact)**

4.1.2.3 *Light and Glare (Checklist Question 4)*

Consistent with the Riparian Corridor Policy Study (RCPS) and Outdoor Lighting Policy (City Council Policy 4-3), the proposed project would reduce light levels near the Silver Creek riparian corridor. In total, the project would remove nine low pressure sodium light standards (LPS) and relocate three LPS light standards in the area of the proposed building. Specifically within the 100-foot setback area, the proposed project would remove three LPS light standards and relocate two LPS light standards. As a result, compared to existing conditions, light levels along and within the riparian corridor would decrease upon project completion.

San José City Council Policy 4-3 calls for private development to use energy-efficient outdoor lighting that is fully shielded and not directed skyward. The proposed project would remove nine existing low pressure sodium light standards (LPS) in the area of the proposed building. Lighting operations would not change under the proposed project. The lighting at the site would continue to operate the same as the existing lighting at the shopping center, which uses two distinct pole light circuits spread evenly across the entire shopping center. One circuit turns on at dusk and goes off at dawn, providing a low level of security lighting across the entire shopping center. The second circuit provides operational lighting for the shopping center, turning on at dusk and turning off when the last businesses close shop and their employees have left the shopping center. For these reasons, design and construction of the proposed project would not result in adverse effects of the new lighting and glare would be less than significant. **(Less Than Significant Impact)**

4.1.3 Conclusion

The construction and operation of an 8,413-square-foot retail/commercial building at an existing shopping center currently developed with 62,724 feet of retail/commercial uses would have a less than significant aesthetic impact. **(Less Than Significant Impact)**

4.2 AGRICULTURAL AND FOREST RESOURCES

4.2.1 Setting

The project site is in the parking lot of an existing shopping center located in the City of San José. According to the Santa Clara County Farmland Map 2012, the subject site is designated as *Urban and Built-up Land*. *Urban and Built-up Land* is defined as residential land with a density of at least six units per ten acre parcel, as well as land used for industrial and commercial purposes, golf courses, landfills, airports, sewage treatment, and water control structures.

4.2.1.1 *Regulatory Background*

Williamson Act

The Williamson Act (California Land Conservation Act of 1965) enables local governments to enter into contracts with private land owners for the purpose of restricting specific parcels of land to agricultural or related open space use. In return, land owners receive property tax assessments which are lower than full market value of the property because they are based on farming and open space uses.

Farmland Mapping and Monitoring Program

The California Resources Agency's Farmland Mapping and Monitoring Program (FMMP) provides maps and data to decisions makers to assist them in making informed decisions regarding the planning of the present and future use of California's agricultural land resources.

Forest Land and Timberland

Public Resources Code Section 12220(g) identifies forest land as land that can support a 10 percent native tree cover of any species, including hardwoods, under natural conditions, and that allows for management of one or more forest resources, including timber, aesthetics, fish and wildlife, biodiversity, water quality, recreation, and other public benefit.

Public Resources Code Section 4526 identifies timberland as land, other than land owned by the federal government and land designated by the board as experimental forest land, which is available for, and capable of, growing a crop of trees of a commercial species used to produce lumber and other forest products, including Christmas trees. Commercial species shall be determined by the board on a district basis.

4.2.2 Environmental 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:					
1. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒	1, 4
2. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒	1, 5
3. 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))?	☐	☐	☐	☒	1, 2, 3
4. Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒	1
5. 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?	☐	☐	☐	☒	1

4.2.2.1 *Agricultural and Forest Resources Impacts* (Checklist Questions 1 - 5)

The project proposes to rezone the subject site from A(PD) Planned Development to CG (PD) Planned Development and construct an 8,413-sqaure-foot retail/commercial building in the parking lot of the existing shopping center. Agricultural uses have not occurred on or adjacent to the project site for several decades. The property is not subject to a Williamson Act contract and is not mapped as farmland, timberland, or as a forest resource. The construction of an 8,413-square-foot retail commercial building in the parking lot of an existing shopping center would not affect farmland or agricultural uses in any way.

The project site does not include forest land, nor has any timberland production taken place on the project site. The proposed project would not affect forest land or timberland uses in any way. **(No Impact)**

4.2.3 Conclusion

The proposed project would have no impact on agricultural land, forest land, timberland, or agricultural activities. **(No Impact)**

4.3 AIR QUALITY

4.3.1 Setting

Air quality and the amount of a given pollutant in the atmosphere are determined by the amount of the pollutant released and the atmosphere's ability to transport and dilute the pollutant. The major determinants of transport and dilution are wind, atmospheric stability, terrain, and for photochemical pollutants, sunshine.

The Bay Area typically has moderate ventilation, frequent inversions that restrict vertical dilution, and terrain that restricts horizontal dilution. These factors give the Bay Area a relatively high atmospheric potential for pollution.

4.3.1.1 *Regulatory Setting*

National Ambient Air Quality Standards

As required by the Clean Air Act, National Ambient Air Quality Standards (NAAQS) have been established for six major air pollutants: carbon monoxide (CO), nitrogen oxides (NO_X), ozone (O_3), particulate matter (PM_{10} and $PM_{2.5}$), sulfur oxides, and lead. Pursuant to the California Clean Air Act, the state has also established the California Ambient Air Quality Standards (CAAQS), which are generally more stringent than the corresponding federal standards. The Bay Area Air Quality Management District (BAAQMD) is primarily responsible for assuring that the national and state ambient air quality standards are attained and maintained in the San Francisco Bay Air Basin.

Santa Clara County, and the Bay Area as a whole, is classified as a nonattainment area for ozone, PM_{10}, and $PM_{2.5}$ under federal law. The county is either in attainment or unclassified for other pollutants.

Ozone, often called photochemical smog, is classified as a secondary air pollutant, meaning it is not emitted directly into the air. It is created by the action of sunlight on ozone precursors, primarily reactive hydrocarbons and NO_X. The major sources of ozone precursors include combustion sources such as factories and automobiles and evaporation of solvents and fuels. The main public health concerns associated with ground level ozone pollution are eye irritation and impairment of respiratory functions.

PM_{10} consists of solid and liquid particles of dust, soot, aerosols, and other matter which are less than 10 microns in diameter. Major sources of PM_{10} are combustion (including automobile engines – particularly diesel, fires, and factories) and dust from paved and unpaved roads. Public health concerns associated with PM_{10} include aggravation of chronic disease and heart/lung disease symptoms.

$PM_{2.5}$, also known as Fine Particulate Matter, consists of the same type of matter as PM_{10}, but is less than 2.5 microns in diameter. The major source of $PM_{2.5}$ is combustion, but the particles can also be formed by chemical changes occurring in the air. $PM_{2.5}$ can cause respiratory problems and is of particular concern because the particles can penetrate deeper into the lungs.

The region is required to adopt clean air plans on a triennial basis that show progress towards meeting the state ozone standard. The latest regional plan was adopted in September 2010. This plan includes a comprehensive strategy to reduce emissions from stationary, area, and mobile sources through the expeditious implementation of all feasible measures, including transportation control measures (TCMs) and programs such as "Spare the Air."[2]

Sensitive Receptors

BAAQMD defines sensitive receptors as facilities or land uses that include members of the population that are particularly sensitive to the effects of air pollutants, such as children, the elderly, and the chronically ill are likely to be located. These facilities include residences, school playgrounds, child-care centers, retirement homes, convalescent homes, and people with illnesses. The nearest sensitive receptors to the project site are the residences located to the south on Palmetto Dunes Court. The distance between the project site and the nearest residences is over 400 feet. Additionally, an after school tutoring facility currently occupies a tenant space within the existing shopping center.

General Plan

The *Envision San José 2040 General Plan* includes the following 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-11.5: Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.

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 minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

Policy MS-13.3: Require subdivision designs and site planning to minimize grading and use landform grading in existing hillside areas.

[2] Bay Area Air Quality Management District, *2010 Clean Air Plan*, September 15, 2010.

4.3.1.2 *Regulatory Thresholds*

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 of San José, and other jurisdictions in the San Francisco Bay Area Air Basin, often utilize the thresholds and methodology for assessing air emissions and/or health effects adopted by the BAAQMD based upon the scientific and other factual data prepared by BAAQMD in developing those thresholds.

Thresholds prepared and adopted by BAAQMD in May 2011 were the subject of a lawsuit by the California Building Industry Association (BIA)[3] and a subsequent appeal by BAAQMD.[4] The Appellate Court decision on August 13, 2013 upheld the thresholds as valid.

The determination of whether a project may have a significant effect on the environment is subject to the discretion of each lead agency, based upon substantial evidence. The City has carefully considered the thresholds adopted by BAAQMD in May 2011 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin. Evidence supporting these thresholds has been presented in the following documents:

- BAAQMD. *CEQA Air Quality Guidelines*. Updated May 2011.
- BAAQMD. *Revised Draft Options and Justification Report California Environmental Quality Act Thresholds of Significance.* October 2009.
- California Air Pollution Control Officers Association. *Health Risk Assessments for Proposed Land Use Projects*. July 2009.
- California Environmental Protection Agency, California Air Resources Board. *Air Quality and Land Use Handbook: A Community Health Perspective.* 2005.

The analysis in the Initial Study is based upon the general methodologies in the most recent BAAQMD CEQA Air Quality Guidelines (dated May 2012) and numeric thresholds identified for the San Francisco Bay Area Air Basin in the May 2011 BAAQMD CEQA Air Quality Guidelines, as shown in Table 4.3-1 on the following page.

[3] *California Building Industry Association v. Bay Area Air Quality Management District*, Alameda County Superior Court Case No. RG10548693)

[4] *California Building Industry Association v. Bay Area Air Quality Management District*, Cal. Ct. App. 1st, Case No. A135335, August 13, 2013. The Appellate Court ruled that the BAAQMD CEQA thresholds were adopted using a valid public review process and were supported by substantial evidence.

Table 4.3-1 BAAQMD 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}/$PM_{2.5}$)	Best Management Practices	None	None
Local CO	None	9.0 ppm (8-hour average), 20.0 ppm (1-hour average)	
Risk and Hazards for New Sources and Receptors (Project)	Same as Operational Threshold	• 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/m^3 [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	• 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/m^3 [Zone of influence: 1,000-foot radius from property line of source or receptor]	
Sources: *Bay Area Air Quality Management District CEQA Guidelines (updated May 2011) and BAAQMD. Revised Draft Options and Justification Report California Environmental Quality Act Thresholds of Significance. October 2009.*			

4.3.2 Environmental 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:					
1. Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐	1, 6
2. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☒	☐	1, 6

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
3. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors?	☐	☐	☒	☐	1, 6
4. Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☒	☐	1, 6
5. Create objectionable odors affecting a substantial number of people?	☐	☐	☒	☐	1, 6

4.3.2.1 *Clean Air Plan Consistency (Checklist Question 1)*

The proposed project incorporates General Plan policies adopted for the purposes of minimizing vehicle trips and associated air quality impacts through its Land Use Diagram, Design Guidelines, and Transportation Strategies. Determining consistency with the Bay Area 2010 Clean Air Plan (2010 CAP) involves assessing whether applicable control measures contained in the 2010 CAP are implemented. Implementation of control measures improve air quality and protect public health. These control measures are organized into five categories: Stationary Source Measures, Mobile Source Measures, Transportation Control Measures (TCMs), Land Use and Local Impact Measures, and Energy and Climate Measures. Applicable control measures and the project's consistency with them are summarized in Table 4.3-2, below. The project supports the primary goals of the CAP in that it does not exceed the BAAQMD thresholds for operational air pollutant emissions and is infill development that serves an existing population (refer to *Section 4.3.2.2 Operational Air Quality Impacts*, below) The proposed project is generally consistent with the CAP's control measures. The project will not hinder the implementation of the CAP control measures and will not conflict with or obstruct implementation of the 2010 CAP. The project by itself, therefore, will not result in a significant impact related to consistency with the Bay Area 2010 Clean Air Plan. **(Less Than Significant Impact)**

Table 4.3-2 Bay Area 2010 Clean Air Plan Applicable Control Measures

Control Measures	Description	Project Consistency
Transportation Control Measures		
Improve Bicycle Access and Facilities	Expand bicycle facilities serving transit hubs, employment sites, educational and cultural facilities, residential areas, shopping districts, and other activity centers.	The project is located adjacent to the Silver Creek Trail and includes bike parking spaces for employees and patrons.
Improve Pedestrian Access and Facilities	Improve pedestrian access to transit, employment, and major activity centers.	Pedestrian access to the project is provided by the adjacent Silver Creek Trail and sidewalks along Silver Creek Valley Road.
Support Local Land Use Strategies	Promote land use patterns, policies, and infrastructure investments that support mixed-use, transit-oriented development that reduce motor vehicle dependence and facilitate walking, bicycling, and transit use.	The project is consistent with the existing General Plan land use designation and Evergreen-East Hills Development Policy (EEHDP).
Voluntary Employer-Based Trip Reduction Programs	Reduce emissions of the key ozone precursors, ROG, and NOx by reducing commute trips, vehicle miles traveled, and vehicle emissions. In addition, the measure will reduce emissions of particulate matter, air toxics, and greenhouse gases.	The project is located adjacent to the Silver Creek Trail and includes bicycle parking spaces for employees and patrons.
Energy and Climate Measures		
Energy Efficiency	Increase efficiency and conservation to decrease fossil fuel use in the Bay Area.	The project would incorporate applicable energy efficiency measures required under the California building code.
Urban Heat Island Mitigation	Mitigate the "urban heat island" effect by promoting the implementation of cool roofing, cool paving, and other strategies.	The project does not propose the use of cool roofing or paving, however landscape tree plantings are proposed to provide shade and reduce the "urban heat island" effect.
Tree-Planting	Promote planting of low-VOC-emitting shade trees to reduce urban heat island effects, save energy, and absorb CO_2 and other air pollutants.	The project will replace all trees removed on-site.

4.3.2.2 *Operational and Construction Air Quality Impacts (Checklist Questions 2 - 4)*

Operational Air Quality Impacts

The BAAQMD Guidelines include operational and construction screening levels for six categories of regulated pollutants to provide lead agencies and project applicants with a conservative indication of whether a proposed project would violate air quality standards or contribute substantially to an existing or projected air quality violation, based on the emissions thresholds listed in Table 4.3-1.

If the proposed project falls under the screening levels, a detailed assessment of criteria air pollutants (Table 4.3-1) is not necessary and the emissions are assumed to be less than significant. The BAAQMD operational criteria pollutant screening level size for the proposed project is 346,000 square feet. The proposed 8,413-sqaure-foot retail/commercial building is below the BAAQMD operational criteria pollutant screening level size. Therefore, operation of the proposed project would not result in significant air quality impacts. **(Less Than Significant Impact)**

Construction Air Quality Impacts

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

The BAAQMD CEQA Air Quality Guidelines contain screening levels for construction criteria air pollutant emissions and the BAAQMD Recommended Methods for Screening and Modeling Local Risks and Hazards provides screening distances for construction toxic air contaminant emissions. The BAAQMD screening level for retail/commercial building criteria pollutant construction emissions is 277,000 square feet and the screening distance is 100 meters (i.e., 328 feet) to the nearest residence. The square footage of the proposed retail/commercial building (i.e., 8,413) is well below the criteria pollutant screening level and the distance to the nearest residence (i.e., over 400 feet) exceeds the TAC screening distance. For these reasons, construction air quality impacts from the proposed project would be considered less than significant.

For all proposed projects, BAAQMD recommends the implementation of Basic Construction Mitigation Measures, whether or not construction related emissions exceed applicable thresholds of significance for construction emissions. The proposed project includes basic construction mitigation measures, listed as best management practices (BMPs) for the purposes of this Initial Study, recommended by BAAQMD to reduce project construction dust impacts. These measures are considered Standard Permit Conditions by the City and are listed below:

Standard Permit Conditions: Consistent with City policies, the project would be developed in conformance with the General Plan policies listed in *Section 4.3.1.1* and the following standard BAAQMD dust control measures during all phases of construction on the project site to reduce dustfall emissions:

- All active construction areas shall be watered twice daily or more often if necessary. Increased watering frequency shall be required whenever wind speeds exceed 15 miles-per-hour.
- Pave, apply water three times daily, or apply non-toxic soil stabilizers on all unpaved access roads and parking and staging areas at construction sites.
- Cover stockpiles of debris, soil, sand, and any other materials that can be windblown. Trucks transporting these materials 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.
- Subsequent to clearing, grading, or excavating, exposed portions of the site shall be watered, landscaped, treated with soil stabilizers, or covered as soon as possible. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas and previously graded areas inactive for 10 days or more.
- Installation of sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Replanting of vegetation in disturbed areas as soon as possible after completion of construction.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes. 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 City of San José regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.

