

# Initial Study

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## 645 Horning Street Gas Station, Food, and Storage Project

File Numbers: PDC16-041, PD16-027, PT16-037,

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Prepared By:



In Consultation With:



August 2017

**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:** 645 Horning Street Gas Station, Food, and Storage Project

**PROJECT FILE NUMBER:** PDC16-041, PD16-027, PT16-037

**PROJECT DESCRIPTION:** Planned Development Rezoning, Permit, and Tentative Map to demolish six existing buildings, and remove all associated pavement, landscaping, and fencing; and to construct a mix of new commercial buildings including an approximately 3,814-square foot convenience store, six fueling stations (12 total fuel dispensers), an approximately 1,341 square foot automatic carwash, an approximately 2,494-square foot fast-food restaurant with a drive-through, and self-storage facility with three buildings totaling approximately 92,116 square feet on an approximate 3.26 gross acre site.

**PROJECT LOCATION:** 645 Horning Street, which is situated on the north side of Horning Street at its intersection with Oakland Road.

**ASSESSORS PARCEL NO.:** 235-18-001

**COUNCIL DISTRICT:** 3

**APPLICANT CONTACT INFORMATION:** Jim Rubnitz, 17610 Blanchard Drive, Monte Sereno, CA 95030, (408) 813-6416

**FINDING**

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

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

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

## C. AIR QUALITY.

**Impact AIR-1:** Cancer risk from construction activities would exceed both the single-source and cumulative-source significance thresholds at the residence with the maximum impact, assuming infant exposure (i.e., greatest sensitivity) at the receptor sites.

**MM AIR-1.1:** The project shall ensure construction equipment be selected to minimize emissions to achieve a minimum fleet-wide average 77 percent reduction in particulate matter (PM<sub>2.5</sub>) exhaust emissions, compared to uncontrolled aggregate statewide emission rates for similar equipment. Such equipment selection shall include, but is not limited to, the following requirements:

- Mobile diesel-powered off-road equipment larger than 25 horsepower and operating on the site for more than two days continuously (or 20 hours in total) shall meet, at a minimum, one of the following:
  - Engines meeting United States EPA particulate matter emissions standards for Tier 4 engines or equivalent;
  - Tier 2 Engines equipped with CARB-certified Level 3 Diesel Particulate Filters;
  - Use of alternatively-fueled equipment (i.e., non-diesel) would meet this requirement; or
  - Other measures may be the use of added exhaust devices, or a combination of measures, provided that these measures are demonstrated to reduce community risk impacts to less than significant.

The project applicant shall prepare a construction operations plan that includes specifications of the equipment to be used during construction. The plan shall be submitted to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement prior to the issuance of any grading permit. The plan shall be accompanied by a letter signed by a qualified air quality specialist, verifying that the equipment included in the plan meets the standards set forth in this mitigation measure.

## D. BIOLOGICAL RESOURCES.

**Impact BIO-1:** Construction and demolition activities, including the removal of trees from the project site, could impact nesting migratory birds.

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

If it is not possible to schedule demolition and construction between September 1<sup>st</sup> and January 31<sup>st</sup> to avoid the nesting season, pre-construction surveys for nesting raptors and other migratory nesting birds shall be conducted by a qualified ornithologist to identify active nests that may be disturbed during project implementation on-site and within 250 feet of the site. Projects that commence demolition and/or construction activities between February 1st and April 30th, shall conduct a pre-construction survey for nesting birds no more than 14 days prior to initiation of construction, demolition activities, or tree removal. Between May 1<sup>st</sup> and

August 31<sup>st</sup>, the pre-construction survey shall be conducted no more than 30 days prior to initiation of construction, demolition, or tree removal activities.

If an active nest is found in or close enough to the project area to be disturbed by construction activities, a qualified ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction-free buffer zone (typically 250 feet for raptors and 100 feet for other birds) around the nest, to ensure that raptor or migratory bird nests would not be disturbed during ground disturbing activities. The construction-free buffer zones shall be maintained until after the nesting season has ended and/or the ornithologist has determined that the nest is no longer active.

The ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement prior to any grading, demolition, and/or building permit.

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

**Impact HAZ-1:** Hazardous materials contamination on the site, if discovered in soil or groundwater, could pose a risk to construction workers and others on or around the project site.

**MM HAZ-1.1:** Prior to the issuance of a demolition or grading permit, a Site Management Plan (SMP) shall be prepared by a qualified hazardous materials consultant to establish management practices for handling contaminated soil or other materials encountered during construction activities. Appropriate soil testing, characterization, storage, transportation, and disposal procedures shall be specified in the SMP. The sampling results shall be compared to appropriate risk-based screening levels in the SMP. The SMP shall identify potential health, safety, and environmental exposure considerations associated with redevelopment activities and shall identify appropriate mitigation measures.

The SMP shall be submitted to the Santa Clara County Department of Environmental Health (or equivalent agency) for review and approval. A copy of the approved SMP shall be submitted to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement and Municipal Compliance Officer of the City of San Jose Environmental Services Department for approval prior to the issuance of any grading permits. The SMP shall include, but is not limited to, the following:

- A detailed discussion of the site background;

- Proper mitigation as needed for demolition of existing structures;
- Management of stockpiles, including sampling, disposal, and dust and runoff control including implementation of a stormwater pollution prevention program;
- Management of underground structures encountered, including utilities and/or underground storage tanks;
- Procedures to follow if evidence of an unknown historic release of hazardous materials (e.g., underground storage tanks, polychlorinated biphenyls [PCBs], asbestos containing materials, lead-based paint, etc.) is discovered during excavation or demolition activities.
- A health and safety plan (HSP) for each contractor working at the site that addresses the safety and health hazards of each site operation phase, including the requirements and procedures for employee protection. The HSP shall outline proper soil handling procedures and health and safety requirements to minimize work and public exposure to hazardous materials during construction.

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

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

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

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

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

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

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

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

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

**R. MANDATORY FINDINGS OF SIGNIFICANCE**

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 mitigation is required.

**PUBLIC REVIEW PERIOD**

Before 5:00 p.m. on **Thursday September 14, 2017** any person may:

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

Rosalynn Hughey, Interim Director  
Planning, Building and Code Enforcement

8/22/17

\_\_\_\_\_  
Date



\_\_\_\_\_  
Deputy

**Circulation period: Thursday August 24, 2017 to Thursday September 14, 2017**

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## **SECTION 1.0 INTRODUCTION AND PURPOSE**

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### **1.1 PURPOSE OF THE INITIAL STUDY**

The City of San José as the Lead Agency, has prepared this Initial Study for the 645 Horning Street Gas Station Project in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations §15000 et. seq.) and the regulations and policies of the City of San José, California. This Initial Study evaluates the environmental impacts that might reasonably be anticipated to result from implementation of the proposed project.

### **1.2 PUBLIC REVIEW PERIOD**

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

City of San José  
Department of Planning, Building, and Code Enforcement  
Thai-Chau Le, Planner  
Thai-Chau.Le@sanjoseca.gov  
(408) 535-5658

### **1.3 CONSIDERATION OF THE INITIAL STUDY AND PROJECT**

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

### **1.4 NOTICE OF DETERMINATION**

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

## **SECTION 2.0 PROJECT INFORMATION**

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### **2.1 PROJECT TITLE**

645 Horning Street Gas Station and Storage Project; PDC16-041, PD16-027, PT16-037

### **2.2 LEAD AGENCY CONTACT**

City of San José  
Department of Planning, Building, and Code Enforcement  
Thai-Chau Le, Planner  
Thai-Chau.Le@sanjoseca.gov  
(408) 535-5658

### **2.3 PROJECT APPLICANT**

Jim Rubnitz  
17610 Blanchard Drive  
Monte Sereno, CA 95030

### **2.4 PROJECT LOCATION**

The project site is located at 645 Horning Street, which is situated on the north side of Horning Street at its intersection with Oakland Road. Regional, vicinity, and aerial maps are shown in Figure 2.4-1, Figure 2.4-2, and Figure 2.4-3 (respectively).

### **2.5 ASSESSOR'S PARCEL NUMBER**

235-18-001

### **2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT**

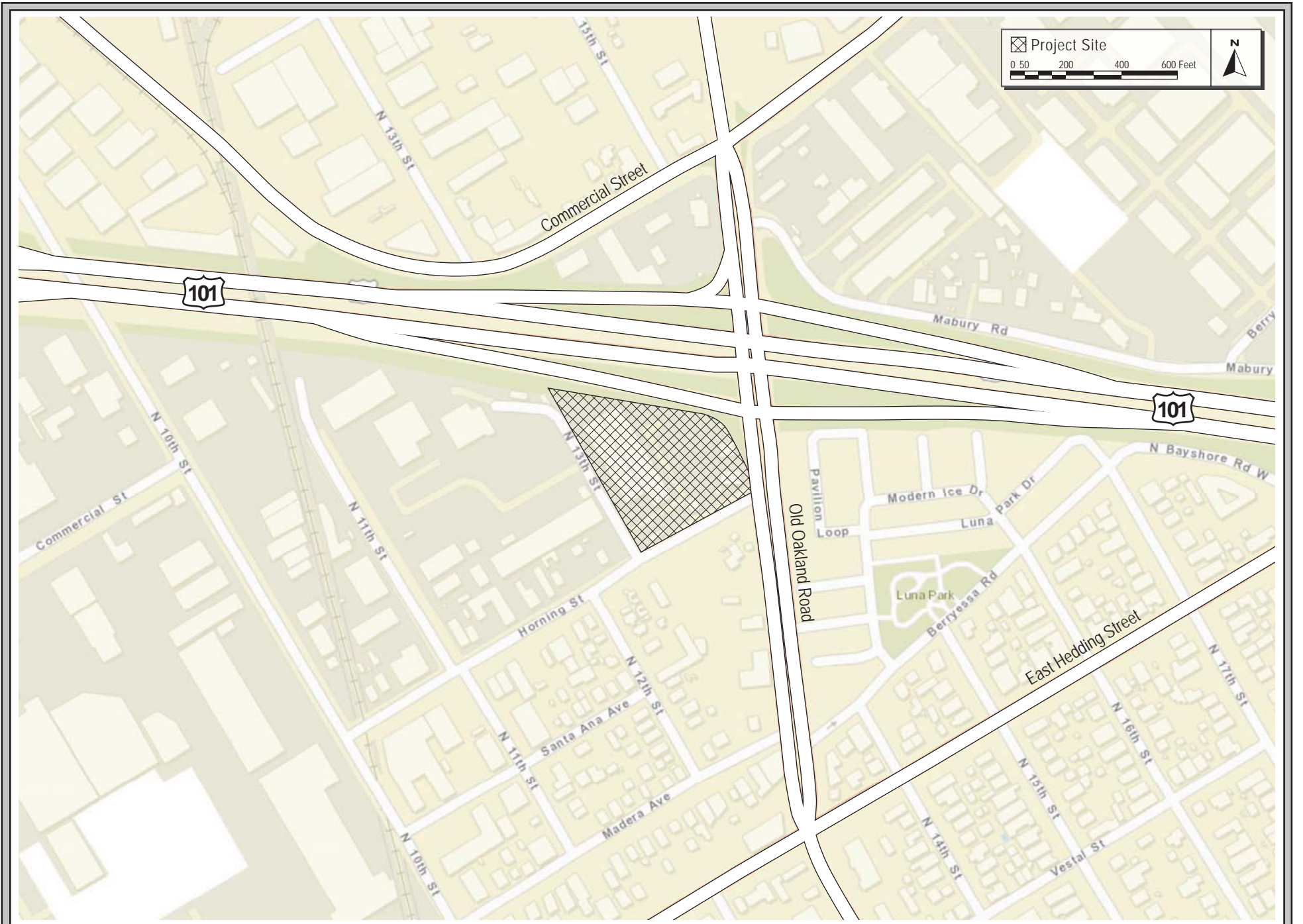
The project site is General Plan designated *Combined Industrial/Commercial*, and is zoned *Light Industrial* (LI). The project proposes a Planned Development Rezoning to the *Combined Industrial/Commercial-Planned Development* CIC(PD) zoning district.

### **2.7 HABITAT PLAN DESIGNATION**

Land Cover Designation:	Urban-Suburban
Development Zone:	Urban Development Covered Equal to or Greater than Two Acres
Fee Zone:	Urban Areas (No Land Cover Fee)
Wildlife Survey Area:	Not Applicable

### **2.8 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS**

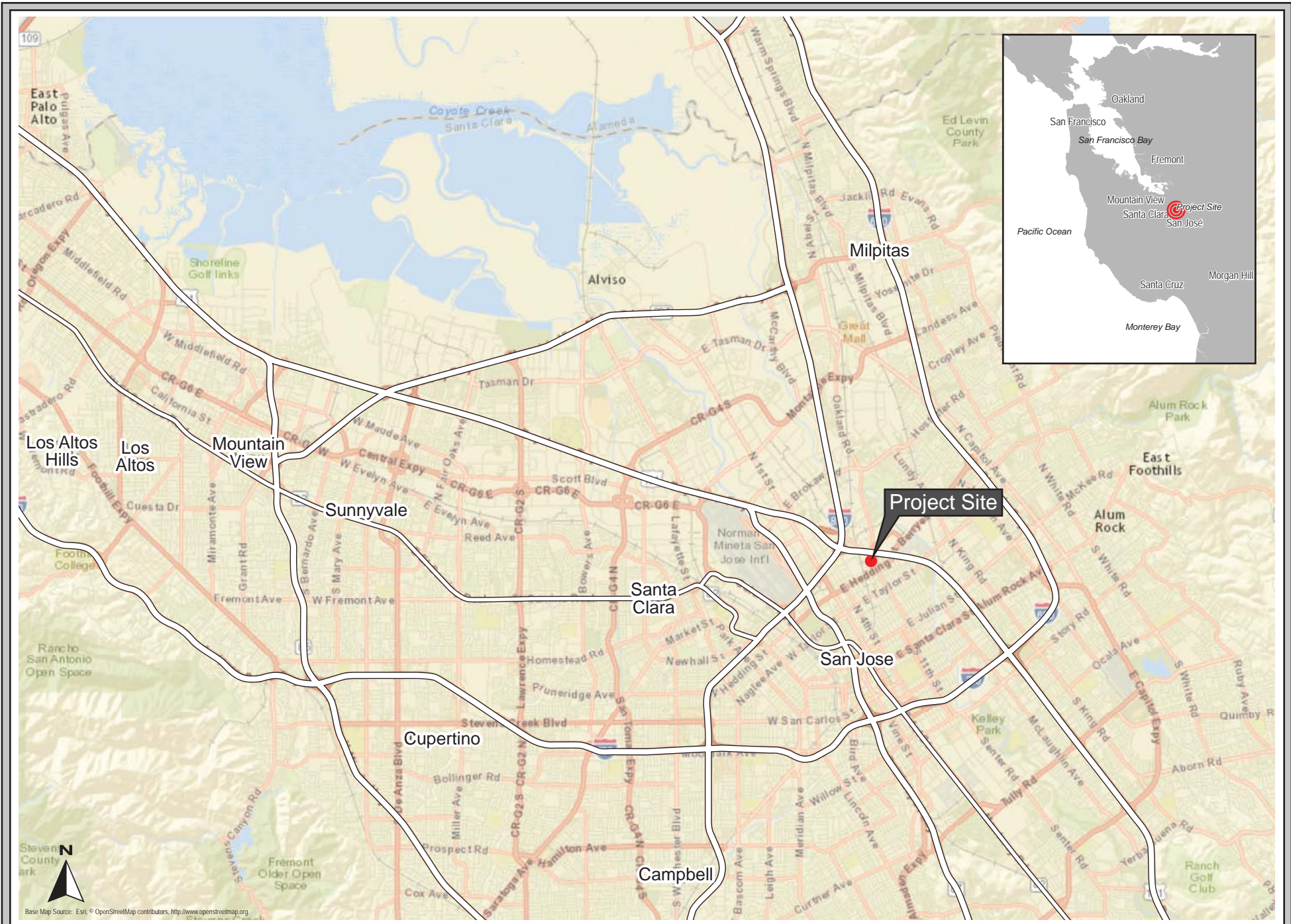
The project requires approval of a Planned Development Rezoning, Planned Development Permit, Tentative Map, and other applicable Public Works Clearances.



VICINITY MAP

FIGURE 2.4-2





REGIONAL MAP

FIGURE 2.4-1





AERIAL PHOTOGRAPH AND SURROUNDING LAND USES

FIGURE 2.4-3

## SECTION 3.0 PROJECT DESCRIPTION

### 3.1 EXISTING SITE

The approximately 3.26-acre project site is currently developed with approximately 52,600 square feet of automotive repair and industrial uses housed in six one-story structures. The structures are bordered by paved surfaces with parking and outdoor storage of materials related to the existing on-site businesses. Sparse ruderal vegetation and nine trees are located along the site perimeter. An approximately 6-foot-tall, chain-link fence surrounds the site.

### 3.2 PROPOSED PROJECT

The project proposes to demolish the six existing buildings, pavement, landscaping, and fencing and construct new commercial buildings. The project proposes a mix of commercial uses at the site, including a convenience store, six fueling stations (12 total fuel dispensers), automatic carwash, drive-through fast-food restaurant, and self-storage facility with three buildings.

Table 3.2-1 summarizes the square footage and heights associated with the proposed project structures. The maximum height allowed within the *Combined Industrial/Commercial-Planned Development* CIC(PD) zoning district is 50 feet. The proposed hours of operation for each project component are also shown.

Use	Square Footage	Stories	Height to Parapet or Soffit (feet)	Height to Top of Roof (feet)	Hours of Operation
Six fueling stations and 12 gasoline dispensers (under a canopy)	3,870	One	NA	23	24 hours daily
Fast-food restaurant with drive-through	2,494	One	20	28	5:00 a.m. to 12:00 p.m.
Convenience store	3,814	One	21	28	5:00 a.m. to 2:00 a.m.
Car wash tunnel (attached to convenience store)	1,341	One	NA	16	
Self-storage Building A	11,871	One	13	19	6:00 a.m. to 10:00 p.m.
Self-storage Building B	76,445	Four	43	48	
Self-storage Building C	3,800	One	NA	13	

#### 3.2.1.1 Setbacks

The project's proposed setbacks are compared with the allowed setbacks for the *Combined Industrial/Commercial-Planned Development* CIC(PD) zoning district.

<b>Table 3.2-2: Required and Proposed Project Setbacks (in feet)</b>			
		<b>Required</b>	<b>Proposed</b>
Front (facing Horning Street)	To building	15	46
	To circulation	20	25
Front (facing Oakland Road)	To building	15	55
	To circulation	20	20
Interior Side		0	10
Rear		0	15

### **Lighting and Equipment**

New lighting, vacuum cleaner, air pumps, and a trash enclosure would also be constructed at the site, as shown in Figure 3.2-1: Site Plan. The heights of the proposed new structures vary as described in Table 3.2-1 and as shown in Figure 3.2-2: Building Elevations. A security gate would separate the mini-storage facility from the rest of the uses on the site.

### **Noise Controls**

The project would install an automated volume control speaker system at the fast-food restaurant speakers, which senses the noise levels in the area and adjusts the volume of the speaker in accordance with ambient noise levels. The purpose of these noise controls is to reduce the perception of intermittent speaker noise at nearby residences so that they would not be impacted. To limit noise from the car wash dryers, the project would include the installation and use of a Proto-Vest Windshear II Dryer system with incorporated Proto-Vest silencer.

### **Signage**

Two new monument signs would be placed at the site, one along Horning Street and one at the corner of Oakland Road and Horning Street. Signage would also be placed on the buildings themselves.

## **3.2.2 Site Access and Circulation**

### **Vehicular Access and Parking**

Local access to the site is provided via Horning Street. Regional access is provided by Oakland Road and United States Highway 101 (US 101). One vehicle access driveway is proposed off of Horning Street with right and left turns permitted for ingress and egress. This single driveway would circulate through the center of the site and would access all the proposed uses, including the self-storage facilities at the rear of the site, which would be located behind a secure access gate. A total of 56 parking spaces (including 12 spaces at the fueling stations under the canopy) would also be provided.



## **Pedestrian Access**

Pedestrian access to the site would be provided by a proposed 10-foot-wide, curb-attached sidewalk<sup>1</sup> along Horning Street and an existing 5-foot-wide, curb-attached sidewalk along Oakland Road. Both sidewalk would be within the existing public street right-of-way. Interior pedestrian-separated walkways are provided within the site, and the majority of pedestrian circulation will occur within the parking lot areas in front of the proposed buildings.

## **Bicycle Access**

Bicycle access to the site would occur via the main vehicle access driveway. Eight bicycle parking spaces is required per City's code.

### **3.2.3 Landscaping and Other Improvements**

Existing landscaping on the site is located along the project frontages, and includes nine trees. These trees would be removed to accommodate the project.

The project proposes to install new landscaping along the majority of the site's perimeter and within the site interior; specifically in front of the convenience store, fast-food restaurant, and office area for the storage facility (as shown in Figure 3.2-3: Landscape Plan). Plantings would include 84 new trees. Landscape areas along the street-facing property lines would be reconfigured and new landscaping would be added. A plaster wall with stone veneer pilasters and decorative metal trellis structures would be constructed along Horning Street separating the fast-food restaurant from the public sidewalk. An existing concrete wall with a chain-link fence on top of it is located at the rear of the site along United States Highway 101 (US 101). This fence would remain in place.