With compliance and implementation of the dust control measures identified above, the project would have a less than significant dustfall emissions related to construction. **(Less Than Significant Impact)**

4.3.2.4 *Odor Impacts (Checklist Question 5)*

The proposed project is consistent with the existing onsite commercial uses, which are not associated with generating odors. **(Less Than Significant Impact)**

4.3.3 Conclusion

The proposed project would not result in significant air quality impacts. City of San José Standard Permit Conditions require implementation of the BMPs during construction to control dust and exhaust emissions, which would further reduce air quality impacts associated with the proposed project. **(Less Than Significant Impact)**

4.4 BIOLOGICAL RESOURCES

The following discussion is based primarily upon a Biological Evaluation prepared by *Live Oak Associates* in September 2015. This report is provided as Appendix B of this Initial Study.

4.4.1 Setting

The project site is a paved parking lot with associated landscaping (i.e., drive aisle islands) for an existing developed shopping center. Sixteen landscape trees are located within the parking lot at the project site, including five pepper (four to 10 inches in diameter), one crate myrtle (five inches in diameter), and 10 hackberry (six to eight inches in diameter). The riparian corridor of Silver Creek is adjacent to the site separated by a bike path. The wildlife value for this reach of Silver Creek is considered moderate and as such, wildlife use is likely limited to more common species such as the raccoon and opossum. Sightings of other familiar species such as the wild turkey, fox, and common frog are known to occur near and on the site. Wildlife habitat on the project site is poor, consisting of manicured landscaping planted when the shopping center was developed and is not expected to be occupied by special status plant and/or animal species.

4.4.1.1 *Regulatory Setting*

City of San José Riparian Corridor Policy Study

The City of San José has developed a riparian corridor policy study to protect riparian resources within the City's urban service area. The policy provides the following guidelines regarding the protection of riparian habitat.

Guideline 1C: Setback Areas, Riparian Setback Dimensions- All buildings, other structures (with the exception of bridges and minor interpretative node structures), impervious surfaces, outdoor activity areas (except for passive or intermittent activities), and ornamental landscaped areas should be separated a minimum of 100 feet from the edge of the riparian corridor (or top of bank, whichever is greater).

Guideline 2B: Glare - Building materials should not produce glare that would adversely impact the riparian corridor. Windows should not be mirrored, but otherwise their use is not limited.

Guideline 2E: Lighting - All trail corridors, except for the Guadalupe River Downtown, are closed after sunset, and as such do not have lighting (except for security lighting at bridge under crossings). For all other developments, lighting within the corridor and setback areas should be avoided. Lighting on development sites should be designed and sited to avoid light and glare impacts to wildlife within the riparian corridor, consistent with public safety considerations. Any lighting located adjacent to riparian areas should be as low as feasible in height (bollard lighting is preferred) and must be directed downward with light sources not visible from riparian areas.

Parking lot lighting near a riparian edge (e.g., minimum setbacks from the corridor) should be avoided if nighttime use of that portion of the parking lot is unlikely.

Guideline 2F: Noise - The operation of mechanical equipment within or adjacent to riparian corridors (e.g., compressors, street/parking area sweepers) should not exceed noise levels for open space as specified in the Noise Element of the City of San José's General Plan or exceed background noise levels. Noise-producing stationary mechanical equipment should be located as far as necessary from riparian corridors to preclude exceeding the ambient noise level in the corridors.

Guideline 3A: Development Landscaping - Landscaping of areas adjacent to the riparian corridor should generally utilize plant species native m central California and appropriate to the riparian habitat type of the corridor. In some areas remnant riparian species (e.g., remnant sycamore, valley oak trees) exist outside the mapped riparian corridor. These species should be retained in the development plan. Non-native species may not be planted within the riparian corridor, and invasive exotics should not be used in landscaping within 100 feet of a riparian corridor. Refer to Appendix B for list of plant species suitable and unsuitable for re-vegetation within riparian corridors and in riparian setback areas. Refer also to any applicable master landscape plans for landscape requirements.

Guideline 3B: Irrigation - Irrigation systems within 100 feet of riparian areas should be designed to avoid negative impacts to riparian environmental conditions.

City of San José Tree Ordinance

The City of San José tree ordinance (Chapter 13.32 of the Municipal Code) regulates the removal of trees. An "ordinance-sized tree" is defined as any native or non-native tree with a circumference of 56 inches or diameter of 18 inches at 24 inches above the natural grade of slope. A tree removal permit is required by the City prior to the removal of any trees covered under the ordinance. One crape myrtle, five pepper, and 10 hackberry trees would be removed by the proposed project. The largest of these is a pepper tree 10 inches in diameter. No ordinance-sized trees will be removed as a result of the proposed project.

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act of 1918 (MBTA) is one of the nation's oldest environmental laws. The MBTA 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. Construction disturbance during the breeding season that results in the incidental loss of fertile eggs or nestlings, or otherwise leads to nest abandonment, would violate the MBTA.[5]

General Plan

The *Envision San José 2040 General Plan* includes the following biological resource policies applicable to the proposed project:

[5] A complete list of bird species protected by the MBTA is available on the US Fish and Wildlife Service website: http://www.fws.gov/migratorybirds/regulationspolicies/mbta/mbtandx.html

Policy ER-2.1: Ensure that new public and private development adjacent to riparian corridors in San José are consistent with the provisions of the City's Riparian Corridor Policy Study and any adopted Santa Clara Valley Habitat Plan/Natural Communities Conservation Plan (SCVHP/NCCP).

Policy ER-2.2: Ensure that a 100-foot setback from riparian habitat is the standard to be achieved in all but a limited number of instances, only where no significant environmental impacts would occur.

Policy ER-2.3: Design new development to protect adjacent riparian corridors from encroachment of lighting, exotic landscaping, noise, and toxic substances into the riparian zone.

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 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.

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.

Policy MS-21.8: For Capital Improvement Plan or other public development projects, or through the entitlement process for private development projects, require landscaping including the selection and planting of new trees to achieve the following goals:

1. Avoid conflicts with nearby power lines.
2. Avoid potential conflicts between tree roots and developed areas.
3. Avoid use of invasive, non-native trees.
4. Remove existing invasive, non-native trees.
5. Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species.
6. Plant native oak trees and native sycamores on sites which have adequately sized landscape areas and which historically supported these species.

4.4.1.2 *Santa Clara Valley Habitat Plan*

The Santa Clara Valley Habitat Plan (SCVHP) was developed 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), U.S. Fish and Wildlife Service (USFWS), and California Department of Fish and Wildlife (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 SCVHP has been approved by the local partners, and has been effective since October 14, 2013.

The proposed project is a covered activity under the SCVHP. The shopping center parcels are mapped within the Willow Riparian Forest and Scrub and Urban-Suburban land cover types. The Willow Riparian Forest and Scrub is limited to the portion of the parcels extending into the riparian corridor. The areas developed with the shopping center, including the project site, are entirely within the Urban-Suburban land cover type. 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 one or more structures per 2.5 acres. Vegetation found in the Urban-Suburban land cover type is usually in the form of landscaped residences, planted street trees, and parklands.

4.4.2 Environmental 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:					
1. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	☐	☒	☐	☐	1, 11
2. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	☐	☐	☒	☐	1, 11
3. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☒	☐	1, 11

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
4. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	☐	☐	☒	☐	1, 11
5. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☒	☐	1, 11
6. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☒	☐	1, 11, 19

4.4.2.1 *Impacts to Special Status Species (Checklist Question 1)*

Special Status Plants

None of the 12 special status plant species known to occur in the vicinity of the site are expected on the site due to a lack of suitable habitat and the fact that the entire site is currently developed as a landscaped, paved parking area for the existing shopping center. **(Less Than Significant Impact)**

Special Status Animals

Sixteen special status animal species occur, or once occurred, in the project area. Of these, 10 are likely to be absent from the project site due to a lack of suitable habitat. The remaining six could potentially occur as foragers, transients, or residents and include the following: golden eagle, white-tailed kite, pallid bat, Townsend's big eared bat, and San Francisco dusky-footed woodrat. Except for nesting birds, the special status animal species with the potential to occur at the site would not be substantially affected by construction or operation of the proposed retail/commercial building. Although bats and woodrats may come onto the site from time to time, they do not nest on the site and, being nocturnal, they forage at night when construction is not occurring and the buildings are not in use.

<u>Raptors and Migratory Birds</u>
Construction activities, including the loss of landscape trees in the parking lot, could disrupt raptors and migratory birds protected by the MBTA.

Impact BIO-1: Construction activities associated with the proposed project could disturb active nests or individual birds protected by law.

Mitigation Measure: The following mitigation measure will be incorporated into the project to reduce the potential for impacts to protected bird species to a less than significant level:

MM BIO-1.1: Construction and tree removal/pruning activities shall be scheduled to avoid the nesting season to the extent feasible. If feasible, tree removal and/or pruning shall be completed before the start of nesting season to help preclude nesting. The nesting season for most birds and raptors in the San Francisco Bay area extends from February 1 through August 31.

MM BIO-1.2: If it is not possible to schedule construction activities between 1 September and 31 January then a qualified ornithologist shall conduct a preconstruction survey within onsite trees as well as all trees within 250 feet of the site to identify active bird nests that may be disturbed during project construction. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities (including tree removal and pruning). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests.

If the survey does not identify any nesting birds that would be affected by construction activities, no further mitigation is required.

MM BIO-1.3: If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist (in consultation with the California Department of Fish and Wildlife) shall designate a construction-free buffer zone (typically 300 feet for raptors and 100 feet for non-raptors) to be established around the nest to ensure that no nests of species protected by the MBTA and California Fish and Game Code will be disturbed during construction activities. The buffer shall remain in place until the ornithologist has determined that the nest is no longer active.

With compliance and implementation of the measures above identified for nesting raptors and migratory birds, the project would have a less than significant impact on special status animals. **(Less Than Significant Impact with Mitigation)**

4.4.2.2 *Impacts to Sensitive Habitats (Checklist Questions 2 and 3)*

Project Site

The project site is currently a paved parking lot with minimal landscaping typical of a suburban shopping center. The parking lot has limited biotic value and provides only low-quality habitat for wildlife. There are no wetlands or riparian habitat located on the project site. Because the habitat is low value, the loss of the habitat on the project site (i.e., parking lot landscaping) is considered a less than significant impact. **(Less Than Significant Impact)**

Silver Creek Riparian Corridor

The Silver Creek riparian corridor is located adjacent to the project site. As discussed below in Sections 4.4.2.3, 4.4.2.4, and 4.4.2.5, the proposed project would not substantially affect the Silver Creek riparian habitat or the wildlife within the Silver Creek riparian corridor. **(Less Than Significant Impact)**

4.4.2.3 *Impacts to Wildlife Movement (Checklist Question 4)*

Project Site

As discussed above, the project site is a paved parking lot with limited value as habitat. Knowledge of the site, its habitat, and the ecology of the species in the area allows predictions to be made about the types of animal movements occurring in the region and whether or not proposed development would constitute a significant impact to these animal movements. Based on this assessment, the habitat on the project site does not appear to act as a significant movement corridor for native wildlife, and the proposed modification to this habitat would be a less than significant impact. **(Less Than Significant Impact)**

Silver Creek Riparian Corridor

The Silver Creek riparian corridor adjacent to the project site does function as a movement corridor for a number of species occurring in the area (refer to Appendix B for a list of species in the area). The proposed project will observe a 100-foot setback for permanent impacts with the exception of minimal work within the existing paved parking lot to 1) remove nine landscape trees and replant 10 landscaped trees, 2) remove three LPS light standards and re-install two LPS light standards, 3) place trash enclosures, 4) replace paved parking areas and landscaping with paved parking areas, concrete walkways, and landscaping, including two bioretention areas, and 5) grade and install catch basins to direct project runoff to the proposed bioretention areas. Temporary work to construct these project components would occur within the existing paved parking lot and landscaping, which is within the 100-foot riparian setback area. As discussed below, the construction and operation of these project components within the existing paved parking lot and landscaping are not expected to change the value or function of Silver Creek as a riparian corridor/wildlife corridor.

As discussed in *Section 4.12 Noise*, ambient noise levels would not increase along the riparian corridor as a result of the project. The project site is currently a parking lot for the existing shopping center. All of the activities in the parking lot that would occur under the proposed project (e.g., cars arriving and leaving, doors opening and closing and people talking) currently occur under existing conditions. For these reasons, existing ambient noise levels at the riparian corridor (i.e., 55 dBA DNL) are expected to remain the same upon completion of the project. This is discussed in more detail in *Section 4.12 Noise*.

As discussed in the biological evaluation completed for the project (refer to Appendix B), the noise resulting from project operation would not substantially affect the wildlife species presently using the Silver Creek riparian corridor. Currently, the riparian corridor is affected by noise from the existing commercial center, pedestrian and bicycling activities along the creek trail, and the nearby residences. Noise from the proposed retail/commercial building (operating between 6:00 A.M. and

12:00 A.M.) is comparable to the existing noise levels (refer to Appendix E). Therefore, wildlife species presently using the Silver Creek riparian corridor are expected to continue using the Silver Creek riparian corridor upon project completion.

Construction activities may result in a temporary disruption of local wildlife movements during daylight hours, but is not expected to result in permanent or substantial changes in use or movement patterns once complete. Additionally noise construction mitigation measures are included in the project to minimize temporary impacts (refer to *Section 4.12 Noise*). As discussed below, the proposed project is consistent with the City's riparian corridor policy and would not significantly impact wildlife. Wildlife species presently using the site are expected to continue moving through the open areas of the site and within the Silver Creek riparian corridor once the project is complete and in operation. For these reasons, the proposed project would result in a less than significant impact to wildlife movement. **(Less Than Significant Impact)**

4.4.2.4 *Local Policies and Ordinances (Checklist Question 5)*

City of San José Riparian Corridor Policy Study

One hundred feet is the standard setback identified for development near a riparian corridor in both the City's General Plan and the City's Riparian Corridor Policy Study (RCPS). Exceptions to the standard are allowed, and the RCPS states, "minimum reduced setbacks should he no less than 50 feet or, in urban infill areas, no less than 30 feet or no less than the average of existing setbacks on adjacent properties, whichever is greater." The existing setbacks at the shopping center are approximately 30 feet. The proposed retail/commercial building would observe the 100-foot setback from the edge Silver Creek riparian corridor for permanent impacts with the exception of minimal work within the existing paved parking lot to 1) remove nine landscape trees and replant 10 landscaped trees, 2) remove three LPS light standards and re-install two LPS light standards, 3) place trash enclosures, 4) replace paved parking areas and landscaping with paved parking areas, concrete walkways, and landscaping, including two bioretention areas, and 5) grade and install catch basins to direct project runoff to the proposed bioretention areas (see Figure 3.1-1). The depth of riparian setback includes the existing paved recreational pedestrian/bicycle path (Silver Creek Trail), a manicured landscape strip and a row of parking and other portions of the parking lot that currently exists between the riparian corridor and the project site. As listed above in *Section 4.4.1.1*, several General Plan and RCPS policies are applicable to the project, including those related to lighting, reflective surfaces, noise, landscaping, and irrigation. Similar to the existing development on the site, the proposed development would be constructed using natural, non-reflective surfaces. All lighting installed by the proposed project would be fully shielded and directed towards the ground. The parking lights located in the parking lot would be turned off after business hours. Light levels along and within the riparian corridor in the vicinity of the proposed retail/commercial building would decrease compared to existing conditions (refer to *Section 4.1 Aesthetics*). As discussed above and in *Section 4.12 Noise*, noise levels at the riparian corridor would not increase with operation of the project and, therefore, would not substantially affect the wildlife using the riparian corridor.

The project would not affect native vegetation, plant invasive species, or plant non-native species within the corridor. The existing shopping center irrigation system will be modified to serve the proposed development. All runoff generated by the proposed development will be collected and treated onsite prior to entering Silver Creek through an existing outfall, which is an improvement to

existing conditions (refer to *Section 4.9 Hydrology and Water Quality*). In these ways, the proposed development is consistent with the General Plan and RCPS. **(Less Than Significant Impact)**

City of San José Tree Ordinance

One crape myrtle, five pepper, and 10 hackberry trees would be removed under the proposed project. The largest of these is a pepper tree 10 inches in diameter. No ordinance-sized trees would be removed by the proposed project. The removed trees would be replaced on-site at a one-to-one ratio. **(Less Than Significant Impact)**

4.4.2.5 *Santa Clara Valley Habitat Plan (Checklist Question 6)*

Land Cover Types and Fee Zones

The vast majority of the subject site (i.e., the existing shopping center and location of the proposed retail/commercial building) is mapped within the Urban – Suburban land cover type in the SCVHP Plan Area. A ribbon of land located along the southern parcel line, corresponding to the existing riparian corridor, is mapped within the Willow Riparian Forest and Scrub land cover type.[6] This ribbon of land is shown within Land Cover Fee Zone A (Ranchlands and Natural Lands) and the Willow Riparian Forest and Scrub Wetland Fee Zone. The existing shopping center, including the location of the proposed retail/commercial building, is not located within a fee zone.