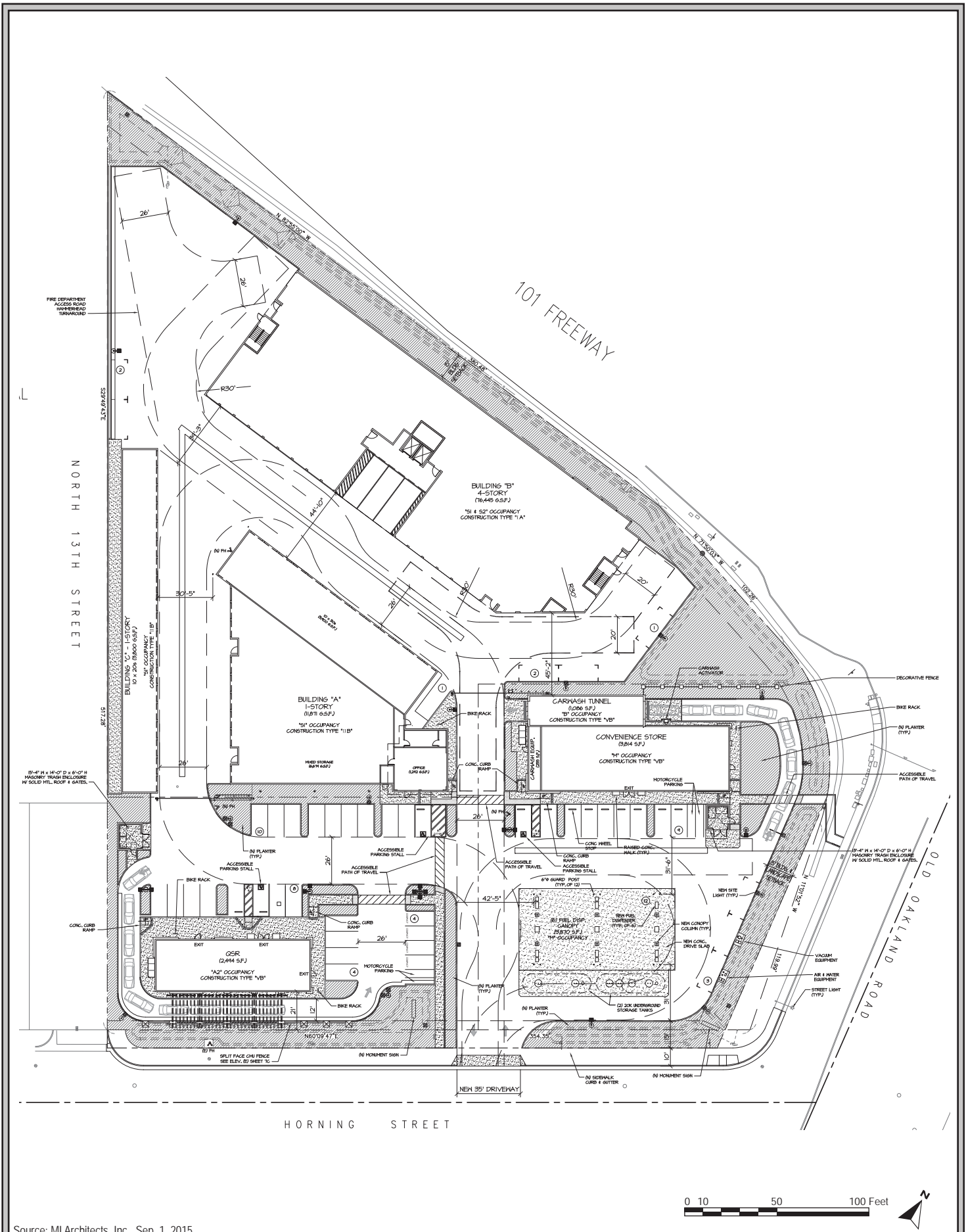
### **3.2.4 Proposed Zoning District**

The project proposes a Planned Development Rezoning to the *Combined Industrial/Commercial-Planned Development* CIC(PD) zoning district. This zoning would allow the combination of uses proposed by the project, as the City of San José does not have a single commercial zoning district that would accommodate all of the proposed uses.

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<sup>1</sup> A sidewalk that is attached and not separated from the curb and gutter of a street by a planter strip or other landscaping.



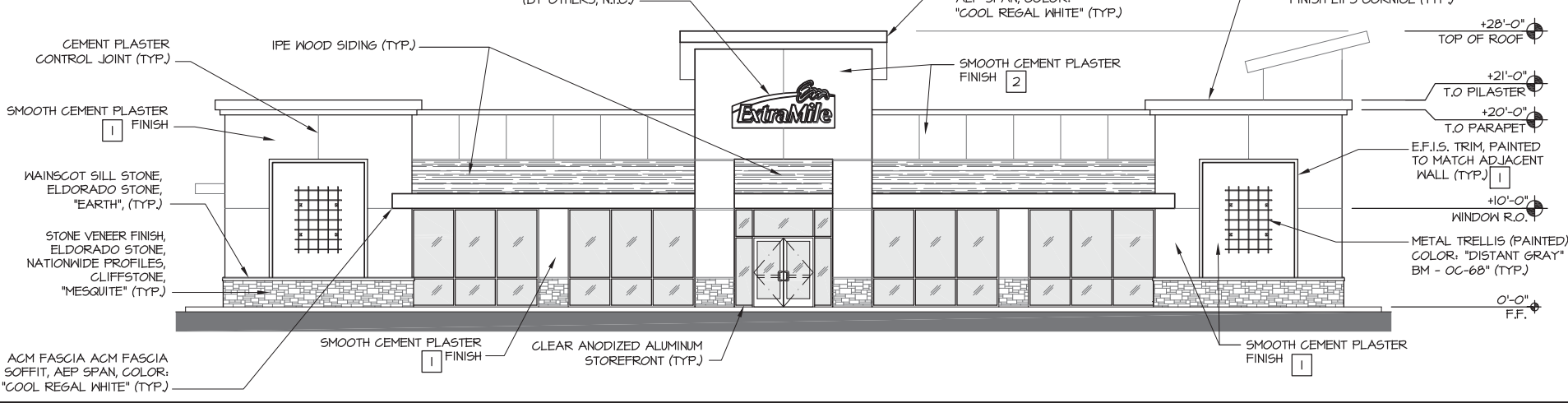


Source: MI Architects, Inc., Sep. 1, 2015.

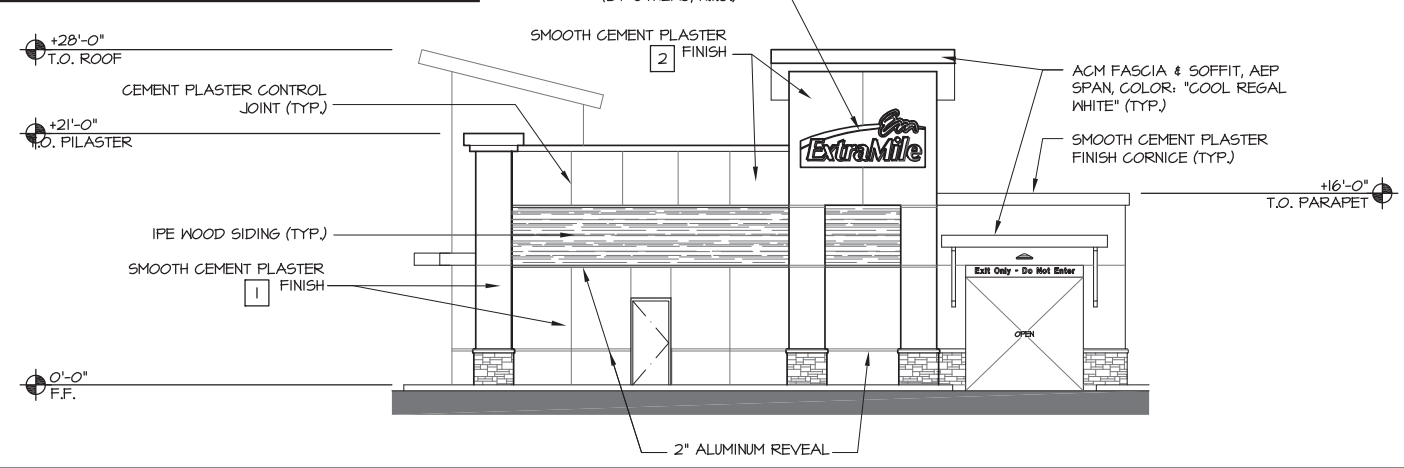
SITE PLAN

FIGURE 3.2-1

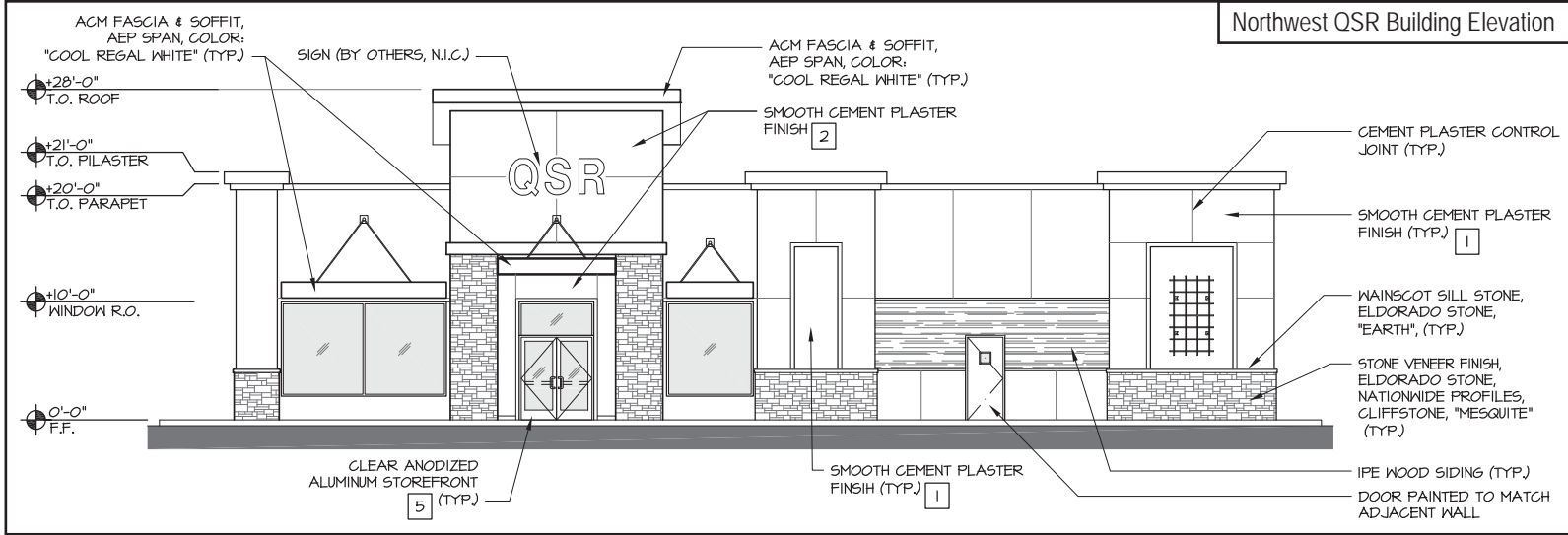
Southeast Convenience Store Building Elevation



Northeast Convenience Store Building Elevation



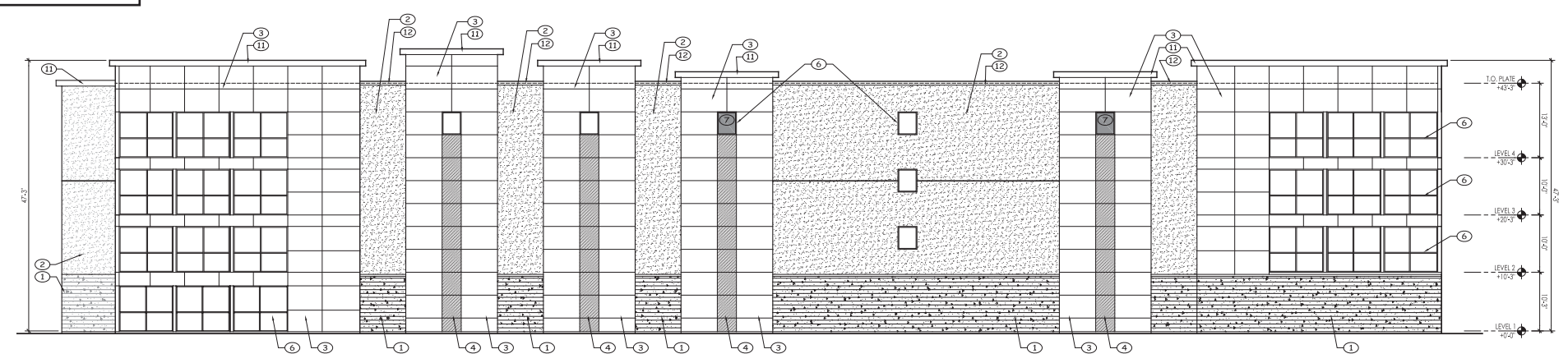
Northwest QSR Building Elevation

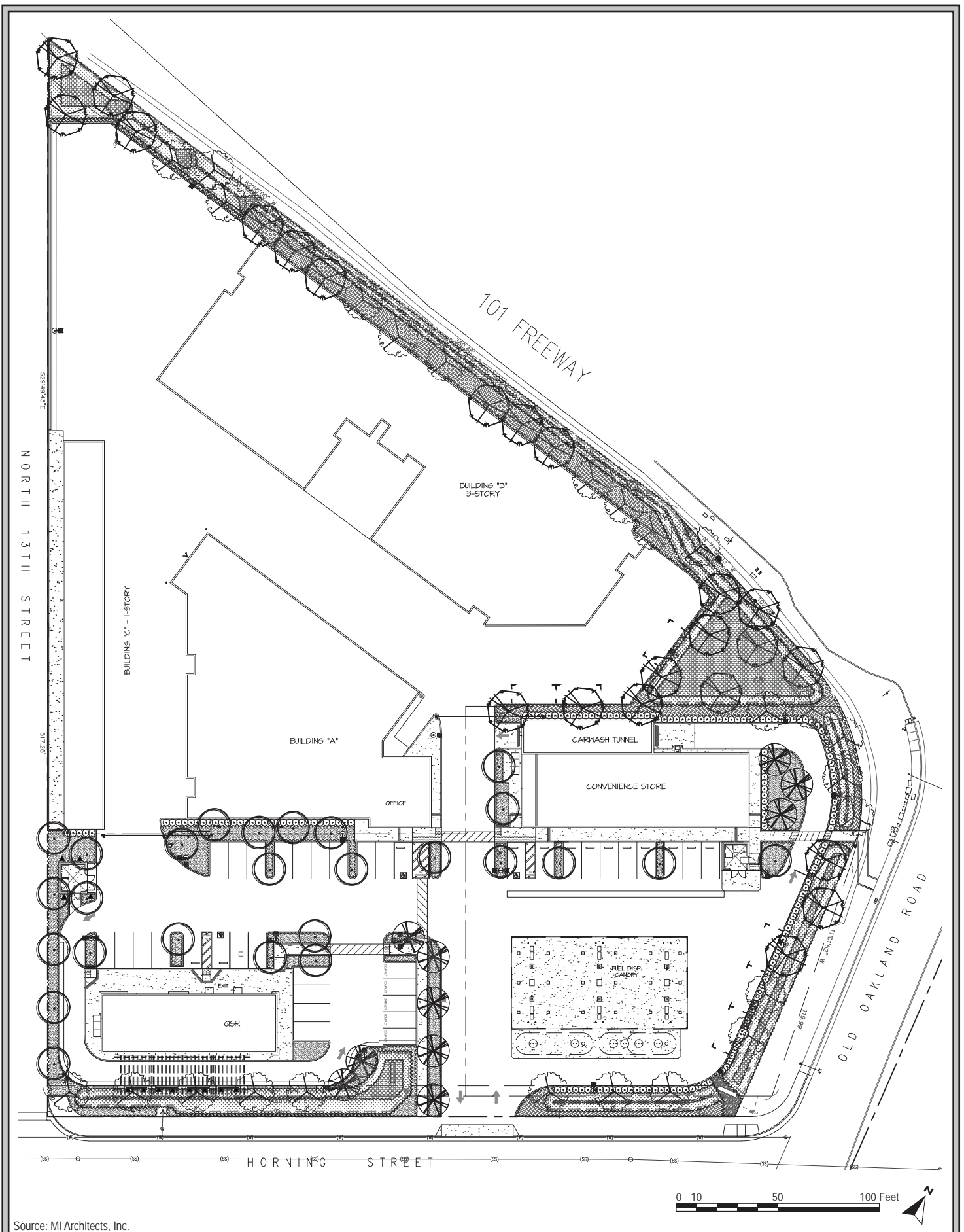


Northeast QSR Building Elevation



North Elevation





Source: MI Architects, Inc.

LANDSCAPE PLAN

FIGURE 3.2-3

## SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND IMPACT DISCUSSION

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

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

The discussion for each environmental subject includes the following subsections:

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

### **Important Note to the Reader**

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

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

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

## 4.1 AESTHETICS

### 4.1.1 Environmental Setting

#### 4.1.1.1 *Regulatory Framework*

##### **State Scenic Highways Program**

The State Scenic Highways Program is under the jurisdiction of the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. State laws governing the Scenic Highway Program are found in the Streets and Highway Code, Sections 260 through 263. There are no state-designated scenic highways in San José. SR 280 from the San Mateo County line to SR17, which includes segments in San José, is an eligible, but not officially designated, State Scenic Highway.

##### **City of San José**

###### 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.

###### Envision San José 2040 General Plan

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

<b>Policy</b>	<b>Description</b>
CD-10.2	Require that new public and private development adjacent to Gateways, freeways (including U.S.101, I-880, I-680, I-280, SR17, SR85, SR237, and SR87), and Grand Boulevards consist of high-quality architecture, use high-quality materials, and contribute to a positive image of San José.
CD-10.3	Require that development visible from freeways (including U.S.101, Interstate (I-) 880, I-680, I-280, State Route (SR) SR17, SR85, SR237, and SR87) be designed to preserve and enhance attractive natural and manmade vistas.

##### **City of San José Sign Ordinance**

The City of San José Sign Ordinance (Title 23 of the San José Municipal Code) provides for adequate opportunities for signage and the regulations are intended to prevent visual clutter. The sign regulations affect the development standards such as sign dimensions, type, quantity, use, and location to accommodate the City's diverse business community and also to provide opportunities for distinctive and aesthetic designs.



#### 4.1.1.2 *Existing Conditions*

##### **Project Site**

The project area is generally flat and is surrounded by public roadways on three sides, with US 101/Oakland Road off-ramp to the north, Horning Street to the south, Oakland Road to the east, and a vacated remnant of 13<sup>th</sup> Street to the west. The site is not located within a scenic view corridor, nor is it visible from a designated or eligible State Scenic Highway. No scenic vistas or scenic resources are located on or adjacent to the project site.

At present the project site is occupied by a variety of industrial tenants, including a construction fencing contractor and automotive-related uses. The 3.26-acre site contains a 1930s or 1940s residential structure, garage, and office building; as well as and a mix of mid-century industrial buildings. The structures on site include:

- A one-story, stucco, Spanish Eclectic-style residential structure (at the corner of Horning Street and Oakland Road) with a detached two-car garage;
- Another one-story, stucco, Spanish Eclectic-style office structure (at the corner of Oakland Road and the US 101/Oakland Road off-ramp);
- A long rectangular truck repair and storage building from the 1940s with metal siding and corrugated metal roofing (along the vacated remnant of 13<sup>th</sup> Street); and
- Three maintenance buildings from the 1950s corrugated metal siding and roofing (along the Horning Street frontage).

As shown in the photos contained within Appendix C: Historic Report, these structures are all white in color with metal roofs (though the residential structure, garage and office have Spanish-style red tile roofs) and are contained within an existing chain link fence that encircles the site. Irregular slats in the fencing block views into portions of the site from adjacent properties.

Aside from the structures, the remainder of the site is primarily paved with concrete and asphalt. These paved areas are used for circulation, parking, and vehicle and material storage associated with the on-site industrial uses (e.g., rolled fencing, metal fencing, automobile parts, etc.). Small sections of unmaintained landscaping and several trees are located along the perimeter of the site.

##### **Surrounding Area**

The project area is primarily industrial in nature, with residential uses interspersed throughout. Horning Street is a wide commercial thoroughfare with limited pedestrian sidewalks and an irregular and very sparse pattern of street trees. Aboveground utility poles and wires dominate the view on Horning Street.

Across Oakland Road, to the east of the project site, is the Modern Ice residential development, construction of which was completed approximately five years ago. This four-story, wood and stucco multi-family residential development dominates the views to the east. There is a curb-attached sidewalk along both sides of Oakland Road, as well as a roadway median with trees.