Santa Clara Valley Habitat Plan Fees and Conditions

Riparian Setback

Silver Creek is mapped a Category 1 stream under the SCVHP. Category 1 streams typically require a 100-foot setback. Additional setbacks including a general 50-foot buffer around the development area is required when the entire project site is greater than 10 acres. The total size of the shopping center is 8.33 gross acres; therefore, these additional setbacks are not applicable to the proposed project.

The proposed retail/commercial building would observe a 100-foot setback from the edge Silver Creek riparian corridor for permanent impacts with the exception of minimal work within the existing paved parking lot to 1) remove nine landscape trees and replant 10 landscaped trees, 2) remove three LPS light standards and re-install two LPS light standards, 3) place trash enclosures, 4) replace paved parking areas and landscaping with paved parking areas, concrete walkways, and landscaping, including two bioretention areas, and 5) grade and install catch basins to direct project runoff to the proposed bioretention areas (see Figure 3.1-1).

Exceptions to the 100-foot setback are allowed under certain circumstances, such the existence of legal uses within the setback. The project qualifies for a stream setback exception because there are existing legal uses and developed areas within the setback. The existing setbacks at the Canyon Creek Plaza shopping center are approximately 30 feet. Parking, drive aisles, buildings, and landscaping at the shopping center are currently located within 100 feet of the Silver Creek riparian

[6] Santa Clara Valley Habitat Agency Geobrowser. http://www.hcpmaps.com/habitat/. Accessed September 17, 2014.

corridor. Regardless of project location or size, projects located near Category 1 streams cannot reduce the stream setback to less than a distance of 35 feet for existing or previously developed sites with legal buildings and uses.

Covered Plant Species

The parcel upon which the project is proposed extends into the Silver Creek riparian corridor. This undeveloped portion of the parcel is mapped within a SCVHP Plant Survey Area for the Mount Hamilton Thistle and Santa Clara Dudleya. The existing developed shopping center and boundaries of the proposed project do not extend into the plant survey area. Because the project site is fully developed with pavement and landscaping, it does not provide suitable habitat for these species and no additional studies are required.

Covered Wildlife Species

The Silver Creek riparian corridor is mapped in the SCVHP Wildlife Survey Area for tricolored blackbird, a state listed endangered species. Tricolored blackbirds are a covered species under the SCVHP and are known to nest in riparian habitats. In accordance with Condition 17 of the SCVHP, projects within 250 feet of any riparian, coastal or valley freshwater marsh, or pond land cover types are required to identify and map potential nesting substrate for the tricolored blackbird.

It is possible that the Silver Creek riparian corridor, which is located at least 100 feet southwest of the proposed retail/commercial building, could provide nesting opportunities for tricolored blackbirds. Based on the design and location of the proposed project, avoidance of the 250-foot buffer is not feasible. Therefore, as a City of San José Standard Permit Condition and in accordance with Condition 17 of the SCVHP, the following SCVHP measure shall be incorporated into the project:

Required SCVHP Measure to be implemented as a Permit Condition

Preconstruction Survey

If the project proponent chooses not to avoid the potential nesting habitat and the 250-foot buffer, additional nesting surveys are required. Prior to any ground disturbance related to covered activities, a qualified biologist will complete the following avoidance and minimization measures as described below:

1) Make their best effort to determine if there has been nesting at the site in the past five years. This includes checking the CNDDB, contacting local experts, and looking for evidence of historical nesting (i.e., old nests).

2) If no nesting in the past five years is evident, conduct a preconstruction survey in areas identified in the habitat survey as supporting potential tricolored blackbird nesting habitat. Surveys will be made at the appropriate times of year when nesting use is expected to occur. The surveys will document the presence or absence of nesting colonies of tricolored blackbird. Surveys will conclude no more than two calendar days prior to construction.

To avoid last minute changes in schedule or contracting that may occur if an active nest is found, the project proponent may also conduct a preliminary survey up to 14 days before construction. If a tricolored blackbird nesting colony is present (through step 1 or 2 above), a 250-foot buffer will be applied from the outer edge of all hydric vegetation associated with the site and the site plus buffer will be avoided (see below for additional avoidance and minimization details). The federal and state fish and wildlife agencies will be notified immediately of nest locations.

Avoidance and Minimization

Covered activities must avoid tricolored blackbird nesting habitat that is currently occupied or have been used in the past 5 years. If tricolored blackbird colonies are identified during the breeding season, covered activities will be prohibited within a 250-foot no-activity buffer zone around the outer edge of all hydric vegetation associated with the colony. This buffer may be reduced in areas with dense forest, buildings, or other habitat features between the construction activities and the active nest colony, or where there is sufficient topographic relief to protect the colony from excessive noise or visual disturbance.

Depending on site characteristics, the sensitivity of the colony, and surrounding land uses, the buffer zone may be increased. Land uses potentially affecting a colony will be observed by a qualified biologist to verify that the activity is not disrupting the colony. If it is, the buffer will be increased. City of San Jose technical staff will coordinate with the federal and state fish and wildlife agencies and evaluate exceptions to the minimum no-activity buffer distance on a case-by-case basis.

Construction Monitoring

If construction takes place during the breeding season when an active colony is present, a qualified biologist will monitor construction to ensure that the 250-foot buffer zone is enforced. If monitoring indicates that construction outside of the buffer is affecting a breeding colony, the buffer will be increased if space allows (e.g., move staging areas farther away). If space does not allow, construction will cease until the colony abandons the site or until the end of the breeding season, whichever occurs first. The biological monitor will also conduct training of construction personnel on the avoidance procedures, buffer zones, and protocols in the event that tricolored blackbirds fly into an active construction zone (i.e., outside the buffer zone).

Nitrogen Deposition

Nitrogen deposition is known to have damaging effects on many of the serpentine plants in the SCVHP study area, as well as the host plants that support the Bay checkerspot butterfly. All major remaining populations of the butterfly and many of the sensitive serpentine plant populations occur in areas subject to air pollution from vehicle exhaust and other sources throughout the Bay Area, including the project area. Because serpentine soils tend to be nutrient poor, and nitrogen deposition artificially fertilizes serpentine soils, nitrogen deposition facilitates the spread of invasive plant species. The displacement of these species, and subsequent decline of the several federally-listed species, including the butterfly and its larval host plants, has been documented on Coyote Ridge in

central Santa Clara County (approximately one mile from the project site). Nitrogen tends to be efficiently recycled by the plants and microbes in infertile soils such as those derived from serpentine, so that fertilization impacts could persist for years and result in cumulative habitat degradation. Mitigation for the impacts of nitrogen deposition upon serpentine habitat and the Bay checkerspot butterfly can be correlated to the amount of new vehicle trips that a project is expected to generate. Fees collected under the SCVHP for new daily vehicle trips will be used to purchase and manage conservation land for the Bay checkerspot butterfly.

Required SCVHP Measure to be implemented as a Permit Condition

The SCVHP requires payment for nitrogen deposition fees for all covered projects that generate new net trips. The project is subject to the SCVHP and required to pay all applicable SCVHP fees prior to issuance of grading permits. Nitrogen deposition fees are based on the number of new daily vehicle trips generated by a proposed project. The proposed 8,413-square-foot retail/commercial building is estimated to generate a total of approximately 93 average daily trips.[7] Payment of these fees would reduce nitrogen deposition impacts to a less than significant impact.

With implementation of the measures described above, the proposed project would not conflict with the SCVHP. **(Less Than Significant Impact)**

4.4.3 Conclusion

Observation of the 100-foot riparian setback, with the inclusion of the mitigation measure above and adherence to the requirements of the SCVHP, would ensure the proposed project results in less than significant impacts to biological resources. **(Less Than Significant Impact with Mitigation Incorporated)**

[7] Institute of Transportation Engineers. Trip Generation (9th Edition), Land Use (710), General Office. 2012

4.5 CULTURAL RESOURCES

The following discussion is based primarily upon an Archaeological Resources Literature Review prepared by *Holman and Associates* in September 2015. This report may discuss locations of specific archaeological sites and is considered confidential. For this reason, it is not included in this Initial Study, however, qualified personnel may request a copy of the report from the City's Planning Division located at 200 East Santa Clara Street, Floor 3 during normal business hours.

4.5.1 Setting

4.5.1.1 *Historic Resources*

The existing shopping center structures were constructed in 1999 and 2000. The buildings are not of a historic age or associated with persons or events which are important to California history. There are no known historic resources located on or adjacent to the project site.

4.5.1.2 *Archaeological Resources*

The project site is within an area of archaeological sensitivity, as mapped for the *Envision San José 2040 General Plan*. There are recorded cultural sites in the vicinity of the site, but no recorded or reported sites within the project site.

Archaeological Literature Review

An archaeological literature search was completed at the Northwest Information Center (NWIC file no. 12-1569) on June 14, 2013. There are no recorded historic and/or prehistoric archaeological sites located within the project site. The nearest site is located approximately 1,500 feet northwest of the project site along the bank of Silver Creek. That site had "a small light density lithic scatter consisting of Franciscan chert flakes and cores and several possible fire-altered rocks which may indicate a small/ephemeral campsite in the area." The site was recorded following a 1987 survey of the Silver Creek Country Club Estates (SCCCE) project. The project site is within the boundaries of the SCCCE project. No resources were found on the project site during the 1987 survey.

4.5.1.3 *General Plan*

The *Envision San José 2040 General Plan* includes the following cultural resource policies applicable to the proposed project:

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 Environmental 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:					
1. Cause a substantial adverse change in the significance of an historical resource as defined in §15064.5?	☐	☐	☐	☒	1, 7
2. Cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5?	☐	☐	☒	☐	1, 7
3. Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	☐	☐	☒	☐	1, 7
4. Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☒	☐	1, 7

4.5.2.1 *Impact to Historic Resources (Checklist Question 1)*

The shopping center structures are not over fifty years old, are not on the National Register of Historical Places, nor are they on the California Register of Historic Resources of the City's Historic Resources Inventory. The project would not impact known historic architectural resources. **(No Impact)**

4.5.2.2 *Impacts to Archaeological and Paleontological Resources (Checklist Questions 2 - 4)*

The proposed project would construct an 8,413-square-foot retail/commercial building in the existing parking lot of the Canyon Creek Shopping Center in the City of San José. The paved parking lot is built on approximately six to 10 feet of fill material. The proposed construction would occur on top of the imported fill. The project would not disturb native soil.

The project site has been developed with the current shopping center since 2000. No cultural resources were uncovered during development of the shopping center, and the nearest recorded site is located approximately 1,500 feet away and contains few materials. Furthermore, six to 10 feet of fill was placed on the project site before construction of the parking lot. For these reasons, the potential for discovery of archaeological or paleontological resources is considered low.

Although it is extremely unlikely that cultural resources, including human remains, would be uncovered during construction of the proposed retail/commercial because native soils would not be disturbed during construction (i.e., the site is covered with six to 10 feet of fill), the following Standard Permit Conditions will be incorporated as Permit Conditions during the Development Permit phase to ensure potential impacts to cultural resources are avoided:

Standard Permit Conditions: In the event that human remains and/or cultural materials are found, all project related construction shall cease within 50 feet in order to proceed with testing and development of mitigation measures as required. Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California, the following actions will occur should human remains and/or cultural materials be found:

- In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this state law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

- A final report shall be submitted to the Planning Division's Environmental Team Senior Planner prior to release of a Certificate of Occupancy. This report shall contain a description of the mitigation programs and its results including a description of the monitoring and testing program, a list of resources found, a summary of the resources analysis methodology and conclusions, and a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the City's Environmental Senior Planner.

4.5.3 Conclusion

With the implementation of the Standard Permit Conditions described above, the proposed project would not result in significant impacts to cultural resources. **(Less Than Significant Impact)**

4.6 GEOLOGY AND SOILS

The following discussion is based, in part, upon a Geotechnical and Geologic Hazards Report prepared by *Cornerstone Earth Group* in August 2015. This report is provided in Appendix C of this Initial Study.

4.6.1 Setting

The project site is located in the Santa Clara Valley, an alluvial basin, bounded by the Santa Cruz Mountains to the west, the Hamilton/Diablo Range to the east, and the San Francisco Bay to the north. The Santa Clara Valley was formed when sediments derived from the Santa Cruz Mountains and the Hamilton/Diablo Range were exposed by the continued tectonic uplift and regression of the inland sea that had previously inundated this area. Bedrock in this area is made up of the Franciscan Complex, a diverse group of igneous, sedimentary, and metamorphic rocks of Upper Jurassic to Cretaceous age (70-140 million years old). Overlaying the bedrock at substantial depths are marine and terrestrial sedimentary rocks of Tertiary and Quaternary age. The project site is within the City of San Jose Geologic Hazard Zone (CSJ, 2006), the City of San Jose Fault Hazard Zone of the Silver Creek fault (SCF) (CSJ, 1983) and the State of California Seismic Hazard Zone of Required Investigation for Liquefaction (CGS, 2001).

4.6.1.1 *Site Topography and Soils*

The project site is flat, with an elevation of approximately 346 feet above mean sea level. Soil borings were taken on the site in October 2012. Soils encountered in the borings include silty clay, lean clay, fat clay, silty sand, poorly graded sand, clayey sand, and claystone. The maximum depth explored was 36 feet below ground surface (bgs).[8]

Groundwater is present beneath the site at depths ranging from 16.5 to 22.5 feet bgs. The groundwater beneath the site is impeded in its lateral migration by the clayey material in the soil. Surface fill and alluvial soils on-site are moderately to highly expansive.[9]

Silver Creek is located approximately 100 feet southwest of the project site. The creek bank is 10 to 13 feet below the project site.

4.6.1.2 *Seismicity and Seismic Hazards*

The project site is located within the seismically active San Francisco Bay region. The major earthquake faults in the region are the San Andreas Fault (located approximately 20 miles west of the project site), the Hayward Fault (located approximately 26 miles northwest of the project site), and the Calaveras Fault (located approximately eight miles east of the project site). These regional faults are capable of generating earthquakes of at least 7.0 in magnitude.

The Association of Bay Area Governments (ABAG) has reported that the Working Group on California Earthquake Probabilities (2003) has estimated there is a 62 percent probability that one or

[8] Cornerstone Earth Group, *Geotechnical and Geologic Hazards Report Update, Canyon Creek Plaza 5601 – 5667 Silver Creek Valley Road San Jose, California,* August 28, 2015.
[9] *Ibid.*

more major earthquakes would occur in the San Francisco Bay Area between 2002 and 2031. A moderate to major earthquake on the San Andreas Fault is most likely to generate the strongest ground shaking at the site.