Photograph 1: The project frontage at 645 Horning Street, facing northeast



Photograph 2: View from Horning Street into the project site, facing north





Photograph 3: View into the project site from the 13<sup>th</sup> Street remnant, facing northeast



Photograph 4: Remnant of 13<sup>th</sup> Street along the project site's western border, facing north



Photograph 5: Adjacent property to the west, facing north



Photograph 6: Residential uses to the south of the project site, facing south





Photograph 7: Vacant lot south of the project site, facing south



Photograph 8: Automotive uses south of the project site with residential beyond, facing southeast



Photograph 9: Horning Street in front of the project site, facing west



Photograph 10: Horning Street in front of the project site, facing east

One-story stucco, wood, and metal-sided structures are located in the project vicinity along Horning Street. These structures house a variety of commercial and industrial uses, including automotive repair and cleaning, construction material sales, and vehicle rental and storage. Several one-story, multi-colored residential bungalows are located to the south of the project site across Horning Street.

#### 4.1.2 Checklist and Discussion of Impacts

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

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

The project site is not located along a designated State Scenic Highway. There are no designated scenic vistas or resources in the vicinity of the project site; therefore, the project would not have an adverse effect on these resources. **(No Impact)**

##### 4.1.2.2 *Visual Character (Checklist Question c)*

The project would modify the appearance of the site when viewed from the surrounding area, particularly along the project’s Horning Street and Oakland Road frontages. Architectural elements of the proposed new fast-food restaurant, convenience store, and gas station canopy (in particular) would be up to 28 feet tall and would be visible from surrounding streets and land uses. These architectural elements would appear taller than the adjacent one-story structures to the west and south but would be shorter than the four-story residential structures to the west (at the Modern Ice development across Oakland Road).

The four-story storage structure would not be anticipated to impact the visual character of US 101 or off-ramp. The freeway at this location descends well below the grade of the surrounding area to allow the roadway to travel under the Oakland Road overpass. Due to the grade separation, location of the off-ramp (which further blocks views into the site), and the building’s proposed 15-foot setback from the rear property line adjacent to the US 101 off-ramp, the four-story structure would not be anticipated to negatively impact views from the highway or off-ramp. Additionally, the four-story mon-storage structure would be located over 90 feet from Oakland Road and 200 feet from Horning Street and would not be anticipated to negatively impact views from those streets.

The project proposes to remove existing landscaping and install new trees and shrubs along the majority of the site's perimeter, with a regular pattern of trees to screen public views into the site. Additionally, the new building facades would be stepped, breaking up the views such that the buildings would not appear to be a solid mass, which would be more in keeping with the varied heights and sizes of the buildings in the immediate vicinity. As part of the City's discretionary permitting process, the project would be reviewed for consistency with the City's Commercial Design Guidelines and sign ordinance, which would lessen potential impacts to the visual character of the area, including views of the built environment from Highway 101 prior to the issuance of the planned development rezoning and permit. Therefore, the project would not substantially degrade the existing visual character of the site and its surroundings. **(Less than Significant Impact)**

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

Sources of light and glare are abundant in the urban environment of the immediate project area, and include street lights, parking lot lighting, security lights, vehicular headlights, and reflective building surfaces and windows.

The existing uses on the site include limited outdoor lighting (i.e. security and decorative lights on the buildings). The project would install new light fixtures as part of the redevelopment of the site. 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. All lighting installed by the project would be full-cutoff lighting, designed in conformance with City Council Policy 4-3. Design and construction of the project in conformance with General Plan design and lighting policies would not create a new source of nighttime light that would adversely affect views.

The design of the proposed project would also be subject to the City's design review process and would be required to utilize exterior materials that do not result in daytime glare, consistent with General Plan policies and the City's Commercial Design Guidelines. As a result, the project would not significantly impact adjacent uses with daytime glare from building materials. **(Less than Significant Impact)**

#### **4.1.3      Conclusion**

The proposed project would have a less than significant visual and aesthetic impact. **(Less than Significant Impact)**

## 4.2 AGRICULTURAL AND FORESTRY RESOURCES

### 4.2.1 Environmental Setting

#### 4.2.1.1 *Regulatory Framework*

The project site is located within a light industrial area in the City of San José. According to the *Santa Clara County Farmland Map 2014*, 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. No forest land or timberland, as defined in Public Resources Code Section 12220(g), is located near the project site.

#### 4.2.1.2 *Existing Conditions*

### 4.2.2 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,4,5
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,4,5
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2
d) Result in a loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2

#### 4.2.2.1 *Agricultural and Forestry Resource Impacts (Checklist Questions a through e)*

The proposed project involves the demolition of several existing structures on a 3.26-acre site and construction of a new gas station with a convenience store, fuel canopy and dispensers, and drive through car wash; as well as three mini storage buildings, including a four-story structure, and tow

one-story structures. The project site contains a variety of light-industrial and commercial uses and is zoned and General Plan designated for those uses. The project would not, therefore, convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural uses, would not conflict with existing zoning for agricultural operations, nor would it facilitate unplanned conversion of farmland elsewhere in San José to non-agricultural uses. The project site is not utilized or zoned as forest land (nor are there forest lands in the vicinity) and would not result in loss of forest lands in San José. For these reasons, the project would not impact agriculture or forestry resources. **(No Impact)**

#### **4.2.3            Conclusion**

The project would not result in impacts to agricultural or forest lands. **(No Impact)**



## 4.3 AIR QUALITY

The discussion within this section is based in part on information contained within a Community Risk Assessment prepared for the project site by Illingworth & Rodkin, Inc., and dated December 22, 2016. The report is contained within Appendix A. The proposed square footage of the mini-storage facility and fast-foot restaurant have been modified since preparation of the Community Risk Assessment. As described in Section 4.3.2.3 and the email from Illingworth & Rodkin, Inc. dated June 2, 2017 (included at the end of Appendix A), operational and construction period emissions would not be greater than those evaluation in the Community Risk Assessment.

### 4.3.1 Environmental Setting

#### 4.3.1.1 *Regulatory Framework*

##### **Federal, State, and Regional**

Federal, state, and regional agencies regulate air quality in the Bay Area Air Basin, within which the proposed project is located. At the federal level, the United States Environmental Protection Agency (EPA) is responsible for overseeing implementation of the Federal Clean Air Act and its subsequent amendments. The California Air Resources Board (CARB) is the state agency that regulates mobile sources throughout the state and oversees implementation of the state air quality laws and regulations, including the California Clean Air Act.

Regional air quality management districts such as BAAQMD must prepare air quality plans specifying how state air quality standards would be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The 2017 CAP focuses on two closely-related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the plan describes how the BAAQMD will continue its progress toward attaining all State and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities.

The 2017 CAP includes a wide range of control measures designed to decrease emissions of the air pollutants that are most harmful to Bay Area residents, such as particulate matter, ozone, and toxic air contaminants; to reduce emissions of methane and other super-GHGs that are potent climate pollutants in the near-term; and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

The federal Clean Air Act requires the EPA to set national ambient air quality standards for six common air pollutants (referred to as criteria pollutants): particulate matter (PM), ground-level ozone, carbon monoxide, sulfur oxides, nitrogen oxides, and lead. The EPA and the CARB have adopted ambient air quality standards establishing permissible levels of these pollutants to protect public health and the climate.

Violations of ambient air quality standards are based on air pollutant monitoring data and are determined for each air pollutant. Attainment status for a pollutant means that a given Air District meets the standard set by the EPA and/or CARB. The Bay Area as a whole does not meet state or federal ambient air quality standards for ground level ozone and fine particulate matter (PM<sub>2.5</sub>), nor

does it meet state standards for respirable particulate matter (PM<sub>10</sub>). The Bay Area is considered in attainment or unclassified for all other pollutants.

### Toxic Air Contaminants and Fine Particulate Matter (Local Community Risks)

Besides criteria pollutants, there is another group of substances found in ambient air referred to as Toxic Air Contaminants (TACs). These contaminants tend to be localized and are found in relatively low concentrations in ambient air; however, exposure to low concentrations over long periods can result in increased risk of cancer and/or adverse health effects. TACs are primarily regulated through state and local risk management programs. These programs are designed to eliminate, avoid, or minimize the risk of adverse health effects from exposures to TACs. A chemical becomes a regulated TAC in California based on designation by the California Office of Environmental Health Hazard Assessment (OEHHA). Diesel exhaust, in the form of diesel particulate matter (DPM), is the predominant TAC in urban air and accounts for roughly 60 percent of the total cancer risk associated with TACs in the Bay Area. Other TACs found in urban air include lead, benzene and formaldehyde.

The project proposes operation of a gasoline dispensing facility. Emissions of benzene, toluene, and xylene, which are TACs, make up approximately 0.3 percent, 8.0 percent, and 2.4 percent of gasoline vapor, respectively. Emissions of these TACs occur during underground fuel storage tank filling, motor vehicle refueling, spillage while refueling, and from vapor permeation through gasoline dispensing hoses.

### Diesel Particulate Matter

Diesel exhaust, in the form of diesel particulate matter (DPM), is the predominant TAC in urban air with the potential to cause cancer. It is estimated to represent about two-thirds of the cancer risk from TACs (based on the statewide average). California has adopted a comprehensive diesel risk reduction program. The U.S. Environmental Protection Agency (EPA) and the California Air Resources Board (CARB) adopted low-sulfur diesel fuel standards in 2006 that reduce diesel particulate matter substantially. The CARB recently adopted new regulations requiring the retrofit and/or replacement of construction equipment, on-highway diesel trucks, and diesel buses in order to lower fine particulate matter (PM<sub>2.5</sub>) emissions and reduce statewide cancer risk from diesel exhaust.

### Fine Particulate Matter

Particulate matter in excess of state and federal standards represents another challenge for the Bay Area. Elevated concentrations of PM<sub>2.5</sub> are the result of both region-wide (or cumulative) emissions and localized emissions. High particulate matter levels aggravate respiratory and cardiovascular diseases, reduce lung function, increase mortality (e.g., lung cancer), and result in reduced lung function growth in children.

### 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.

Examples include schools, hospitals and residential areas. The nearest sensitive receptors are the residential units located immediately south of the project site across Horning Street. There are also four-story multi-family residential units located to the east of the site across Oakland Road. The nearest school is Burnett Academy Middle School, which is approximately 0.70 mile southwest of the project site.

### **City of San José**

#### Envision San José 2040 General Plan

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

<b>Policy</b>	<b>Description</b>
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.
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.
MS 11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
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.
MS-13.2	Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board’s air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

#### **4.3.1.2 Existing Conditions**

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.

Existing air emissions at the project site are primarily a result of vehicle trips to and from the existing uses at the site, including automotive repair facilities and a construction fencing contractor.

### 4.3.2 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,6,11
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,6,11
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,6,11
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,6,11
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,6,11

#### 4.3.2.1 *CEQA 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 Jose has considered the thresholds updated by BAAQMD in May 2017 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin and conservative in terms of the assessment of health effects associated with TACs and PM<sub>2.5</sub>. The BAAQMD CEQA Air Quality thresholds used in this analysis are identified in the following Table 4.3-1.

<b>Table 4.3-1: Thresholds of Significance Used in Air Quality Analyses</b>			
<b>Pollutant</b>	<b>Construction</b>	<b>Operation</b>	
	<b>Average Daily Emissions (pounds)</b>	<b>Average Daily Emissions (pounds)</b>	<b>Maximum Annual Emissions (tons)</b>
Reactive Organic Gasses (ROG), NO <sub>x</sub>	54	54	10
PM <sub>10</sub>	82 (exhaust)	82	15
PM <sub>2.5</sub>	54 (exhaust)	54	10
Fugitive Dust (PM <sub>10</sub> /PM <sub>2.5</sub> )	Best Management Practices	None	None
Risk and Hazards for New Sources and Receptors (Project)	Same as operational threshold	<ul style="list-style-type: none"> <li>• Increased cancer risk of &gt;10.0 in one million</li> <li>• Increased non-cancer risk of &gt; 1.0 Hazard Index (chronic or acute)</li> <li>• Ambient PM<sub>2.5</sub> increase: &gt; 0.3 μ/m<sup>3</sup> (zone of influence: 1,000-foot radius from property line of source or receptor)</li> </ul>	
Risk and Hazards for New Sources and Receptors (Cumulative)	Same as operational threshold	<ul style="list-style-type: none"> <li>• Increased cancer risk of &gt;100 in one million</li> <li>• Increased non-cancer risk of &gt; 10.0 Hazard Index (chronic or acute)</li> <li>• Ambient PM<sub>2.5</sub> increase: &gt; 0.8 μ/m<sup>3</sup> (zone of influence: 1,000-foot radius from property line of source or receptor)</li> </ul>	
Source: BAAQMD CEQA Thresholds Options and Justification Report (2009) and BAAQMD CEQA Air Quality Guidelines (dated May 2017).			

#### 4.3.2.2 Clean Air Plan Consistency (Checklist Question a)

The 2017 CAP defines an integrated, multipollutant control strategy to reduce emissions of particulate matter, TACs, ozone precursors, and GHGs. The 2017 CAP includes control measures that are intended to reduce air pollutant emissions in the Bay Area, either directly or indirectly. The control measures are divided into five categories that include:

- Measures to reduce emissions from stationary and area sources;
- Mobile source measures;
- Transportation control measures;
- Land use and local impact measures; and
- Energy and climate measures.

Gasoline dispensing facilities require special permits from the BAAQMD and would be required to comply with BAAQMD emissions regulations and measures associated with the permits. Additionally, exposure of sensitive receptors to TACs and PM<sub>2.5</sub> emissions from construction and operational vehicle trips associated with the project is addressed in Section 4.3.2.3. As noted in this section, the project would result in air quality impacts that are less than significant with the

incorporation of Standard permit Conditions and mitigation measure MM AIR-1.1, would not conflict with measures in the 2017 CAP to reduce air pollutant emissions. Overall, the proposed redevelopment of the project site would not affect employment or population forecasts used for 2017 CAP projections. Therefore, the project would not conflict with implementation of the 2017 CAP. **(Less than Significant Impact)**

#### 4.3.2.3 Air Quality Impacts (Checklist Questions b, c, d)

Since preparation of the Community Risk Assessment, the project has increased the total square footage of the proposed mini-storage facility from 80,621 square feet to 92,116 square feet, and decreased the square footage of the fast-food use from 3,520 square feet to 2,494 square feet. The total number of pumps at the gas station and convenience store with car wash did not change. As shown in the following Table 4.3-2, the project would result in approximately 230 fewer vehicle trips, which is the source of operational emissions for the project (aside from those resulting from the gas station but there is no change to the intensity of that use). Therefore, the level of operational impacts described for the project in the Community Risk Assessment represents a conservative analysis for the revised project square footage.<sup>2</sup>

Use	Trip Rate	Project Analyzed in Community Risk Assessment		Currently Proposed Project		Difference (Trips)
		Square Feet	Total Trips	Square Feet	Total Trips	
12 fueling pump gas station with convenience store with car wash	193 <sup>1</sup> trips per fueling station	12 fueling stations	2,311	12 fueling stations	2,311	0
Fast-food restaurant with drive-through	253 <sup>2</sup> trips per 1000 square feet	3,520	891	2,494	633	-258
Mini-storage	2.5 trips per 1000 square feet	80,621	202	92,116	230	+28
<b>Total Trip Difference:</b>						<b>-230</b>
<sup>1</sup> Rate includes the assumed 63 percent pass-by trip reduction.						
<sup>2</sup> Rate includes the assumed 49 percent pass-by trip reduction.						

Construction period emissions discussed in this section reflect California Emissions Estimator Model (CalEEMod) modeling based on the amount of ground disturbance; the construction timeframe, phasing, and schedule; and proposed equipment and duration of its use. These assumptions have not

<sup>2</sup> Reyff, James. Illingworth & Rodkin, Inc. Email correspondence with Ashton, Amie. "645 Horning". June 2, 2017. Included at the end of Appendix A.

changed for the revised project; therefore, the construction period emissions analysis in the Community Risk Assessment is valid.

### Construction Impacts

Construction activities, particularly during site preparation and grading, would temporarily generate fugitive dust in the form of PM10 and PM2.5. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying uncovered loads of soils. Unless properly controlled, vehicles leaving the site would deposit mud on local streets, which could be an additional source of airborne dust after it dries. Construction-related emissions were estimated using CalEEMod and are summarized in Table 4.3-3.

<b>Table 4.3-3: Construction Emissions</b>				
<b>Scenario</b>	<b>ROG</b>	<b>NOx</b>	<b>PM<sub>10</sub> Exhaust</b>	<b>PM<sub>2.5</sub> Exhaust</b>
Total construction emissions (tons)	0.96 tons	4.20 tons	0.25 tons	0.23 tons
Average daily emissions (pounds) <sup>1</sup>	6.23 lbs.	27.3 lbs.	1.62 lbs.	1.49 lbs.
<i>BAAQMD Thresholds (pounds per day)</i>	<i>54 lbs.</i>	<i>54 lbs.</i>	<i>82 lbs.</i>	<i>54 lbs.</i>
<b>Exceed Threshold:</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>
<sup>1</sup> Assumes 308 workdays. Source: Illingworth & Rodkin. <i>645 Horning Street Gas Station and Mini Storage Community Risk Assessment</i> . December 22, 2016.				

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 will include basic construction measures (described below as Standard Permit Conditions for the purposes of this Initial Study), recommended by BAAQMD to reduce air quality impacts associated with grading and new construction.

**Standard Permit Conditions:** The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- 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.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Clear signage shall be provided for construction workers at all access points.
- Construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. 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 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 the implementation of the previously described Standard Permit Conditions, construction air quality impacts would be less than significant. **(Less than Significant Impact)**

### **Operational Impacts**

Operational air emissions from the project would be generated primarily from autos accessing the project. The project also includes gasoline dispensing facilities that would have ROG emissions associated with loading, storage, refueling of vehicles and spillage that results in evaporative emissions. These facilities are regulated by BAAQMD and require permits for operation. CalEEMod was used to predict emissions from operation of the proposed project.

Table 4.3-4 reports the predicted emission in terms of annual emissions in tons and average daily operational emissions, assuming 365 days of operation per year. As shown, average daily and annual emissions of ROG, NO<sub>x</sub>, PM<sub>10</sub>, or PM<sub>2.5</sub> emissions associated with operation of the project would not exceed the BAAQMD significance thresholds. It should be noted that while not credited in the table, net project emissions would be even less if emissions from existing on-site uses were accounted.



<b>Table 4.3-4: Operational Emissions</b>				
<b>Scenario</b>	<b>ROG</b>	<b>NO<sub>x</sub></b>	<b>PM<sub>10</sub></b>	<b>PM<sub>2.5</sub></b>
Project Operational Emissions	0.46 tons	0.19 tons	0.07 tons	0.02 tons
Gasoline Dispensing Facility	2.62 tons	0.00 tons	0.00 tons	0.00 tons
Total	3.08 tons	0.19 tons	0.07 tons	0.02 tons
<i>BAAQMD Thresholds (tons /year)</i>	<i>10 tons</i>	<i>10 tons</i>	<i>15 tons</i>	<i>10 tons</i>
<b>Exceed Threshold:</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>
Average Daily Net Emissions (pounds)	2.5 lbs.	1.0 lbs.	0.38 lbs.	0.1 lbs.
<i>BAAQMD Thresholds (pounds/day)</i>	<i>54 lbs.</i>	<i>54 lbs.</i>	<i>82 lbs.</i>	<i>54 lbs.</i>
<b>Exceed Threshold:</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>
Source: Illingworth & Rodkin. <i>645 Horning Street Gas Station and Mini Storage Community Risk Assessment</i> . December 22, 2016.				

Because the proposed project would not exceed the BAAQMD operational thresholds, the project would have a less than significant air quality impact.<sup>3</sup> (**Less than Significant Impact**)

### **Toxic Air Contaminants**

#### Construction

Construction activities, particularly during site preparation and grading would temporarily generate fugitive dust in the form of PM<sub>10</sub> and PM<sub>2.5</sub>. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying uncovered loads of soils. Unless properly controlled, vehicles leaving the site would deposit mud on local streets, which could be an additional source of airborne dust after it dries. Fugitive dust emissions would vary from day to day, depending on the nature and magnitude of construction activity and local weather conditions. Fugitive dust emissions would also depend on soil moisture, silt content of soil, wind speed, and the amount of equipment operating. Larger dust particles would settle near the source, while fine particles would be dispersed over greater distances from the construction site. The BAAQMD CEQA *Air Quality Guidelines* consider these impacts to be less than significant if the previously described Standard Permit Conditions are employed to control dust to reduce these emissions.