Silver Creek Fault

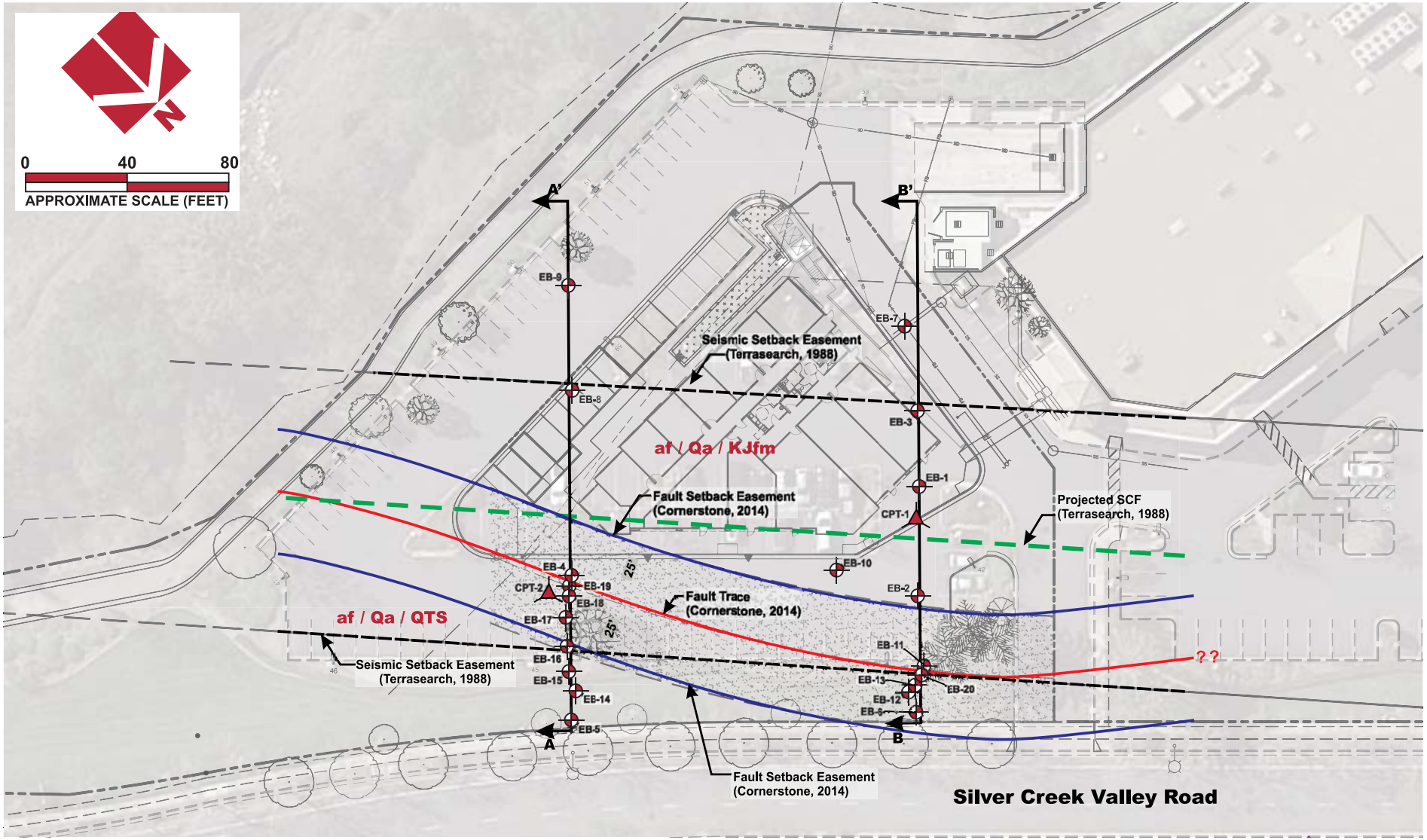
The project site is not mapped within an Alquist-Priolo Earthquake Fault Zone; however, the Silver Creek Fault runs through the parking lot of the shopping center. This is why the site is located within a City of San José Geologic Hazard Zone and the City of San José Fault Hazard Zone for the Silver Creek Fault. Based on the State of California's definition, faults are considered "active" if they display evidence of movement within Holocene time (the last 11,000 years) and "potentially active" if they display evidence of movement within Quaternary time (the last 1.8 million years). Hitchcock and Brankman (2002) found a faulted colluvial wedge in a Silver Creek Fault exposure adjacent to the site.[10] Carbon dating of the faulted colluvial wedge produced dates of 2,180 to 4,750 before present, which is suggestive of Holocene fault activity. In contrast, Wentworth et al. (2010) found the Silver Creek Fault "does not exhibit clear evidence of topographic or Holocene stratigraphic offset and is no longer zoned by the state."[11] Wentworth did conservatively conclude, however, that because of the absence of convincing evidence to the contrary, the Silver Creek Fault has likely continued its strike-slip movement through the Holocene, which would make it active. Consistent with existing City policy, a Certificate of Geologic Hazard Clearance issued by the Director of Public Works is required prior to issuance of grading and building permits for the project site because the site is located within a City of San José Geologic Hazard Zone and a City of San José Fault Hazard Zone.

An existing seismic fault easement is located on the front portion of the site parallel to Silver Creek Valley Road. The project, as currently designed, encroaches into this seismic fault easement area. In order to develop the project as currently designed, this easement line needs to be relocated, reduced in size, or removed from the site. Therefore, consistent with City policy, a fault line easement from the City of San Jose Director of Public Works to relocate the existing seismic fault easement will be required prior to issuance of the Grading or Building Permits for the project site. The project proposes to avoid the active fault trace by maintaining a 25-foot building setback. A map showing the fault trace in relation to the project site is shown on Figure 4.6-1.

Liquefaction

Liquefaction is the result of seismic activity and is characterized as the transformation of loose water-saturated soils from a solid state to a liquid state during ground shaking. During ground shaking, such as during earthquakes, cyclically induced stresses may cause increased pore water pressures within the soil voids, resulting in liquefaction. Liquefied soils may lose shear strength that may lead to large shear deformations and/or flow failure under moderate to high shear stresses, such as beneath foundations or sloping ground. The project site is located within a Santa Clara County Liquefaction

[10] Hitchcock, Christopher and Charles M. Brankman, *Assessment of Late Quaternary Deformation, Eastern Santa Clara Valley, San Francisco Bay Region*, William Lettis & Associates, Inc., July 2002.
[11] Wentworth, Carl, Robert A. Williams, Robert C. Jachens, Russell W. Graymer, and William J. Stephenson, *The Quaternary Silver Creek Fault Beneath the Santa Clara Valley, California*, United States Geologic Survey, Open-File Report 2010-1010, 2010.



Geologic Units

af	Artificial Fill
Qa	Alluvium (Quaternary)
QTS	Santa Clara Formation (Plio-Pleistocene)
KJfm	Franciscan mélange (Cretaceous and/or Jurassic)

Legend

- Approximate location of exploratory boring
- Approximate location of cone penetration test
- Approximate surface trace of Silver Creek Fault (This study)
- Approximate building exclusion zone (This study)
- Approximate seismic easement (Terrasearch, 1988)
- A A' Approximate location of geologic cross section

Source: Cornerstone Earth Group. Geotechnical and Geologic Hazards Report Update Canyon Creek Plaza. August 28, 2015.

FAULT TRACE MAP

FIGURE 4.6-1

Hazard Zone[12] and a State of California Seismic Hazard Zone for Liquefaction.[13]

4.6.1.3 *General Plan*

The *Envision San José 2040 General Plan* includes the following geology and soil 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-3.2: Within seismic hazard zones identified under the Alquist-Priolo Fault Zoning Act, California Seismic Hazards Mapping Act, and/or the City of San José, complete geotechnical and geological investigations and approve development proposals only when the severity of seismic hazards have been evaluated and appropriate mitigation measures are provided and reviewed by the City of San José Geologist. State guidelines for evaluating and mitigating seismic hazards and the City-adopted California Building Code will be followed.

Policy EC-4.1: Design and build all new or remodeled habitat 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 un-engineered 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 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-4.10: Require a Certificate of Geologic Hazard Clearance to be issued by the Director of Public Works prior to issuance of grading and building permits within defined geologic hazard zones.

[12] County of Santa Clara, *Santa Clara County Geologic Hazard Zones*, Map 29, October 26, 2012.
[13] California Geological Survey, *State of California Seismic Hazard Zones, San José East Quadrangle, Official Map*, January 17, 2001, http://gmw.consrv.ca.gov/shmp/download/quad/SAN_JOSE_EAST/maps/ozn_sjose.pdf.

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 Environmental 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:					
1. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:					
a. Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.)	☐	☐	☒	☐	1, 8
b. Strong seismic ground shaking?	☐	☐	☒	☐	1, 8
c. Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐	1, 8
d. Landslides?	☐	☐	☒	☐	1, 8
2. Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐	1
3. Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☒	☐	1, 8
4. Be located on expansive soil, as defined in Section 1802.3.2 of the California Building Code (2007), creating substantial risks to life or property?	☐	☐	☒	☐	1
5. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒	1

4.6.2.1 *Seismicity and Seismic Hazards (Checklist Question 1)*

Seismic Ground Shaking and Liquefaction

The project site is located within a seismically active region, and as such, strong to very strong ground shaking would be expected during the lifetime of the proposed project. The project site is located within a Santa Clara County Liquefaction Hazard Zone and a State of California Seismic Hazards Zone for Liquefaction. The geologic hazards evaluation completed for the project, however, included liquefaction triggering analyses that determined the potential for liquefaction to impact the proposed project is considered to be low.[14] To avoid or minimize potential damage from seismic shaking and liquefaction, the project shall be designed and constructed in accordance with the 2013 California Building Code. Adherence to the 2013 California Building Code will ensure the proposed improvements resist minor earthquakes without damage and major earthquakes without collapse. Furthermore, in accordance with state law, a liquefaction evaluation consistent with State guidelines for the evaluation and mitigation of seismic hazards must be submitted to, reviewed, and approved by the City Geologist or other qualified reviewer prior to final project approval. **(Less Than Significant Impact)**

Fault Hazard Zone

The project site is not located within an Alquist-Priolo Earthquake Fault Zone. However, the Silver Creek Fault runs through the parking lot of the shopping center; therefore, the site is mapped within a City of San José Geologic Hazard Zone and Fault Hazard Zone. Evidence suggests the Silver Creek Fault is possibly active. An existing 50-foot, seismic fault easement is located on the parking lot of the shopping center (refer to Figure 4.6-1). In conjunction with the proposed project, the Silver Creek Fault trace has been mapped. The proposed project has been designed to avoid the Silver Creek Fault trace. The proposed retail/commercial building will be setback 25 feet from the active fault trace (refer to Figure 4.6-1). Consistent with existing City policy, a Certificate of Geologic Hazard Clearance and a fault line easement to relocate and modify the existing seismic fault easement will be required prior to issuance of the Grading or Building Permits for the project site. Issuance of the Certificate of Geologic Hazard Clearance, adherence to all applicable plans and policies, and approval of the fault line easement relocation would ensure that project-related fault hazards are less than significant. **(Less Than Significant Impact)**

Landslides

The project site is flat and, therefore, not exposed to landslide hazards. The project site is not located within a landslide hazard zone.[15] **(Less Than Significant Impact)**

4.6.2.2 *Soil Erosion (Checklist Question 2)*

Due to the flat topography of the project site, the potential for soil erosion is low. Soil on the site, however, would be exposed to the erosive forces of wind and water during project construction. As discussed in *Section 4.3 Air Quality* and *Section 4.9 Hydrology and Water Quality*, the project would

[14] Cornerstone Earth Group, *Geotechnical and Geologic Hazards Report Update, Canyon Creek Plaza 5601 – 5667 Silver Creek Valley Road San Jose, California*, August 28, 2015.
[15] County of Santa Clara, *Santa Clara County Geologic Hazard Zones*, Map 29, October 26, 2012.

implement standard BAAQMD construction dust control measures and standard RWQCB construction BMPs to avoid erosion and sedimentation during project construction. Because the project site is located adjacent to Silver Creek, an Erosion Control Plan (ECP) will be prepared for the project, as required under General Plan *Policy EC-4.5*. The ECP will be subject to review and approval by the Director of Public Works prior to the issuance of a grading permit. For these reasons, the project would not result in substantial soil erosion or loss of topsoil. **(Less Than Significant Impact)**

4.6.2.3 *Soil Instability (Checklist Question 3)*

Twenty exploratory borings were drilled at the project site to evaluate subsurface conditions. No signs of soil instability were encountered during the borings. As described above, the project site is not located in a landslide hazard zone and the potential for liquefaction on the site is considered low.

Lateral spreading is horizontal/lateral ground movement of relatively flat-lying soil deposits towards a free face such as an excavation, channel, or open body of water; typically lateral spreading is associated with liquefaction of one or more subsurface layers near the bottom of the exposed slope. The project site is located adjacent to the Silver Creek channel, which is approximately 11 to 13 feet deep. Due to the absence of potentially-liquefiable soils, the potential for lateral spreading to affect the site is low. For these reasons, the proposed project would not be exposed to or result in landslides, lateral spreading, subsidence, liquefaction or collapse. **(Less Than Significant Impact)**

4.6.2.4 *Expansive Soils (Checklist Question 4)*

Onsite soils are moderately to highly expansive. The proposed project would be designed and constructed in accordance with the standard engineering safety techniques in the California Building Code, as adopted by the City of San Jose, and in conformance with a final design-specific geotechnical report prepared for the project. A qualified geotechnical specialist shall monitor site preparation and construction of the proposed project to ensure conformance with the required design specifications. These standard practices would ensure that the proposed project is designed and constructed to avoid expansive soil impacts **(Less Than Significant Impact)**

4.6.2.5 *Septic Systems (Checklist Question 5)*

The project site is located within an urbanized area of San José where sanitary sewer lines are available to dispose wastewater from the project site. No septic tanks will be utilized on the project site. As a result, the soil on-site will not need to support septic tanks or alternative wastewater disposal systems. **(No Impact)**

4.6.3 Conclusion

With the use of standard engineering and seismic design techniques, conformance with regulatory standards, City and State seismic hazard clearances, and approval of a fault line easement relocation, the proposed project would result in less than significant geologic and soils impacts, and would not expose people or structures to adverse seismic risks. **(Less Than Significant Impact)**

4.7 GREENHOUSE GAS EMISSIONS

4.7.1 Setting

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 climate change associated with the "greenhouse effect" is a process whereby GHGs accumulating in the atmosphere contribute to an increase in the temperature of the earth's atmosphere. The principal GHGs contributing to global climate change are carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), and fluorinated compounds. The world's leading climate scientists have reached the consensus that global climate change is underway and is likely caused by human activity.[16] Humans generate GHGs through combustion of fossil fuels (oil, natural gas, and coal) for energy production and transportation, decomposition of solid waste, burning of wood, deforestation, agriculture, and industrial activities.

4.7.1.1 *Existing Site*

The approximately 0.53-acre project site is currently developed as a parking lot for the existing shopping center. Current uses on the site generate direct emissions from operational electricity and water use for landscaping, and indirect emissions from vehicle trips generated by employees and customers.

4.7.1.2 *Regulatory Background*

State Regulations

Regulatory efforts in California that apply to the project are summarized below:

State of California Executive Order S-3-05

In June 2005, Governor Schwarzenegger issued Executive Order S-3-05, which identified Cal/EPA as the lead coordinating state agency for establishing GHG emission reduction targets in California. A "Climate Action Team," a multi-agency group was set up to implement Executive Order S-3-05. Under this order, the state plans to reduce GHG emissions to 80 percent below 1990 levels by 2050.

Assembly Bill (AB) 32 – The California Global Warming Solutions Act of 2006

California Assembly Bill (AB) 32 was signed into law in September 2006. The bill requires statewide reductions of GHG emissions to 1990 levels by 2020 and the adoption of rules and regulations to achieve the most technologically feasible and cost-effective GHG emissions reductions.

[16] National Aeronautics and Space Administration, *Global Climate Change: Vital Signs of the Planet, Consensus*, March 5, 2013. http://climate.nasa.gov/scientific-consensus

Senate Bill (SB) 97 – Modification to the Public Resources Code

In August 2007, Governor Schwarzenegger signed SB 97. SB 97 required the Office of Planning and Research to prepare, develop, and transmit guidelines to the Resources Agency for the mitigation of GHG emissions or the effects of GHG emissions including, but not limited to, the effects associated with transportation and energy consumption. The Resources Agency adopted the CEQA Guidelines Amendments addressing GHG emissions on December 30, 2009.

SB 375 – Sustainable Communities and Climate Protection Act

SB 375 encourages housing and transportation planning on a regional scale in a manner designed to reduce vehicle use and associated GHG emissions. The bill requires the California Air Resources Board (CARB) to set regional targets for the purpose of reducing GHG emissions from passenger vehicles for 2020 and 2035. Per SB 375, CARB appointed a Regional Targets Advisory Committee on January 23, 2009 to provide recommendations on factors to be considered and methodologies to be used in CARB's target setting process. The per capita reduction targets set for passenger vehicles in the San Francisco Bay Area are a seven percent reduction by 2020 and a 15 percent reduction by 2035.

City Plans and Policies

The *Envision San José 2040 General Plan* includes a range of policies and actions that are intended to reduce GHG emissions. It also provides for and commits the City to the implementation of an integrated GHG Reduction Strategy that contains overall performance criteria against which the City's future actions can be evaluated. To assist in interpreting and implementing the Strategy, specific performance criteria from the General Plan were incorporated into a GHG Reduction City Council Policy. Other policies, such as Green Building Policies, may also be developed or incorporated in the Council Policy to ensure that new development and redevelopment incorporates design and operational characteristics in conformance with the strategy.

The City of San José is currently reevaluating the GHG analysis contained in the General Plan EIR and has rescinded the GHG Reduction Strategy.

4.7.1.3 *BAAQMD CEQA Guidelines and 2010 Bay Area Clean Air Plan*

BAAQMD recently adopted new *CEQA Guidelines* (June 2010, Updated May 2012). The new guidelines supersede the previously adopted 1999 *CEQA Guidelines*, and include new and updated thresholds for analyzing air quality impacts, including a threshold for GHG emissions. Under these thresholds, if a project would result in an operational-related GHG emission of 1,100 metric tons (MT) (or 4.6 MT per service population[17]) of carbon dioxide equivalents (CO_2e) per year or more, it would make a cumulatively considerable contribution to GHG emissions and result in a cumulatively significant impact to global climate change. The BAAQMD *CEQA Guidelines* also outline a methodology for estimating GHGs.[18]

[17] Service Population (SP) is an efficiency-based measure used by BAAQMD to estimate the development potential of a general or area plan. Service Population is determined by adding the number of residents to the number of jobs estimated for a given point in time. (BAAQMD 2010)
[18] Bay Area Air Quality Management District, *CEQA Guidelines*, May 2011.

BAAQMD's Bay Area 2010 Clean Air Plan (CAP) is a multi-pollutant plan that addresses GHG emissions along with other air emissions in the San Francisco Bay Area Air Basin. One of the key objectives in the CAP is climate protection. The 2010 CAP includes emission control measures in five categories: Stationary Source Measures, Mobile Source Measures, Transportation Control Measures, Land Use and Local Impact Measures, and Energy and Climate Measures. Consistency of a project with current control measures is one measure of its consistency with the CAP. The current CAP also includes performance objectives, consistent with the state's climate protection goals under AB 32 and SB 375, designed to reduce emissions of GHGs to 1990 levels by 2020 and 40 percent below 1990 levels by 2035.

4.7.2 Environmental 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:					
1. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐	1, 6
2. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☒	☐	1, 6

4.7.2.1 *Greenhouse Gas Emissions (Checklist Question 1)*

Operational Emissions

The proposed project would result in new traffic and new energy use at the project site. The project would, however, serve the existing population in the area and would not induce further population growth (refer to *Section 4.13 Population and Housing*). Furthermore, development of the project would be subject to the City's Green Building Ordinance. The BAAQMD CEQA Air Quality Guidelines contain screening levels for operational GHG emissions. The screening level for the proposed project 53,000 square feet. The proposed 8,413-square-foot retail/commercial building is well below the BAAQMD GHG emissions screening level and, therefore, would not generate GHG emissions having a significant impact on the environment. **(Less Than Significant Impact)**

Construction Emissions

The proposed project would result in minor increases in GHGs associated with construction activities including operation of construction equipment and emissions from construction workers' personal vehicles traveling to and from the construction site. Construction-related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and the number of personnel. Neither the City of San José nor BAAQMD have established a quantitative threshold or standard for determining whether a project's construction-related GHG emissions are significant. The proposed project would include standard permit conditions to address air quality during construction (refer to *Section 4.3 Air Quality*). Because

project construction would be a temporary condition and would not individually result in a permanent increase in emissions, the increase in emissions during construction would be less than significant. **(Less Than Significant Impact)**

4.7.2.2 *Conformance with Applicable Plans (Checklist Question 2)*

In order to conform to the City's GHG Reduction Strategy, projects must be consistent with the Land Use/Transportation Diagram and incorporate features into the project that meet the mandatory guidelines. The proposed project would construct an 8,413-square-foot retail/commercial building in the parking lot of an existing shopping center. The proposed project is consistent with the General Plan land use designation of Neighborhood/Community Commercial (see *Section 4.10 Land Use*). The proposed building would be required to incorporate mandatory green building measures such as installation of energy efficient lighting. The project would also be required to include traffic demand management elements into its design. These measures are discussed further in *Section 4.16 Transportation*. **(Less Than Significant Impact)**

4.7.3 Conclusion

The proposed project is consistent with the City of San José Land Use Transportation Diagram, would incorporate applicable City GHG Reduction Strategy policies, and is well below the BAAQMD GHG emissions screening level. For these reasons, the proposed project would not result in significant GHG emissions impacts. **(Less Than Significant Impact)**

4.8 HAZARDS AND HAZARDOUS MATERIALS

The following section is based, in part, upon a Phase I Environmental Site Assessment prepared by *Partner Engineering and Science* in January 2012. This report is included as Appendix D of this Initial Study.

4.8.1 Setting

The project site is currently developed as a parking lot for an existing shopping center. The shopping center was constructed in 2000. Construction included the placement of six to 10 feet of fill across the shopping center site. Prior to construction of the shopping center, the project site was largely undeveloped with minor agricultural use. The Phase I Environmental Site Assessment completed for the site did not identify any recognized environmental conditions (the presence or likely presence of any hazardous substance or petroleum product), historical recognized environmental conditions (an environmental condition which would have been considered a recognized environmental condition in the past), or any other issues of concern at the project site.

4.8.1.1 *Regulatory Setting*

Hazardous waste generators and 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. The San José Fire Department coordinates with the Santa Clara County Hazardous Materials Compliance Division to implement the Santa Clara County Hazardous Materials Management Plan and to ensure that commercial and residential activities involving classified hazardous substances are properly handled.

Government Code Section 65962.5 (Cortese List)

The Hazardous Waste and Substances Sites (Cortese) List is a planning document used by the state, local agencies, and developers to comply with CEQA requirements in providing information about the location of hazardous materials release sites. Government Code section 65962.5 requires the California Environmental Protection Agency (Cal/EPA) to develop at least annually an updated Cortese List. The Cortese List includes lists maintained by the Department of Toxic Substances Control (DTSC) and the State Water Resources Control Board (SWRCB).[19]

General Plan

The *Envision San José 2040 General Plan* includes the following hazardous material policies applicable to the proposed project:

Policy EC-6.1: Require all users and producers of hazardous materials and wastes to clearly identify and inventory the hazardous materials that they store, use, or transport in conformance with local, state, and federal laws, regulations, and guidelines.

[19] The DTSC and SWRCB hazardous material site lists are available online at http://www.calepa.ca.gov/sitecleanup/CorteseList/default.htm.

Policy EC-6.2: Require proper storage and use of hazardous materials and wastes to prevent leakage, potential explosions, fires, or the escape of harmful gases, and to prevent individually innocuous materials from combining to form hazardous substances, especially at the time of disposal by businesses and residences. Require proper disposal of hazardous materials and wastes at licensed facilities.

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.

4.8.2 Environmental 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:					
1. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐	1
2. 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?	☐	☐	☒	☐	1, 9
3. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☒	☐	1
4. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?	☐	☐	☒	☐	1, 9
5. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒	1, 2

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
6. 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?	☐	☐	☐	☒	1, 2
7. Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	1, 2
8. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☒	1, 2

4.8.2.1 *Routine Transport, Use, or Disposal of Hazardous Materials (Checklist Question 1)*

The future uses anticipated to occupy the proposed retail/commercial building (e.g., realtors, accountants, insurance brokers, yoga studio, salon, chiropractor, etc.) are not anticipated to routinely transport and use hazardous materials. Compliance with applicable federal, state, and local laws and regulations pertaining to the handling, storage, and disposal of hazardous materials would ensure that no significant hazards to the public or the environment result, if such routine activities were to occur. **(Less Than Significant Impact)**

4.8.2.2 *Accidental Release of Hazardous Materials (Checklist Question 2)*

Though unlikely given the history of the project site, the potential to unearth contaminated soil exists with any excavation during construction.

Standard Permit Condition: In the event indications of hazardous materials or soil or groundwater contamination are discovered during construction, the following standard measure is included in the project to prevent significant hazardous materials impacts:

- If evidence of historic release of hazardous materials is discovered, work will be stopped in the immediate area and soil samples will be collected and analyzed by a qualified environmental professional and the results shared with the City to determine the type and extent of release and potential health effects to construction workers and future users of the property. The analytical results will be compared against applicable environmental screening levels and hazardous waste criteria, and if necessary, the investigation will provide recommendations to the City regarding the management and disposal of affected soil and groundwater. If contamination above environmental screening levels is found, the appropriate regulatory agency such as the Santa Clara County Department of Environmental Health, Regional Water Quality Control Board or Department of Toxic Substances Control will be contacted for regulatory oversight. Any contaminated soil and/or groundwater found in concentrations above established thresholds shall

be mitigated for construction worker safety and public health concerns. Special health and safety measures and/or soil management procedures may also be required during project construction as determined by the appropriate regulatory agency.

The proposed project, with implementation of the standard permit condition described above (if necessary), would not result in the accidental release of hazardous materials. **(Less Than Significant Impact)**

4.8.2.3 *Hazardous Emissions or Hazardous Materials near Schools (Checklist Question 3)*

The future uses anticipated to occupy the proposed retail/commercial building (e.g., realtors, accountants, insurance brokers, yoga studio, salon, chiropractor, etc.) are not anticipated to routinely transport and use hazardous materials and there are no schools located within one quarter mile of the project site. An after school tutoring facility is located in the existing shopping center. Compliance with applicable federal, state, and local laws and regulations pertaining to the handling, storage, and disposal of hazardous materials would ensure that no significant hazards to the tutoring facility would occur. **(Less Than Significant Impact)**

4.8.2.4 *Known Hazardous Materials Sites (Checklist Question 4)*

The project site is not on a list of hazardous material sites compiled pursuant to Government Code Section 65962.5 (Cortese List). **(Less Than Significant Impact)**

4.8.2.5 *Other Hazards (Checklist Questions 5 - 8)*

The project site is not located within an airport land use plan or wildland fire area. The proposed project would not impair the implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan. **(No Impact)**

4.8.3 Conclusion

With implementation of the standard measure listed above and compliance with all applicable federal, state, and local hazardous materials laws and ordinances, the proposed project would not result in significant hazardous materials impacts. **(Less Than Significant Impact)**

4.9 HYDROLOGY AND WATER QUALITY

4.9.1 Setting

4.9.1.1 *Storm Drainage and Sewer System Flows*

The nearest waterway to the project site is Silver Creek, located adjacent and to the southwest of the site. The existing stormwater system collects untreated stormwater from the shopping center and directly discharges into Silver Creek through an existing outfall. Upper Silver Creek is not listed as an impaired water body on the State 303(d) List. The nearest connection to the City's storm drain line is located in Silver Creek Valley Road at the existing main entrance to the Canyon Creek Shopping Center (i.e., intersection of Silver Creek Valley Road and Beaumont Drive).

4.9.1.2 *Groundwater*

Based on the geotechnical report, groundwater would likely be found at a depth of approximately 16-23 feet bgs. Groundwater levels typically fluctuate seasonally depending on the variations in rainfall, irrigation from landscaping, and other factors. The project site is mostly comprised of impervious surfaces and does not contribute to the recharging of the groundwater aquifer.

4.9.1.3 *Flooding*

Silver Creek lies to the southwest of the existing shopping center. The creek bank is 10 to 13 feet below the project site. The site is not located within the 100-year floodplain.[20]

4.9.1.4 *Dam Failure*

The Association of Bay Area Government compiled the dam failure inundation hazard maps submitted to the State Office of Emergency Services by dam owners throughout the Bay Area. The project site is not located in a dam failure inundation hazard zone.[21]

4.9.1.5 *Seiches, Tsunamis, and Mudflows*

A seiche is an oscillation of the surface of a lake or landlocked sea varying in period from a few minutes to several hours. There are no landlocked bodies of water near the project site that in the event of a seiche will affect the site.

A tsunami or tidal wave is a series of water waves caused by the displacement of a large volume of a body of water, such as an ocean or a large lake. Due to the immense volumes of water and energy involved, tsunamis can devastate coastal regions. The project site does not lie within a tsunami inundation hazard area.[22]

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[20] Federal Emergency Management Agency, *Community Panel Number 06085C0267H*, May 18, 2009. https://msc.fema.gov

[21] Schaaf & Wheeler Consulting Engineers, *Hydrology and Water Quality for San Jose, California*, December 6, 2010.

[22] California Emergency Management Agency, *Tsunami Inundation Map for Emergency Planning San Francisco Bay Area*, December 9, 2009.

A mudflow is the rapid movement of a large mass of mud formed from loose soil and water. The project site is not susceptible to mudflows.[23]

4.9.1.6 *Regulatory Setting*

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

Statewide Construction General Permit

The SWRCB has implemented a NPDES Construction General Permit (CGP) for the state. Projects disturbing one acre or more of soil must obtain permit coverage under the CGP by filing a Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) with the SWRCB prior to commencement of construction. The CGP, which became effective July 1, 2010, includes requirements for training, inspections, record keeping, and for projects of certain risk levels, monitoring. The proposed project disturbs less than one acre of soil and, therefore, would not require permit coverage under the CGP.

City of San José Grading Ordinance

All development projects, whether subject to the CGP or not, shall comply with the City of San José's Grading Ordinance, which requires the use of erosion and sediment controls to protect water quality while the site is under construction. Prior to issuance of a permit for grading activity occurring during the rainy season (October 15 to April 15), the project will submit to the Director of Public Works an Erosion Control Plan detailing BMPs that will prevent the discharge of stormwater pollutants.

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

The San Francisco Bay RWQCB also has issued a Municipal Regional Stormwater NPDES Permit (MRP) [Permit Number CAS612008]. In an effort to standardize stormwater management requirements throughout the region, this permit replaces the formerly separate countywide stormwater permits with a regional permit for 77 Bay Area municipalities including the City of San José. Under the provisions of the MRP, redevelopment projects that create or replace 10,000 square feet or more of impervious surfaces are required to design and install Low Impact Development (LID) controls to treat post-construction stormwater runoff from the site. Examples of LID controls include rainwater harvesting/re-use, infiltration, and biotreatment.

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http://www.consrv.ca.gov/cgs/geologic_hazards/Tsunami/Inundation_Maps/Documents/Tsunami_Inundation_SanFranciscoBayArea300.pdf

[23] County of Santa Clara, *Santa Clara County Geologic Hazard Zones*, Map 29, October 26, 2012.

City of San José Post-Construction Urban Runoff Management (Policy 6-29) and Hydromodification Management (Policy 8-14)

The MRP mandates the City of San José use its planning and development review authority to require that stormwater management measures such as Site Design, Pollutant Source Control, and Treatment measures are included in new and redevelopment projects to minimize and properly treat stormwater runoff.

The City of San José's Post-Construction Urban Runoff Management Policy (Policy 6-29) implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. Policy 6-29 requires all new development and redevelopment project to implement post-construction Best Management Practices (BMP) and Treatment Control Measures (TCM) to the maximum extent practicable. This policy also established specific design standards for post-construction TCM for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

The City's Post-Construction Hydromodification Management Policy (Policy 8-14) establishes an implementation framework for incorporating measures to control hydromodification impacts from development projects. Development projects that create and/or replace one acre or more of impervious surface and are located in a sub-watershed or catchment that is less than 65% impervious, must manage increases in runoff flow and volume so that post-project runoff shall not exceed estimated pre-project rates and durations. The proposed project is 0.53 acre in size. Therefore, the project will not be required to comply with the hydromodification requirements of Policy 8-14.

General Plan

The *Envision San José 2040 General Plan* includes the following water quality 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-5.16: 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 Environmental 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:					
1. Violate any water quality standards or waste discharge requirements?	☐	☐	☒	☐	1
2. 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)?	☐	☐	☒	☐	1
3. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which will result in substantial erosion or siltation on-or off-site?	☐	☐	☒	☐	1
4. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which will result in flooding on-or off-site?	☐	☐	☒	☐	1
5. 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?	☐	☐	☒	☐	1
6. Otherwise substantially degrade water quality?	☐	☐	☒	☐	1
7. Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☒	1, 12
8. Place within a 100-year flood hazard area structures which will impede or redirect flood flows?	☐	☐	☐	☒	1, 12
9. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☒	1, 12, 13
10. Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☒	1, 8, 14

4.9.2.1 *Water Quality Impacts (Checklist Questions 1, 5, 6)*

Construction Activities

Any construction or demolition activity that results in land disturbance equal to or greater than one acre must obtain coverage under the CGP, which is administered by the SWRCB. The project site is approximately 0.53 acres and, therefore, would not require CGP coverage.

Construction activities could result in a temporary increase in stormwater pollutants during ground disturbing activities. The project applicant shall comply with the City of San José Grading Ordinance, including implementation of erosion and dust control measures during site preparation, and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction. The project would implement the RWQCB standard construction BMPs listed below as Standard Permit Conditions to reduce stormwater pollutants during construction. As discussed in *Section 4.3 Air Quality* and *Section 4.6 Geology and Soils*, the project would also implement standard BAAQMD construction dust control measures and an Erosion Control Plan (ECP) would be prepared for the project.

Standard Permit Conditions: The project shall implement the following RWQCB standard construction BMPs:

- Restrict grading to the dry season or meet City requirements for grading during the rainy season. Grading during the rainy season requires the applicant to submit an Erosion Control Plan to the Director of Public Works for review and approval.
- Use effective, site-specific erosion and sediment control methods during the construction periods. Provide temporary cover of all disturbed surfaces to help control erosion during construction. Provide permanent cover as soon as is practical to stabilize the disturbed surfaces after construction has been completed.
- Cover soil, equipment, and supplies that could contribute non-visible pollution prior to rainfall events or perform monitoring of runoff.
- Cover stockpiles with secure plastic sheeting or tarps.
- Implement regular maintenance activities such as sweeping driveways between the construction area and public streets. Clean sediments from streets, driveways, and paved areas on-site using dry sweeping methods. Designate a concrete truck washdown area.
- Dispose of all wastes properly and keep site clear of trash and litter. Clean up leaks, drips, and other spills immediately so that they do not contact stormwater.
- Place fiber rolls or silt fences around the perimeter of the site. Protect existing storm and sewer inlets in the project area from sedimentation with filter fabric and sand or gravel bags

Construction of the proposed project, in compliance with the City of San José Grading Ordinance and the City of San José Zoning Ordinance and with implementation of the RWQCB standard construction BMPs listed above, would not result in significant water quality impacts. **(Less Than Significant Impact)**

Post-Construction

The MRP requires redevelopment projects that create or replace greater than 10,000 square feet of impervious surface to design and install Low Impact Development (LID) controls to treat post-construction stormwater runoff from the site. The MRP defines LID treatment measures as harvesting and re-use, infiltration, evapotranspiration, or biotreatment. The project would replace over 10,000 square feet of impervious surface, so LID requirements would apply. As depicted in the Stormwater Control Plan (Figure 4.9-1) the project would comply by directing stormwater runoff to two bioretention areas. From the bioretention areas, the runoff would be filtered and released to Silver Creek through an existing outfall. The proposed stormwater treatment would reduce both the rate and volume of stormwater runoff while also removing pollutants. This would be an overall improvement to water quality because currently all on-site stormwater drains into the creek unrestrained and untreated. In addition to treating the runoff generated by the proposed project, the project also proposes to treat the runoff generated by some of the surrounding existing pavement (e.g., the grocery store loading dock area), further improving water quality.