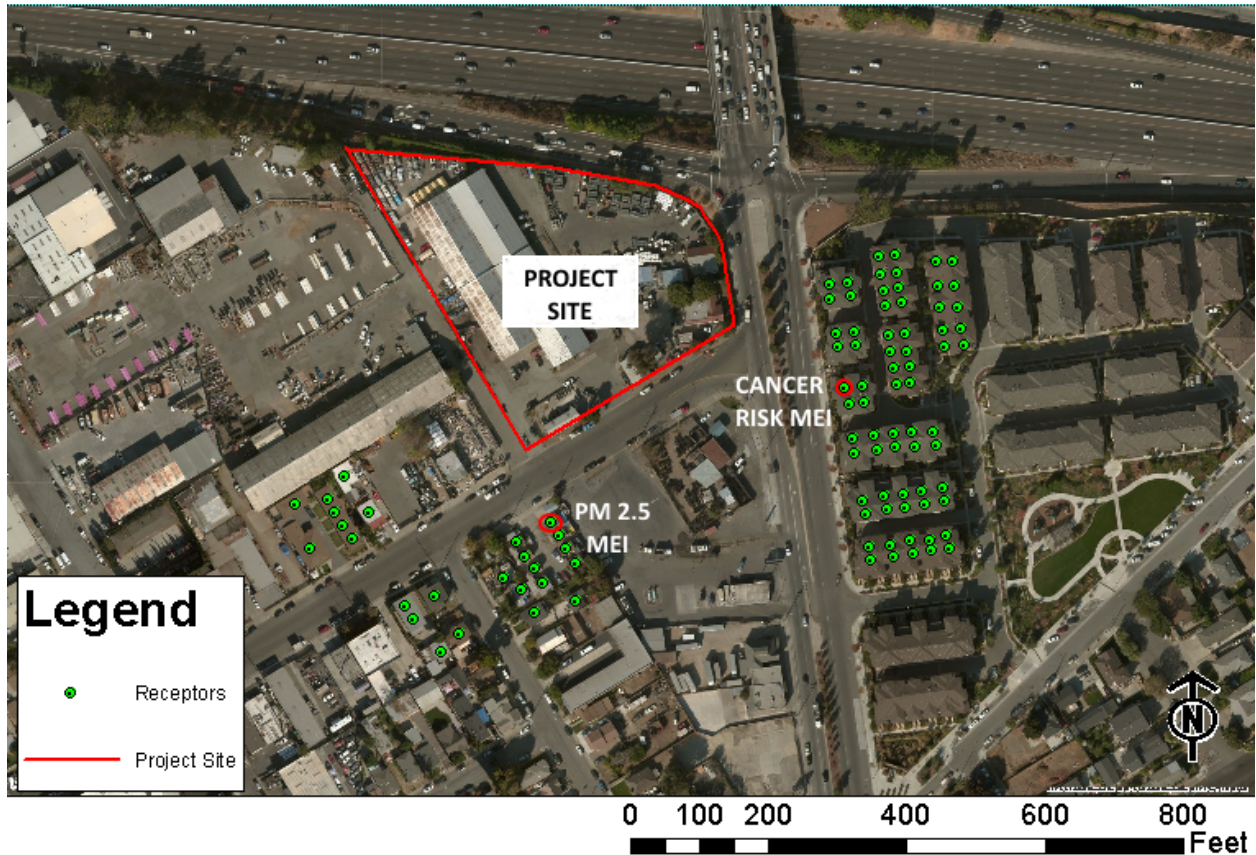
Construction equipment and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC. These exhaust air pollutant emissions would not be considered to contribute substantially to existing or projected air quality violations; however, construction exhaust emissions may still pose health risks for sensitive receptors such as nearby residents. The primary community risk impact issues associated with construction emissions are cancer risk and exposure to PM<sub>2.5</sub>. Diesel exhaust poses both a potential health and nuisance impact to nearby receptors.

The maximum-modeled DPM concentration would occur southeast of the construction site at the first floor level of adjacent multi-family development (across Oakland Road). The maximum PM<sub>2.5</sub>

<sup>3</sup> BAAQMD. *CEQA Air Quality Guidelines*. Table 3-1, Operational-Related Criteria Air Pollutant and Precursor Screening Level Sizes. May 2017.

concentration would occur just south of the project site at a single-family residence (within a cluster of several single-family residences). The locations where the maximum PM<sub>2.5</sub> and DPM concentrations would occur for the maximally exposed individual (MEI) are identified in Figure 4.3-1, below.

**Figure 4.3-1: Location of Off-Site Sensitive Receptors and TAC Impacts**



A health risk assessment of the project construction activities was conducted to evaluate potential health effects of sensitive receptors at these nearby residences from construction emissions of DPM and PM<sub>2.5</sub>.<sup>4</sup> Results of the assessment for project construction are summarized in the following Table 4.3-5.

<sup>4</sup> DPM is identified by California as a toxic air contaminant due to the potential to cause cancer.

<b>Table 4.3-5: Summary of TAC Impacts at MEI</b>			
	<b>Proposed Project</b>	<b>BAAQMD Threshold</b>	<b>BAAQMD Threshold Exceedance</b>
Maximum incremental residential cancer risk (assuming infant exposure)	42.5 in one million	10 in a million	<b>Yes</b>
Residential adult incremental cancer risk	0.7 in one million	10 in a million	<b>No</b>
Annual PM <sub>10</sub> (exhaust and fugitive dust emissions)	0.27µg/m <sup>3</sup>	0.3µg/m <sup>3</sup>	<b>No</b>
DPM	Less than 0.05	Greater than one	<b>No</b>
Gasoline dispensing facilities	Almost zero	5.71 in one million	<b>No</b>
Source: Illingworth & Rodkin. <i>645 Horning Street Gas Station and Mini Storage Community Risk Assessment</i> . December 22, 2016.			

As shown in the table, the maximum incremental residential cancer risk at the MEI (shown in Figure 4.3-1) would be 42.5 in one million. This risk exceeds BAAQMD’s significance threshold of 10 in one million. The residential adult incremental cancer risk would be 0.7 in one million. These exceedances would be reduced to a less than significant level with incorporation of the previously described Standard Permit Conditions and MM AIR-1.1, which is described below.

The maximum-modeled annual PM<sub>10</sub> concentration, which is based on combined exhaust and fugitive dust emissions does not exceed the BAAQMD significance threshold of 0.3µg/m<sup>3</sup>. The maximum modeled annual residential DPM concentration (i.e., from construction exhaust) would be less than 0.05, which is lower than the BAAQMD significance criterion of greater than 1.0.

#### Cumulative Construction Emissions

Community health risk assessments typically look at all substantial sources of TACs that can affect sensitive receptors located within 1,000 feet of a project site. These sources include freeways or highways, busy surface streets and stationary sources identified by BAAQMD. Traffic on high-volume roadways is a source of TAC emissions that may adversely affect sensitive receptors in close proximity to the roadway. A review of BAAQMD’s Stationary Source Screening tool and correspondence with BAAQMD revealed several sources with the potential to affect the project site. Table 4.3-6 summarizes the impacts on the MEI shown in Figure 4.3-1.

<b>Table 4.3-6: Cumulative Construction Risk Assessment</b>			
<b>Source</b>	<b>Cancer Risk (per million)</b>	<b>Annual PM<sub>2.5</sub> Concentration (µg/m<sup>3</sup>)</b>	<b>Hazard Index</b>
Unmitigated project construction	42.5	0.27	0.04
Proposed gasoline dispensing facility	5.7	Not Applicable	0.00
Plant G9902, Claires LLC/Balch Land	1.0	0.00	0.00
Plant G10284, Gas Stop and Mini Mart	0.4	0.00	0.00
Link 568, US 101 at ~285 feet	46.6	0.24	0.04
Oakland Road	7.7	0.26	<0.03
<b>Cumulative Total:</b>	103.9	0.77	<0.11
<b><i>BAAQMD Threshold – Cumulative Sources</i></b>	<b>&gt;100</b>	<b>&gt;0.8</b>	<b>&gt;10.0</b>
<b><i>Significant:</i></b>	<b><i>Yes</i></b>	<b><i>No</i></b>	<b><i>No</i></b>
Mitigated project construction	2.0	0.03	0.00
Proposed gasoline dispensing facility	5.7	Not Applicable	0.00
Plant G9902, Claires LLC/Balch Land	1.0	0.00	0.00
Plant G10284, Gas Stop and Mini Mart	0.4	0.00	0.00
Link 568, US 101 at ~285 feet	46.6	0.24	0.04
Oakland Road	7.7	0.26	<0.03
<b>Cumulative Total:</b>	63.4	0.53	<0.07
<b><i>BAAQMD Threshold – Cumulative Sources</i></b>	<b>&gt;100</b>	<b>&gt;0.8</b>	<b>&gt;10.0</b>
<b><i>Significant:</i></b>	<b><i>No</i></b>	<b><i>No</i></b>	<b><i>No</i></b>
Source: Illingworth & Rodkin. 645 Horning Street Gas Station and Mini Storage Community Risk Assessment. December 22, 2016.			

Cumulative cancer risk from construction activities for children or adults would be below the significance threshold. Additionally, project construction activities would not increase annual PM<sub>2.5</sub> concentrations or non-cancer hazards above the significance thresholds. Cancer risk from construction activities would however exceed both the single-source and cumulative-source significance thresholds at the residence with the maximum impact, assuming there is an infant at that receptor site. This exceedance would be considered a significant impact.

**Impact AIR-1:** Cancer risk from construction activities would exceed both the single-source and cumulative-source significance thresholds at the residence with the maximum impact, assuming infant exposure (i.e., greatest sensitivity) at the receptor sites. **(Significant Impact)**

**Mitigation Measures:** Implementation of the Standard Permit Conditions (to control construction dust and exhaust) and MM AIR-1.1 would reduce Impact AIR-1 to a less than significant level.

**MM AIR-1.1:** The project shall ensure construction equipment be selected to minimize emissions to achieve a minimum fleet-wide average 77 percent reduction in particulate matter (PM2.5) exhaust emissions, compared to uncontrolled aggregate statewide emission rates for similar equipment. Such equipment selection shall include, but is not limited to, the following requirements:

- Mobile diesel-powered off-road equipment larger than 25 horsepower and operating on the site for more than two days continuously (or 20 hours in total) shall meet, at a minimum, one of the following:
  - Engines meeting United States EPA particulate matter emissions standards for Tier 4 engines or equivalent;
  - Tier 2 Engines equipped with CARB-certified Level 3 Diesel Particulate Filters;<sup>5</sup>
  - Use of alternatively-fueled equipment (i.e., non-diesel) would meet this requirement; or
  - Other measures may be the use of added exhaust devices, or a combination of measures, provided that these measures are demonstrated to reduce community risk impacts to less than significant.
- The project applicant shall prepare a construction operations plan that includes specifications of the equipment to be used during construction. The plan shall be submitted to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement prior to the issuance of any grading permit. The plan shall be accompanied by a letter signed by a qualified air quality specialist, verifying that the equipment included in the plan meets the standards set forth in this mitigation measure.