Consistent with City Policy 6-29, the project would be designed and constructed to prevent contaminated runoff from reaching the storm system. Details of specific site design, pollutant source control, and stormwater treatment control measures demonstrating compliance with C.3 of the NPDES MRP will be included in the project design, to the satisfaction of the Director of Planning, Building, and Code Enforcement prior to issuance of a development permit. **(Less Than Significant Impact)**

4.9.2.2 *Groundwater (Checklist Question 2)*

Groundwater is present beneath the site at depths ranging from 16.5 to 22.5 feet bgs and is not used for drinking water. The project site is currently paved and does not contribute to groundwater recharge. Excavation during construction of the proposed retail/commercial building would require relatively shallow cuts (i.e., five to six feet) and, therefore, would not come in contact with groundwater. For these reasons, the project would not deplete groundwater supplies, interfere with groundwater recharge, or otherwise affect groundwater. **(Less Than Significant Impact)**

4.9.2.3 *Drainage Patterns (Checklist Questions 3 - 4)*

The existing stormwater system collects untreated stormwater from the shopping center and directly discharges into Silver Creek through an existing outfall. The project would not substantially alter the existing drainage pattern of the site. The drainage pattern would be very similar to existing conditions, except the stormwater runoff generated by the project site and adjacent paved areas (e.g., grocery store loading dock area) would now be treated through one of two proposed bioretention areas (refer to Figure 4.9-1, Preliminary Stormwater Control Plan), prior to discharging at the existing outfall to Silver Creek. The rate and volume of stormwater discharge would be incrementally reduced compared to existing conditions and, therefore, would not result in erosion, siltation, or flooding on or off site. **(Less Than Significant Impact)**

		Job #:	1706
		Date:	8/14/15
No. of Units			

Pervious and Impervious Surfaces Comparison

Project Phase Number: (N/A, 1, 2, etc.)	N/A

	(+/-acres):	(+/-sq.ft.):
Total Site (+/-acres):	0.86	37,341
Total Area of Site Disturbed (+/-acres):	0.53	23,135

	Existing Condition of Site Area Disturbed	Proposed Condition of Site Area Disturbed (+/- sq.ft.)	
Impervious Surfaces	**(+/- sq.ft.)**	**Replaced (1)**	**New (2)**
Roof Area(s)	0	0	8,429
Parking/Private Drive (paved)	14,987	5,868	0
Sidewalks, Patios, Paths, etc	0	0	3,686
Streets (Public)	0		0
Streets (Private)	0	0	0
Total Impervious Surfaces:	**14,987**	**5,868**	**12,115**
Pervious Surfaces			
Landscape Areas	0	1,035	4,117
Pervious Pavers	0	0	0
Other Pervious Surfaces (green roof, etc.)	0	0	0
Total Pervious Surfaces:	**0**	**1,035**	**4,117**
Total Proposed Impervious Surfaces = Total Proposed Replaced + New Impervious Surfaces:			17,983
Total Proposed Pervious Surfaces = Total Proposed Replaced + New Pervious Surfaces:			5,152
		Total Disturbed Area:	23,135

Regulated Project: Any project that creates new and/or replaces (individually or collectively) 10,000 square feet or more of impervious surface area.
Additional data verifying the percent replacement of impervious surface area may be requested for any Regulated Project that appears to be subject to Provisions C.3.b.ii.(1)(c) or C.3.b.ii.(1)(d) (commonly known as "the 50% Rule").

Footnotes:
1 Proposed Replaced Impervious Surface: **All impervious surfaces added to any area of the site that was a previously existing impervious surface.**
2 Proposed New Impervious Surface: **All impervious surfaces added to any area of the site that was a previously existing pervious surface.**

Stormwater Treatment AreasTable

AREA ID	Description	Total Area (SF)	Areas: Pervious Area (P) Perm. Paver Area (SF)	Pervious Area (P) Landscape Area (SF)	Impervious Area (I) Rooftop Area (SF)	Impervious Area (I) Parking/Pvt. Drive Area (SF)	Impervious Area (I) Hardscape Area (SF)	(P) Pervious (SF)	(I) Impervious (SF)	TCM ID	Type of mitigation that will be used
1	Roof, Sidewalk, Landscaping, Parking,Drive	18,700	0	2,803	4,896	9,112	1,889	2,803	15,897	1	Bioretention
2	Roof, Sidewalk, Landscaping, Parking, Drive	18,811	0	1,533	3,533	11,849	1,896	1,533	17,278	2	Bioretention
	Totals	37,511	0	4,336	8,429	20,961	3,785	4,336	33,175		

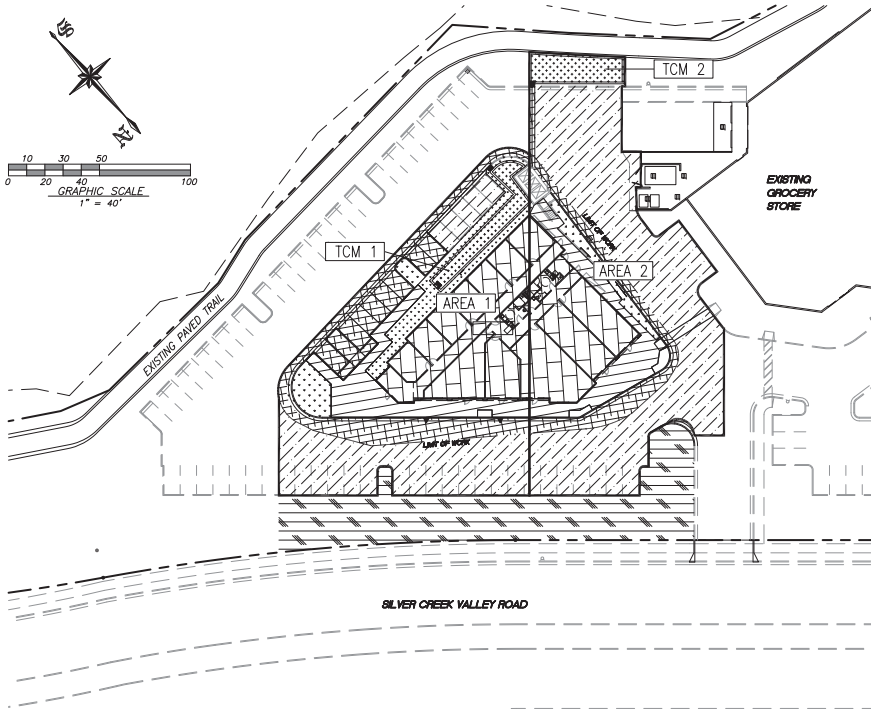
* Bay Area Stormwater Management Agencies Association (BASMAA); *Start at the Source, Design Guidance Manual For Stormwater Quality Protection (1999 Ed.), pg. 34.*

RUNOFF CALCULATIONS FOR STORM WATER TREATMENT - Bioretention

ID	Description	Total Area (SF)	Landscape Area (SF)	Treatment Area Hardscape/Roof (SF)	Treatment Area Required (SF)	Treatment Area Provided (SF)
1	Lot	18,700	2,803	15,897	636	646
2	Lot	18,811	1,533	17,278	691	694

STORMWATER LEGEND

- LANDSCAPE
- HARDSCAPE
- ROOF TOP
- PARKING/DRIVE
- BIORETENTION
- EXISTING PARKING/DRIVE
- EXISTING LANDSCAPE



LEGEND

EXISTING	PROPOSED	DESCRIPTION
		PROPERTY LINE
		CENTERLINE
100		CONTOUR
		CONCRETE CURB & GUTTER
		DEPRESSED CURB
		RETAINING WALL
		VERTICAL CURB
		V--64 CHRISTY DRAIN
		STANDARD HOODED INLET
		POSITIVE RELEASE
	FF 161.00	FINISHED FLOOR ELEVATION
	PAD 160.00	PAD ELEVATION
	TC 160.00	TOP OF CURB ELEVATION
	FL 160.00	FLOW LINE ELEVATION
X160.00	X160.00	GRADE
	S=.004>	SLOPE
	GB	GRADE BREAK
	TW	TOP OF WALL
	LA	LANDSCAPE AREA
	RA	ROOF AREA
	SA	STREET AREA
	PA	PAVER AREA
		CONCRETE PAVERS
	A / 4.1	SECTION NAME
		TREE

Source: Charles W. Davidson Co., Aug. 19, 2015.

PRELIMINARY STORMWATER CONTROL PLAN

FIGURE 4.9-1

4.9.2.4 *Flooding (Checklist Questions 7 - 9)*

The proposed project would not place structures in a 100-year floodplain or in a dam failure inundation hazard zone. Sites outside the 100-year floodplain are not considered prone to flooding. **(No Impact)**

4.9.2.5 *Seiches, Tsunamis, and Mudflows (Checklist Question 10)*

The project site is not subject to inundation by seiche, tsunami, or mudflow. **(No Impact)**

4.9.3 Conclusion

The construction and operation of an 8,413-square-foot retail/commercial building within the parking lot of an existing shopping center would have a less than significant impact on hydrology and water quality. **(Less Than Significant Impact)**

4.10 LAND USE

4.10.1 Setting

The project site is a 0.53-acre portion of an existing shopping center parking lot. The shopping center, which is considered the subject site, is designated *Neighborhood/Community Commercial* on the General Plan Land Use/Transportation Diagram and is zoned *Planned Development A(PD)* on the City of San Jose Zoning Map. According to the City's General Plan, the *Neighborhood/Community Commercial* designation supports a broad range of commercial activity, including commercial uses that serve the communities in neighboring areas, such as neighborhood serving retail and services and commercial/professional office development. Permitted uses in the *Planned Development A(PD)* zoning district shall be developed in accordance with the *C-1* zoning district, which is also known as *CP* or *Commercial Pedestrian*.

The project site is located in the southeast corner of the existing shopping center parking lot. The project site is bounded by Silver Creek Valley Road to the northeast, Silver Creek Valley Trail to the southeast, and the existing shopping center to the west (refer to Figure 2.2-3). Land uses around the shopping center consist of residential and open space.

4.10.1.1 *Evergreen-East Hills Development Policy*

The City's Evergreen-East Hills Development Policy (EEHDP) is an updated version of the Evergreen Development Policy (EDP) that was first adopted in 1976 to address flood protection and traffic capacity in the policy area. This area has a limited number of "gateway streets" providing access, so the potential for traffic congestion is high. Additionally, the area is naturally prone to flooding, so flood control measures are required for new development. To address these concerns, the EEHDP limits the amount of development that can take place in the policy area. The proposed project site is within the area subject to the EEHDP.

4.10.1.2 *Santa Clara Valley Habitat Plan*

The Santa Clara Valley Habitat Plan (SCVHP) was developed 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), U.S. Fish and Wildlife Service (USFWS), and California Department of Fish and Wildlife (CDFW). The SCVHP is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth on approximately 500,000 acres of southern Santa Clara County. The SCVHP has been approved by the local partners, and has been effective since October 14, 2013.

As discussed in *Section 4.4 Biology*, the proposed project is a covered activity under the SCVHP and the project site is considered "Urban – Suburban" and "Willow Riparian Forest and Scrub" land cover.

4.10.1.3 *General Plan*

The *Envision San José 2040 General Plan* includes the following land use policies applicable to the proposed project:

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-4.4: In non-growth areas, design new development and subdivisions to reflect the character of predominant existing development of the same type in the surrounding area through the regulation of lot size, street frontage, height, building scale, siting/setbacks, and building orientation.

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 Environmental 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:					
1. Physically divide an established community?	☐	☐	☐	☒	1
2. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☒	☐	1, 2, 3, 15
3. Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☒	☐	1, 11, 19

4.10.2.1 *Established Communities (Checklist Question 1)*

The project area consists of a variety of land uses including commercial, retail, open space, and residential. The project would introduce similar and existing commercial land uses to the community. The project would not divide the existing community and is consistent with the existing neighborhood and community. **(Less Than Significant Impact)**

4.10.2.2 *Consistency with Applicable Land Use Plans and Regulations (Checklist Question 2)*

Land use conflicts can arise from two basic causes: 1) a new development or land use may cause impacts to persons or the physical environment in the vicinity of the project site or elsewhere; or 2)

conditions on or near the project site may have impacts on the person or development introduced onto the site by the new projects. Both of these circumstances are aspects of *land use compatibility*. Potential incompatibility may arise from placing a particular development or land use at an inappropriate location, or from some aspect of the project's design or scope. Depending on the nature of the impacts and their severity, land use compatibility conflicts can range from minor irritation and nuisance to potentially significant effects on human health and safety.

The project site is a 0.53-acre portion of an existing shopping center parking lot. Residential uses are located across Silver Creek Valley Road to the northeast. Open space separates the site from residential uses to the south and west. Project construction could cause temporary noise and air quality impacts in the project vicinity. As discussed in *Section 4.3 Air Quality* and *Section 4.12 Noise* of this Initial Study, measures are included in the project to reduce construction noise and air quality impacts to a less than significant level. **(Less Than Significant Impact)**

Envision San José 2040 General Plan

The subject site has a General Plan land use designation of *Neighborhood/Community Commercial*. The project would not change the existing land use designation on the site and the proposed retail/commercial building would be consistent with the General Plan land use designation. **(Less Than Significant Impact)**

City of San José Zoning District

The subject site is currently zoned Planned Development A(PD) under file number PDC03-001. The existing zoning allows for the existing development on the subject site (i.e., 62,724 feet of retail/commercial uses). The proposed CG(PD) zoning would allow for the total proposed development on the subject site (i.e., approximately 70,137 square feet of retail/commercial uses). As discussed in the respective sections of this Initial Study, the proposed project would not result in significant impacts on the environment. **(Less Than Significant Impact)**

Evergreen-East Hills Development District

The project site lies within the boundaries of the *Evergreen-East Hills Development Policy*. The policy includes "Guiding Principles for Land Use and Transportation Planning" that should be considered for all new development.[24] Principles applicable to this project include:

- Ensure new development is compatible (in terms of design, density, massing, etc.) to adjacent properties and is well integrated with existing neighborhoods and surroundings.
- Add restaurants, post offices, health care facilities (e.g., emergency rooms), and other neighborhood/commercial services to Evergreen, east of Highway 101.
- Infrastructure and services should support the planned levels of residential and commercial/retail/office development.
- Increase overall livability of Evergreen by fostering vibrant commercial/business, mixed use, and residential areas linked by various transportation modes and community amenities.

[24] City of San José, *Evergreen-East Hills Development Policy*, December 16, 2008.

- Incorporate commercial services onsite or in close proximity (e.g., day-care, dry-cleaners, fitness centers, financial services, grocery stores and/or restaurant).

The proposed project would support these development principles by providing retail/commercial services to Evergreen, east of Highway 101. Traffic generated by the proposed project would be subject to EEHDP guidelines and subject to a traffic impact fee (refer to *Section 4.16 Transportation*). **(Less Than Significant Impact)**

4.10.2.3 *Santa Clara Valley Habitat Plan (Checklist Question 3)*

As discussed in *Section 4.4.2.3*, the proposed project is a covered activity under the SCVHP. Paying the appropriate plan fees and conducting the required surveys described in that section would ensure the proposed project does not conflict with the SCVHP. **(Less Than Significant Impact)**

4.10.3 Conclusion

The project would not divide an established community, conflict with applicable plans or policies, or otherwise result in significant land use impacts. Development fees shall be paid at the Building Permit stage to comply with the SCVHP. **(Less Than Significant Impact)**

4.11 MINERAL RESOURCES

4.11.1 Setting

Extractive resources known to exist in and near the Santa Clara Valley include cement, sand, gravel, crushed rock, clay, and limestone. Santa Clara County has also supplied a significant portion of the nation's mercury over the past century. Pursuant to the mandate of the Surface Mining and Reclamation Act of 1975 (SMARA), the State Mining and Geology Board has designated the Communications Hill Area, bounded generally by the Union Pacific Railroad, Curtner Avenue, State Route 87, and Hillsdale Avenue as containing mineral deposits which are of regional significance as a source of construction aggregate materials.

Neither the State Geologist nor the State Mining and Geology Board has classified any other areas in San José as containing mineral deposits which are either of statewide significance or the significance of which requires further evaluation. Therefore, other than the Communications Hill area cited above, San José does not have mineral deposits subject to SMARA.

The project site is outside of the Communications Hill area.

4.11.2 Environmental 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:					
1. 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?	☐	☐	☐	☒	1, 2
2. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒	1, 2

4.11.2.1 *Impacts to Mineral Resources (Checklist Questions 1 -2)*

The project site is approximately five miles from the Communications Hill area and would not result in impacts to known mineral resources. **(No Impact)**

4.11.3 Conclusion

The project would have no impact to known mineral resources. **(No Impact)**

4.12 NOISE

The discussion in this section is based, in part, upon a noise report prepared by *Charles M. Salter Associates, Inc.* in October 2015. This report is provided as Appendix E of this Initial Study.

4.12.1 Setting

4.12.1.1 *Background Information*

Acceptable levels of noise vary depending on the land use. In any one location, the noise level will vary over time, from the lowest background or ambient noise level to temporary increases caused by traffic or other sources. State and federal standards have been established as guidelines for determining the compatibility of a particular 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.[25] 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. Most commonly, 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.

Although the A-weighted noise level may adequately indicate the level of environmental noise at any instant in time, community noise levels vary continuously. Most environmental noise includes a conglomeration of noise from distant sources which create a relatively steady background noise in which no particular source is identifiable. Sound level meters can accurately measure environmental noise levels to within about plus or minus one dBA. Since the sensitivity to noise increases during the evening hours, 24-hour descriptors have been developed that incorporate artificial noise penalties added to quiet-time noise events. 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 between 10:00 P.M. and 7:00 A.M.

4.12.1.2 *City of San José Applicable Noise Requirements and Policies*

The City's General Plan and Municipal Code include criteria for land use compatibility and acceptable noise levels in the City. The normally acceptable General Plan exterior noise level for a commercial project is 70 dBA DNL (refer to General Plan Policy EC-1 and associated Table EC-1 below). The General Plan considers noise impacts to be significant if a project would increase noise level at adjacent land uses by five dBA or more where noise levels would remain normally acceptable or three dBA where noise levels would equal or exceed the normally acceptable level. Section 20.40.600 of the Municipal Code requires a Conditional Use (or equivalent) permit if noise levels from a commercial use that is adjacent to a residential use will exceed a maximum of 55

[25] The sound pressure level in decibels as measured on a sound level meter using the A-weighting filter network. All sound levels in this discussion are A-weighted unless otherwise stated.

decibels at the property line and if noise levels will exceed a maximum of 60 decibels where a commercial use is adjacent to a commercial or other non-residential use.

The Riparian Corridor Policy Study (RCPS) states the operation of mechanical equipment within or adjacent to riparian corridors should not exceed noise levels for open space as specified in the General Plan, or exceed background noise levels. Noise producing stationary mechanical equipment should be located as far as necessary from riparian corridors to preclude exceeding the ambient noise level in the corridors. The General Plan acceptable exterior noise levels for open space uses is 65 dBA DNL. The General Plan acceptable exterior noise levels for residential uses is 60 dBA DNL.

General Plan Policies

The *Envision San José 2040 General Plan* includes the following noise policies applicable to the proposed project:

Policy EC-1.1 Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include:

Table EC-1: Land Use Compatibility Guidelines for Community Noise in San José

LAND USE CATEGORY	EXTERIOR NOISE EXPOSURE (DNL IN DECIBELS (DBA)) 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, Churches						
4. Office Buildings, Business Commercial, and Professional Offices						
5. Sports Arena, Outdoor Spectator Sports						
6. Public and Quasi-Public Auditoriums, Concert Halls, 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 needed noise insulation 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.

Policy EC-1.2: Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) 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 three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.

- 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-1.3: 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-1.4: 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.

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 building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.

EC-1.8: Allow commercial drive-through uses only when consistency with the City's exterior noise level guidelines and compatibility with adjacent land uses can be demonstrated.

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 the potential for cosmetic damage at buildings of normal conventional construction.

Construction Noise

Construction is a temporary source of noise impacting residences and businesses 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.

Large pieces of earth-moving equipment, such as graders, scrapers, and bulldozers, generate maximum noise levels of 85 to 90 dBA at a distance of 50 feet. 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.

4.12.1.3 *Existing Noise Conditions*

The project site is located in the southeast corner of the Canyon Creek Plaza shopping center and is currently developed with a parking lot. Retail uses in the shopping center include a grocery store, coffee shop, restaurants, pet hospital, and tutoring center. The site is bounded by Silver Creek Valley Road to the northeast and Silver Creek trail to the southwest. The nearest residences to the project site are located over 400 feet northeast and southwest of the site. The residences are located on the hillsides above the project site and Silver Creek Valley Road. The main source of noise in the area is vehicle traffic on Silver Creek Valley Road. The project site is not located within an airport land use plan or within the vicinity of a private airstrip or public use airport.

Ambient noise levels in the project area were measured in April 2013 and April 2014. These results are summarized in Table 4.12-1 below. The complete noise report is included as Appendix E of this Initial Study. Existing exterior noise levels are within the General Plan's normally acceptable limits for commercial uses.

Table 4.12-1: Existing Noise Environment

Site	Location	Date/Time	DNL
LT-1	Project Site - 90 feet SW of Silver Creek Valley Road centerline	4/26/13 to 4/30/13	62 dB
LT-2	Project Site – adjacent to Silver Creek Trail/Riparian Area and 190 feet SW of Silver Creek Valley Road centerline	4/14/14 to 4/16/14	57 dB
ST-1	Nearest Residential Property Line (south) 560 feet SW of roadway centerline	9:10AM to 9:25AM 4/26/13	53 dB
ST-2	Nearest Residential Property Line (north) 320 feet NW of roadway centerline	10:15AM to 10:30AM 4/30/13	56 dB
ST-3	Project Site – adjacent to Silver Creek Trail/Riparian Area and 310 feet SW of Silver Creek Valley Road centerline	3:50PM to 4:05PM 4/14/14	55 dB

4.12.2 Environmental 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:					
1. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☒	☐	1, 2, 18
2. Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	☐	☐	☒	☐	1, 2, 18
3. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☒	☐	1, 2, 18
4. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☒	☐	1, 2, 18
5. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	1, 2
6. 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?	☐	☐	☐	☒	1, 2

4.12.2.1 *Operational Noise Impacts (Checklist Question 1 and 3)*

The proposed hours of operation are from 6:00 A.M. to 12:00 A.M. The existing uses on the project site operate from 6:00 A.M. to 10:00 P.M. on a regular basis. Noise generated during operation of the proposed building would be caused by vehicles entering and exiting the site and rooftop heating, ventilation, and air conditioning (HVAC) equipment. As patrons access the site, activities making up a single event would include vehicle arrival, limited idling of the vehicle, occupants exiting the vehicle, door closure, conversations among passengers, occupants entering the vehicle, door closure, vehicle startup, and departure. The project site is currently a parking lot for the existing shopping center and, as a result, all of these activities currently occur at the site. Therefore, noise levels at the project site from vehicles entering and exiting would be similar to existing conditions and would not substantially increase ambient noise levels. Consistent with the RCPS, noise generated by the HVAC equipment would be reduced to 55 dBA DNL at the edge of the riparian corridor. For these reasons, project vehicles entering and exiting the site and HVAC equipment would not increase noise levels in the project area. As discussed in *Section 4.4 Biology*, future noise levels with the proposed project would not substantially affect the value of the Silver Creek riparian corridor habitat. **(Less Than Significant Impact)**

Project-Generated Traffic

The project would increase the square-footage of onsite uses, and some increased traffic can be expected (see *Section 4.16 Transportation*). Typically, roadway traffic volumes must double to result in a noticeable (i.e., three dBA) noise increase. Project-generated traffic would travel to and from the project site using Silver Creek Valley Road. Daily traffic volumes on Silver Creek Valley Road in the vicinity of the project site vary between 15,000 and 25,000 vehicles.[26] The proposed project would generate approximately 93 new daily trips.[27] Increased noise levels along Silver Creek Valley Road resulting from project-generated traffic would be less than one decibel, which is imperceptible. Project-generated traffic would not increase noise levels three dBA or more and, therefore, would not substantially increase noise levels in the project area. **(Less Than Significant Impact)**

4.12.2.2 *Construction Noise and Vibration Impacts (Checklist Question 2 and 4)*

Construction of the proposed project would generate noise and would temporarily increase noise levels at nearby commercial/residential uses and along the recreational trail and the riparian corridor. The significance of noise impacts during construction and demolition depend on the noise generated by various pieces of construction equipment, the timing and duration of noise generating activities, and the distance between construction noise sources and noise sensitive receptors.

Construction activities generate considerable amounts of noise, especially during the construction of project infrastructure when heavy equipment is used. Typical hourly average construction noise levels are about 75 to 80 dBA measured at a distance of 100 feet from the center of the site during busy construction periods (e.g. earth moving equipment, impact tools, etc.). Construction noise levels drop off at a rate of about six dBA per doubling of distance between the source and receptor.

Construction noise impacts are more significant when construction occurs during noise-sensitive times of the day (early morning, evening, or nighttime hours), when the construction occurs in areas immediately adjoining noise sensitive land uses, or when construction lasts extended periods of time. Project construction would take approximately nine months to complete. Construction activities would be audible at the existing commercial and residential uses in the vicinity of the project site, but would not result in a significant impact because substantial noise generating activities as described in *Section 4.12.1.2* would not continue for more than 12 months.

Standard Permit Conditions: The following Standard Permit Conditions will be included in the project to reduce construction noise impacts on neighboring properties:

- Noise generating construction activities shall be limited to the hours between 7:00 A.M. and 7:00 P.M., Monday through Friday, for any on-site of off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit, based on a site-specific construction noise mitigation plan and a finding by the Director of Planning, Building, and Code Enforcement that the construction noise mitigation would adequately prevent noise disturbance to affected residential uses.

[26] KSS Fuels. Google Earth Pro US Daily Traffic Counts. 2012
[27] Institute of Transportation Engineers. Trip Generation (9th Edition), Shopping Center (820). 2012

- Contractors shall use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components.
- Stationary noise-generating equipment shall be located as far as possible from sensitive receptors, such as residential uses. Staging areas should be a minimum of 200 feet from noise sensitive receptors.
- Unnecessary idling of internal combustion engines shall be prohibited.

Short-term vibration noise would be generated during project construction. The use of heavy equipment or impact tools (e.g. jackhammers, hoe rams) could generate vibration levels that exceed the City's criteria. Heavy tracked vehicles (e.g., excavators) can generate perceptible ground-borne vibration levels. The following Standard Permit Condition would be implemented to reduce construction vibration impacts to the adjacent residences.

Standard Permit Condition: Consistent with General Plan Policy EC-2.3, the proposed project will be required by conditions of project approval, to implement the following Standard Permit Condition to avoid construction vibration impacts to adjacent buildings:

- The project will minimize vibration impacts to adjacent uses during demolition and construction by restricting vibratory compactors to have a minimum setback of 50 feet from any structures. 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. **(Less Than Significant Impact)**

4.12.2.3 *Areas within Airport Land Use Plan or Private Airstrip (Checklist Questions 5 – 6)*

The project site is not located within an airport land use plan and is located outside the 60 dBA DNL airport noise contour. **(No Impact)**

4.12.3 Conclusion

With the incorporation of Standard Permit Conditions, the proposed project would not result in significant noise impacts. **(Less Than Significant Impact)**

4.13 POPULATION AND HOUSING

4.13.1 Setting

According to the City, the population of San José is 1,000,536 as of 2014, which included 306,727 households.[28] The City's population is projected to reach 1,216,000 with 401,000 households by the year 2025.[29] The average number of persons per household in San José in 2013 was 3.16 and is projected to decrease slightly to 3.03 by the year 2025.

4.13.2 Environmental 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:					
1. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☒	☐	1, 2
2. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	1
3. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	1

4.13.2.1 *Impacts to Population and Housing (Checklist Questions 1 -3)*

The proposed project would not result in the displacement of people or housing. The proposed project would construct a new retail/commercial building in the City, but would not directly induce substantial population growth. As discussed further in *Section 4.17 Utilities and Service Systems*, no additional infrastructure would be needed to serve the project. For these reasons, the project would not directly or indirectly induce substantial population growth. **(Less Than Significant Impact)**

4.13.3 Conclusion

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

[28] City of San José, *Fact Sheet: History & Geography, 2013*. http://www.sanjoseca.gov/DocumentCenter/View/780
[29] Center for the Continuing Study of the California Economy, *Projections of Jobs, Populations, and Households for the City of San José*, August 2008. http://www.sanjoseca.gov/DocumentCenter/View/3326

4.14 PUBLIC SERVICES

4.14.1 Setting

4.14.1.1 *Fire Service*

Fire protection to the site is provided by the San José Fire Department (SJFD), which serves a total area of 203 square miles. The SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the project area. The SJFD currently has 35 fire stations through the City.

The closest station to the project site is Station 11, located approximately one mile east at 2840 The Villages Parkway.

4.14.1.2 *Police Service*

Police protection services for the site are provided by the San José Police Department (SJPD). Offices patrolling the project area are dispatched from police headquarters located at 201 West Mission Street.

4.14.1.3 *Schools*

The closest public school to the project site is James Franklin Smith Elementary School, located approximately one mile northwest at 2220 Woodbury Lane.

4.14.1.4 *Parks*

The closest park to the project site is Canyon Creek Park, which is operated by the City of San José and is located approximately 3,500 feet east on Larkspur Canyon Road. The next nearest City park is Silver Creek Linear Park which is located on Silver Creek Road approximately 3,900 feet north of the project site. Hellyer County Park, which is operated by Santa Clara County Regional Parks, is located approximately 1.8 miles west at 985 Hellyer Avenue. A pedestrian/bicycle trail runs along Silver Creek between the creek and the project site.

4.14.1.5 *General Plan*

The *Envision San José 2040 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-3.9: Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publically-visible and accessible spaces.

Policy ES-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 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
1. Would the project 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:					
a. Fire Protection?	☐	☐	☒	☐	1, 16
b. Police Protection?	☐	☐	☒	☐	1, 16
c. Schools?	☐	☐	☐	☒	1
d. Parks?	☐	☐	☒	☐	1, 18
e. Other Public Facilities?	☐	☐	☐	☒	1

4.14.2.1 *Impacts to Public Services and Facilities (Checklist Question 1.a – 1.e)*

Fire and Police Protection Services

The proposed retail/commercial building on the project site is accounted for in the planned growth for the City and the proposed project would serve the existing population. The project would be reviewed by the SJFD prior to issuance of a building permit. For these reasons, the proposed project would not result in significant impacts to fire and police protection services in the City. **(Less Than Significant Impact)**

Schools

The proposed retail/commercial building project is not a student generating use (i.e., housing) and, therefore, would not impact schools. **(No Impact)**

Parks

The proposed retail/commercial building project would not increase the use of local parks or the adjacent trail. As discussed in *Section 4.10 Noise*, operation of the proposed building would not increase noise levels at the adjacent trail. **(Less Than Significant Impact)**

Other Public Facilities

The proposed retail/commercial would not increase the use or otherwise affect other public facilities (e.g., libraries) in the project area. **(No Impact)**

4.14.3 Conclusion

The construction and operation of the proposed retail/commercial building within the existing Canyon Creek Plaza shopping center would have a less than significant impact on public services in the City of San José. **(Less Than Significant Impact)**

4.15 RECREATION

4.15.1 Setting

The City of San José provides parklands, open space, and community facilities for public recreation and community services. Park and recreation facilities vary in size, use, and type of service and provide regional and neighborhood uses. The nearest park to the project site operated by the City is Canyon Creek Park, which is operated by the City of San José and is located approximately 3,500 feet east on Larkspur Canyon Road. The next nearest City park is Silver Creek Linear Park, which is located on Silver Creek Road approximately 3,900 feet north of the project site. A pedestrian/bicycle trail runs along Silver Creek adjacent to the project site. The nearest regional park to the project site is Hellyer County Park, which is operated by Santa Clara County Regional Parks and is located approximately 1.8 miles from the project site.

4.15.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
1. 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?	☐	☐	☐	☒	1
2. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒	1

4.15.2.1 *Impacts to Recreational Facilities (Checklist Questions 1 - 2)*

The proposed retail/commercial building would not increase usage of existing recreational facilities and would not require the construction or expansion of recreational facilities. As discussed in *Section 4.10 Noise*, operation of the proposed building would not increase noise levels at the adjacent pedestrian/bicycle trail. **(No Impact)**

4.15.3 Conclusion

The construction and operation of the proposed retail/commercial building within the existing Canyon Creek Plaza shopping center would not adversely affect recreational facilities in the project area. **(No Impact)**

4.16 TRANSPORTATION

The following discussion is based, in part, upon a parking study prepared by *Hexagon Transportation Consultants* in July 2015. This report is provided as Appendix F of this Initial Study.

4.16.1 Setting

The project site is located in the parking lot of the existing Canyon Creek Plaza shopping center in the City of San José. Local access to the site is provided by Silver Creek Valley Road (refer to Figure 2.2-2). Silver Creek Valley Road is four lanes with a bike lane and landscaped median. Regional access is provided by US 101. Pedestrian access to the site is provided by sidewalks on Silver Creek Valley Road and a pedestrian/bicycle path along Silver Creek. The shopping center has three access driveways on Silver Creek Valley Road.

4.16.1.1 *Evergreen-East Hills Development Policy*

The proposed project is in the area subject to the 2008 Evergreen-East Hills Development Policy (EEHDP), which is an updated version of the Evergreen Development Policy that was first adopted in 1976 to address flood protection and traffic capacity in the policy area. The potential for traffic congestion in the area is high due to the limited number of "gateway streets" that provide access. The EEHDP planned for 500 new residential units, 500,000 square feet of retail, and 75,000 square feet of commercial development and allocated traffic capacity accordingly. All new development within the EEHDP area is required to incorporate transportation demand management (TDM) elements into facility design, to the extent possible, to reduce traffic during peak commute periods. New development in the policy area is also subject to a traffic impact fee, which funds transportation improvements designed to mitigate traffic impacts associated with development authorized by the EEHDP.

The nearest signalized intersection, Silver Creek Valley Road and Beaumont Canyon Drive, provides access to the existing shopping center and was one of 99 intersections studied prior to the adoption of the EEHDP in 2008. Under that study's project conditions, which for purposes of the traffic analysis consisted of full build-out of the development pool, the level of service at this intersection remained unchanged with a letter grade of B.[30] A supplemental traffic analysis is required by the EEHDP if development is proposed at "locations substantially different" than were studied during the EEHDP environmental review process. The project is not proposed at a location substantially different than the development locations studied prior to adoption of the EEHDP.

[30] City of San José, *Revision of the Evergreen Development Policy: Final Supplemental Environmental Impact Report*, November 2008.

4.16.2 Environmental 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:					
3. 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?	☐	☐	☒	☐	1, 15
4. 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?	☐	☐	☒	☐	1, 15
5. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☒	1
6. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	☐	☐	☒	☐	1
7. Result in inadequate emergency access?	☐	☐	☐	☒	1
8. Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	☐	☐	☒	☐	1, 2, 15

4.16.2.1 *Project Traffic Impacts*

Evergreen-East Hills Development Policy (Checklist Question 1, 2, 4, and 6)

The project site is subject to the EEHDP. The EEHDP created a development pool allowing for 500 new residences, 500,000 square feet of commercial development, and 75,000 square feet of office development within the EEHDP area. Of the 500,000 square feet of commercial development and 75,000 square feet of office development allotted, 59,231 square feet and 55,260 square feet have been constructed, respectively. Therefore, there is capacity in the development pool for the proposed 8,413-square-foot retail/commercial building. The nearby intersection affected by the project (i.e.,

Silver Creek Valley Road and Beaumont Canyon Drive) was studied during the EEHDP environmental review process, and no impact was identified with full build out of the development pool. Therefore, the project is not required to complete a supplemental traffic analysis and would not result in adverse impacts to traffic in the policy area. All new development in the policy area, however, is required to incorporate transportation demand management (TDM) elements into facility design and pay a traffic impact fee. TDM elements appropriate for a project of this type would focus on the employees of the proposed retail/commercial building and could include measures such as providing secure and convenient bicycle parking and offering transit use incentives. Project consistency with applicable Transportation Control Measures is shown below in Table 4.16-1. **(Less Than Significant Impact)**

Table 4.16-1: Applicable Transportation Control Measures

Transportation Control Measures	Description	Project Consistency
Improve Bicycle Access and Facilities	Expand bicycle facilities serving transit hubs, employment sites, educational and cultural facilities, residential areas, shopping districts, and other activity centers.	The project is located adjacent to the Silver Creek Trail and includes bike parking spaces for tenants.
Improve Pedestrian Access and Facilities	Improve pedestrian access to transit, employment, and major activity centers.	Pedestrian access to the project is provided by the adjacent Silver Creek Trail and sidewalks along Silver Creek Valley Road. The proposed building includes landscaped walkways and a crosswalk connection to existing uses within the existing shopping center.
Support Local Land Use Strategies	Promote land use patterns, policies, and infrastructure investments that support mixed-use, transit-oriented development that reduce motor vehicle dependence and facilitate walking, bicycling, and transit use.	The project is consistent with the existing General Plan land use designation and Evergreen-East Hills Development Policy (EEHDP).
Voluntary Employer-Based Trip Reduction Programs	Reduce emissions of the key ozone precursors, ROG, and NOx by reducing commute trips, vehicle miles traveled, and vehicle emissions. In addition, the measure will reduce emissions of particulate matter, air toxics, and greenhouse gases.	The project is located adjacent to the Silver Creek Trail and includes bicycle parking spaces for tenants.

Vehicle Circulation

Currently, the shopping center has three vehicle access driveways on Silver Creek Valley Road. One driveway is at the signalized intersection of Silver Creek Valley Road and Beaumont Canyon Drive. The closest driveway to the project site is the south easternmost driveway in the shopping center. The proposed project was reviewed by the City of San Jose Department of Public Works; the project would not substantially increase hazards due to a design feature or incompatible land uses, nor would it result in inadequate emergency access.

Parking

The proposed retail/commercial building would increase the demand for parking and decrease the existing parking supply. There are 317 existing parking spaces in the Canyon Creek Plaza shopping center. A parking study was completed for the Canyon Creek Plaza shopping center by *Hexagon Transportation Consultants* (refer to Appendix F). Standard practice for parking studies is to base the analysis on the observed peak demand. The peak demand during the parking survey was 169 vehicles at 12:30 PM on Wednesday, July 7, 2015.

During the parking survey, the pizza restaurant located in the shopping center was closed for remodeling. Based on City of San Jose parking requirements (City Code 20.90.060), public eating establishments require one parking space per 40 square feet of dining area. Assuming 50 percent of the 3,441-square-foot space would be dining area, the restaurant could generate demand for an additional 43 spaces (3,441 x 0.50 / 40 = 43), if the restaurant were fully occupied. Therefore, the peak parking demand at the shopping center could reach 212 vehicles (169 + 43 = 212).

The proposed retail/commercial building would eliminate 43 parking spaces in the shopping center, leaving a total of 274 spaces for the existing businesses and the proposed building. The proposed building is 8,413 square feet in size, which includes 13 office and retail suites, restrooms, utility rooms, lobby, and hallway. Based on City of San Jose parking requirements, general retail space requires one parking space per 200 square feet of rentable floor area. Assuming 85 percent of the building area would be rentable, the proposed building would generate demand for an additional 36 spaces (8,413 x 0.85 / 200 = 36) assuming all retail uses.[31] With the proposed building, the peak parking demand at the shopping center could reach 248 vehicles (212 + 36 = 248). This is less than the future parking supply of 274 spaces, leaving 26 available spaces (274 - 248 = 26) during peak demand hours (lunch and dinner hours on weekdays). There would be considerably more vacant parking spaces during the non-peak demand hours and on weekends. Also, very few cars use the parking spaces in the area of the proposed building, because it is remote from the existing businesses in the shopping center. If the area was used as employee parking, then the more central parking areas would have a lower occupancy rate and customers would be able to find parking closer to the businesses they are patronizing, even during periods of very high demand.

[31] The City of San Jose parking requirements for general commercial uses is one space per 200 square feet of rentable floor area.

Air Traffic Patterns (Checklist Question 3)

The project site is not located within the Norman Y. Mineta San José International Airport influence area or safety zones and the proposed building height does not require Federal Aviation Administration (FAA) airspace review. The project would not result in changes in air traffic patterns. **(No Impact)**

Emergency Response (Checklist Question 5)

The proposed project would not interfere with emergency response access during construction of the project. Once constructed, the proposed project would have no effect on emergency access. The project would not result in inadequate emergency access. **(No Impact)**

4.16.3 Conclusion

The proposed retail/commercial building would be consistent with the Evergreen-East Hills Development Policy and, upon payment of applicable impact fees, would have a less than significant transportation impact. **(Less Than Significant Impact)**

4.17 UTILITIES AND SERVICE SYSTEMS

4.17.1 Setting

4.17.1.1 *Water Service*

The City of San Jose's Municipal Water System owns and maintains the water mains adjacent to the project site. There is an existing 24-inch potable water main and a 30-inch recycled water main in Silver Creek Valley Road where new potable and non-potable services for this development can connect to. If there are existing services that are no longer needed, they must be properly abandoned.

4.17.1.2 *Sanitary Sewer/Wastewater Treatment*

Wastewater from the City of San José is treated at the San José-Santa Clara Regional Wastewater Facility (the Facility). The Facility is a regional wastewater treatment facility serving eight tributary sewage collection agencies and is administered and operated by the City of San José's 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 cleans an average of 110 million gallons of wastewater per day and serves 1.4 million residents.[32]

The Facility is currently operating under a 120 million gallon per day dry weather effluent flow constraint. This requirement is based upon the State Water Resources Control Board and the Regional Water Quality Control Board 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 which removes 99 percent of impurities to comply with state regulations.

The existing Canyon Creek Plaza shopping center currently connects to the 12-inch sewer main in Silver Creek Valley Road, which is owned and maintained by the City of San Jose.

4.17.1.3 *Storm Drainage System*

The existing stormwater system collects untreated stormwater from the shopping center and directly discharges into Silver Creek through an existing outfall.

4.17.1.4 *Solid Waste*

Waste collection and recycling services are available to most businesses from private companies franchised by the City of San José.

The California Integrated Waste Management Act (AB 939) passed in 1989 required jurisdictions to divert 50 percent of solid waste from landfills by the year 2000. The City of San José has exceeded this requirement, diverting over 60 percent of solid waste from landfills in recent years. Recently, the state has tasked the California Department of Resources Recycling and Recovery (CalRecycle) with developing strategies to reach a 75 percent waste diversion rate statewide by the year 2020.

[32] City of San José, San José-Santa Clara Regional Wastewater Facility, http://www.sanjoseca.gov/?nid=1663.

Similarly, the City of San José adopted a Zero Waste Resolution in October 2007 which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022. The City currently sends 700,000 tons per year of solid waste to landfills.

4.17.1.5 *General Plan*

The *Envision San José 2040 General Plan* includes the following utility and service system 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-19.3: Expand the use of recycled water to benefit the community and the environment.

Policy MS-19.4: Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.

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 Environmental 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:					
1. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☒	☐	1, 2
2. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☒	☐	1, 16
3. 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?	☐	☐	☒	☐	1, 2

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
4. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☒	☐	1, 2, 16
5. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☒	☐	1, 2, 16
6. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☒	☐	1, 2, 16
7. Comply with federal, state and local statutes and regulations related to solid waste?	☐	☐	☒	☐	1, 2

4.17.2.1 *Water Service Impacts (Checklist Question 4)*

The proposed project would construct a new retail/commercial building. As a result, the project would intensify the demand for water use on the site over existing conditions, and slightly increase the overall water demand in San José. Water demand associated with the proposed building would primarily come from restroom usage and cleaning activities. Based on the size of the proposed building (8,413 square feet), water usage for a facility this size is estimated to be approximately 1,100 gallons per day (gpd).[33]

The City of San Jose General Plan EIR determined that the three water suppliers for the City could serve planned growth until 2025. The project site is served by San José Municipal Water System. 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 the expansion of the recycled water system and implementation of water conservation measures. The General Plan EIR concluded that implementation of these policies and existing regulations would ensure full build out under the General Plan would not exceed available water supply. The proposed project is consistent with development assumptions in the General Plan and, therefore, would have a less than significant impact on the City's water supply.

South Bay Water Recycling (SBWR) has a recycled water line along Silver Creek Valley Road that is currently serving the subject property with irrigation water. The design and construction of the irrigation system must conform to SBWR Rules and Regulations, and must be submitted for approval. SBWR prescribes the use of recycled water in lieu of drinking water for other non-potable applications. Recycled water is currently used for irrigation on the subject site, and would be used for the proposed project. **(Less Than Significant Impact)**

[33] Based on a rate of 0.13 gallons per square-foot per day.

4.17.2.2 *Wastewater Services Impacts (Checklist Questions 1, 2, and 5)*

The City of San Jose General Plan assumes wastewater flow rates to be 85 to 95 percent of water use for businesses without 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. The proposed retail/commercial building would connect to the existing onsite sanitary sewer lines, which connect to the sanitary sewer main in Silver Creek Valley Road. With an estimated water use of 1,100 gpd, wastewater generation for the proposed project is estimated to be 990 gpd.[34]

Based on the City of San Jose General Plan EIR, the City's average dry weather wastewater flow is approximately 69.8 million gallons per day (mgd). The City's capacity allocation at the San José-Santa Clara Regional Wastewater Facility is approximately 108.6 mgd, leaving the City with approximately 38.8 mgd of excess treatment capacity. Full build out under the General Plan would increase average dry weather flows by 30.8 mgd to 100.6 mgd, which is below the City's allocated treatment capacity. There is a recycled water line in Silver Creek Valley Road and the project would connect to this line for all landscaping irrigation. The proposed project is consistent with development assumptions in the General Plan and would have a less than significant impact on wastewater services. **(Less Than Significant Impact)**

4.17.2.3 *Storm Drainage Impacts (Checklist Question 3)*

As discussed in *Section 4.9 Hydrology and Water Quality*, new on-site storm drainage facilities would be designed and constructed to meet the requirements of the NPDES MRP and City Policy 6-29. As depicted in the Stormwater Control Plan (Figure 4.9-1), the project would comply by directing stormwater runoff to bioretention areas. From the bioretention area, the water would be filtered and released to Silver Creek through an existing outfall. Compared to existing conditions, the proposed on-site stormwater runoff treatment process would decrease both the rate and volume of stormwater runoff and, therefore, would not exceed the capacity of the City's existing storm drain system. **(Less Than Significant Impact)**

4.17.2.4 *Solid Waste Impacts (Checklist Question 6)*

Based on waste generation rates provided by CalRecycle, the proposed project would generate approximately 110 pounds of solid waste per day.[35] The General Plan EIR concluded that the increase in waste generated by full build out of the General Plan would not cause the City to exceed the capacity of existing landfills. The proposed project is consistent with the development assumptions in the General Plan and, therefore, would have a less than significant impact on solid waste. **(Less Than Significant Impact)**

4.17.3 Conclusion

Construction and operation of the proposed retail/commercial building within the existing Canyon Creek Plaza shopping center would increase water demand, wastewater generation, and solid waste generation. The project, however, would not result in a utility or service facility exceeding current

[34] 1,100 gpd x 0.90 (wastewater factor) = 990 gpd
[35] CalRecycle, *Commercial Sector: Estimated Solid Waste Generation and Disposal Rates*, July 31, 2015. http://www.calrecycle.ca.gov/wastechar/wastegenrates/Commercial.htm

capacity or require the construction of new infrastructure or service facilities. **(Less Than Significant Impact)**

4.18 MANDATORY FINDINGS OF SIGNIFICANCE

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
1. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☒	☐	☐	1-19
2. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☒	☐	1-19
3. Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?	☐	☐	☒	☐	1-19
4. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☒	☐	1-19

4.18.1 Project Impacts (Checklist Question 1)

The proposed project could result in impacts to biological resources, if nesting birds are found during breeding season on or adjacent to the project site at the time of project construction. The project could result in impacts to cultural resources, should they be discovered on site during project construction. Additionally, the project could result in temporary air quality, water quality, and noise impacts during construction. With the implementation of the mitigation measures and standard permit conditions described in this Initial Study, these potential impacts would be less than significant.

4.18.2 Cumulative Impacts (Checklist Question 2)

Development in the vicinity of the proposed project is limited by the Evergreen East-Hills Development Policy (EEHDP). The proposed project is consistent with the development assumptions in the EEHDP and, therefore, would not result in significant cumulative impacts beyond those disclosed in the EIR prepared for the EEHDP. The EEHDP planned for 500 new residential

units, 500,000 square feet of retail, and 75,000 square feet of commercial development and allocated traffic capacity accordingly. The project will pay applicable fees identified in the EEHDP to help fund traffic improvements that address cumulative traffic impacts.

4.18.3 Short-term vs Long-term Environmental Goals (Checklist Question 3)

The proposed project would not advance short-term environmental goals to the disadvantage of long-term environmental goals.

4.18.4 Direct or Indirect Adverse Effects on Human Beings (Checklist Question 4)

With the implementation of the mitigation measures and standard permit conditions described in this Initial Study, the proposed project would not result in substantial adverse effects on human beings.

4.18.5 Conclusion

The proposed project could result in temporary air quality, noise, and water quality impacts during construction. The project could result in impacts to biological and cultural resources at the time of construction. With implementation of the mitigation measures and standard permit conditions described in this Initial Study, the proposed project would have a less than significant impact on the environment. **(Less Than Significant Impact with Mitigation Incorporated)**

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