Implementation of the Standard Permit Conditions would reduce exhaust emissions by five percent. Implementation of MM AIR-1.1 would further reduce on-site diesel exhaust emissions (and the associated cancer risk) such that the mitigated risk would be less than two in one million. After implementation of these mitigation measures, the project would have a less than significant impact with respect to community risk caused by construction activities on both a project and cumulative basis. **(Less than Significant Impact with Mitigation)**

### Operation

Operation of gasoline dispensing facilities results emissions of benzene, toluene, and xylenes (which are TACs) as a result of fuel storage tank loading and pressure driven (breathing) losses, motor vehicle refueling, spillage while refueling, and minor emissions from vapor permeation through gasoline dispensing hoses. The average daily emissions of each TAC were input to the BAAQMD's Risk and Hazards Screening Calculator to compute community risk impacts in terms of lifetime cancer risk and non-cancer hazards. The cancer risk as a result of these TAC emissions at the closest

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<sup>5</sup> See <http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm>.

sensitive receptor (140 feet southeast of the project site, as shown in Figure 4.3-1) was found to be 5.71 in one million, which is below the BAAQMD's significance threshold of 10 in one million. The non-cancer risk due to the emissions from the gasoline dispensing facility was calculated to be almost zero. **(Less than Significant Impact)**

#### **4.3.2.4            *Odor Impacts (Checklist Question e)***

Odors from construction equipment (e.g. diesel fumes) would be temporary and localized, and would be minimized through implementation of the BAAQMD basic construction measures as Standard Permit Conditions and MM AIR-1.1, including limits on vehicle idling. The proposed project includes the addition of a convenience store and a fast-food restaurant. Food wastes as a result of these uses could result in localized odor issues if waste is not properly disposed of. A covered trash enclosure is proposed as part of the project and would be located more than 200 feet from the nearest adjacent residential property line. As a result, the project would not create objectionable odors affecting a substantial number of people. **(Less than Significant Impact)**

#### **4.3.3            Conclusion**

The proposed project would not result in significant air quality impacts with the incorporation of construction-related dust and exhaust-control Standard Permit Conditions and MM AIR-1.1. **(Less than Significant Impact with Mitigation)**

## **4.4 BIOLOGICAL RESOURCES**

### **4.4.1 Environmental Setting**

#### **4.4.1.1 *Regulatory Framework***

The discussion within this section is based in part on information contained within the arborist report prepared for the project site by Kielty Arborist Services, and dated November 22, 2016. The report is contained within Appendix B.

### **Federal**

#### **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.<sup>6</sup>

### **Regional**

#### **Santa Clara Valley Habitat Plan**

The Santa Clara Valley Habitat Conservation Plan (Habitat Plan) 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 Habitat Plan 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 Habitat Plan has been in effect since October 14, 2013.

The proposed project is a covered activity under the Habitat Plan. The project site is located 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.

### **City of San José**

#### **Envision San José 2020 General Plan**

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

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<sup>6</sup> A complete list of bird species protected by the MBTA is available on the United States Fish and Wildlife Service (USFWS) website: <http://www.fws.gov/migratorybirds/regulationspolicies/mbta/mbtandx.html>.

<b>Policy</b>	<b>Description</b>
ER-4.4	Require that development projects incorporate mitigation measures to avoid and minimize impacts to individuals of special-status species.
ER-5.1	Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
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: <ol style="list-style-type: none"> <li>1. Avoid conflicts with nearby power lines.</li> <li>2. Avoid potential conflicts between tree roots and developed areas.</li> <li>3. Avoid use of invasive, non-native trees.</li> <li>4. Remove existing invasive, non-native trees.</li> <li>5. Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species.</li> <li>6. Plant native oak trees and native sycamores on sites which have adequately sized landscape areas and which historically supported these species.</li> </ol>
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.
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.

### Tree Ordinance

The City of San José Tree Removal Controls (San José City Code Chapter 13.32) protect all trees having a trunk that measures 56 inches or more in circumference at a height of 24 inches above the natural grade. The ordinance protects both native and non-native species. A tree removal permit is required from the City of San José for the removal of ordinance-size trees. In addition, any tree found by the City Council to have special significance can be designated as a Heritage tree, regardless of tree size or species. It is unlawful to vandalize, mutilate, remove, or destroy such Heritage trees.

#### **4.4.1.2 Existing Conditions**

The project site is located in a fully developed area in central San José. Wildlife habitat on the project site is very limited, and is unlikely to be occupied by special status plant and/or animal species. There are no undisturbed areas or sensitive habitats on the site, and the site does not contain any streams, waterways, or wetlands. Because of its urban setting and isolation from areas of undeveloped lands, the site does not function as a movement corridor for local wildlife. No rare, threatened, endangered, or special status species of flora or fauna are known to inhabit the site.



4.4.2

**Checklist and Discussion of Impacts**

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Have a substantial adverse effect, 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 CDFW or USFWS?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,12
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

**4.4.2.1 *Impacts to Sensitive Species and Habitats (Checklist Questions a, b, and c)***

The project site is developed and occupied by light-industrial structures, outdoor storage serving the existing uses, and surface parking areas. Vegetation on-site consists of small areas of ruderal vegetation and nine trees located along the project property lines, which would be removed as part of the project. Because of the history of development on-site, no natural or sensitive habitats exist that would support endangered, threatened, or special status wildlife species. Additionally, there are no undisturbed areas or sensitive habitats on the site, and the site does not contain any streams, waterways, or wetlands. Therefore, vegetation and wildlife impacts that would occur due to temporary or permanent loss of existing landscape plants as a result of development of the proposed project would be less than significant. **(Less than Significant Impact)**

#### 4.4.2.2 *Impacts to Wildlife Movement (Checklist Question d)*

As previously discussed, there are currently nine trees located on the project site, which would be removed as part of the project. Additionally, there are nine trees immediately adjacent to the site on surrounding parcels. While use of the trees for raptor nesting is unlikely due to the general health and size of the trees (i.e. limited cover is provided), other migratory birds could use the trees for nesting. These nesting migratory birds could be impacted as a result of tree removal or indirectly due to construction activities.

**Impact BIO-1:** Construction and demolition activities, including the removal of trees from the project site, could impact nesting migratory birds. **(Significant Impact)**

**Mitigation Measure:** The project would implement measures to avoid impacts to nesting migratory birds during construction. The project, with the incorporation of these measures, would result in a less than significant impact on migratory birds.

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

If it is not possible to schedule demolition and construction between September 1<sup>st</sup> and January 31<sup>st</sup> to avoid the nesting season, pre-construction surveys for nesting raptors and other migratory nesting birds shall be conducted by a qualified ornithologist to identify active nests that may be disturbed during project implementation on-site and within 250 feet of the site. Projects that commence demolition and/or construction activities between February 1st and April 30th, shall conduct a pre-construction survey for nesting birds no more than 14 days prior to initiation of construction, demolition activities, or tree removal. Between May 1st and August 31st, the pre-construction survey shall be conducted no more than 30 days prior to initiation of construction, demolition, or tree removal activities.

If an active nest is found in or close enough to the project area to be disturbed by construction activities, a qualified ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction-free buffer zone (typically 250 feet for raptors and 100 feet for other birds) around the nest, to ensure that raptor or migratory bird nests would not be disturbed during ground disturbing activities. The construction-free buffer zones shall be maintained until after the nesting season has ended and/or the ornithologist has determined that the nest is no longer active.

The ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Supervising Environmental Planner of the City of San José Department of Planning, Building and Code

Enforcement prior to any grading, demolition, and/or building permit. **(Less than Significant Impact with Mitigation Incorporated)**

**4.4.2.3 Conflicts with Local Policies or Ordinances (Checklist Question e)**

While the project site is urbanized and is within a larger urbanized area, there are trees on and adjacent to the site within the public right-of-way that are part of the urban forest. Within the City of San José, the urban forest as a whole is considered an important biological resource because most trees provide some nesting, cover, and foraging habitat for birds and mammals that are tolerant of humans, as well as providing necessary habitat for beneficial insects. Nine trees of varying size and health are present on the site, as described in Appendix B. The tree sizes are summarized in the following Table 4.4-1.

<b>Table 4.4-1: Tree Removal Summary</b>			
<b>Diameter of Tree to be Removed</b>	<b>Type of Tree to be Removed</b>		
	<b>Native</b>	<b>Non-Native</b>	<b>Orchard</b>
18 inches or more	None	5	none
12 to 18 inches	None	2	none
Less than 12 inches	1	1	none

The impact to the urban forest resulting from the removal of these trees would be offset by the planning of replacement trees on-site, in conformance with General Plan Policy MS-21.4, MS-21.6, and MS 21.8. The removed trees would be replaced according to tree replacement ratios required by the City, as provided in Table 4.4-2 below.

<b>Table 4.4-2: Tree Replacement Ratios</b>				
<b>Diameter of Tree to be Removed</b>	<b>Type of Tree to be Removed</b>			<b>Minimum Size of Each Replacement Tree</b>
	<b>Native</b>	<b>Non-Native</b>	<b>Orchard</b>	
18 inches or more	5:1	4:1	3:1	24-inch box
12 to 18 inches	3:1	2:1	None	24-inch box
Less than 12 inches	1:1	1:1	None	15-gal. container

X:X = tree replacement to tree loss ratio  
 Note: Ordinance sized trees (greater than or equal to 18-inch diameter) shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.

In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the City’s Environmental Supervising Planner, prior to issuance of a development permit:

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

- Replacement tree plantings may be accommodated at an alternative site(s). An alternative site may include local parks or schools, or an adjacent property where such plantings may be utilized for screening purposes. However, any alternatively proposed site will be pursuant to agreement with the Director of the Department of PBCE.
- A donation may be made to Our City Forest or similar organization for in-lieu tree planting in the community. Such donation will be equal to the cost of the required replacement trees, including associated installation costs, for off-site tree planting in the local community. A receipt for any such donation will be provided to the City of San José Planning Project Manager prior to issuance of a grading permit.

The project proposes to remove approximately nine trees necessitating replacement of approximately 26 trees. The proposed project is currently proposing to plant approximately 84 trees on site, in addition to other landscaping. Thus, the project would be in compliance with City's tree replacement standards and impacts to trees would be less than significant. **(Less than Significant Impact)**

#### **4.4.2.4**      *Habitat Conservation Plan (Checklist Question f)*

The project site is mapped as Urban-Suburban in the Habitat Plan, and is not located within any fee or survey zones. The Habitat Plan requires payment for nitrogen deposition fees for all covered projects that generate new net vehicle trips. As a part of the development permit approval, the project will implement the following standard condition.

**Standard Permit Condition:** The project applicant would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement (PBCE) for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit.

The project is subject to the Habitat Plan and required to pay all applicable fees prior to issuance of permits; therefore, the project would not conflict with the provisions of the Habitat Plan. **(Less than Significant Impact)**

#### **4.4.2.5**      *Conclusion*

With the implementation of the previously described mitigation measures and General plan policies, the project would not result in significant impacts to biological resources. **(Less than Significant Impact with Mitigation)**

## 4.5 CULTURAL RESOURCES

Portions of the discussion within this section are based on a historic evaluation prepared by Archives & Architecture in October 2016. This report is included as Appendix C.

### 4.5.1 Environmental Setting

#### 4.5.1.1 *Regulatory Framework*

##### **Federal and State**

The National Historic Preservation Act of 1966 (as amended), the California Public Resources Code, and CEQA are the basic federal and state regulations governing the preservation of historic and archaeological resources of national, regional, and state significance.

##### National Register of Historic Places

The historic significance and eligibility of a building, structure, object, site, or district for listing is assessed based upon the criteria in the National Register of Historic Places (NRHP). A resource is considered eligible for the NRHP if the quality of significance in American history, architecture, archaeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association and:

1. that are associated with events that have made a significant contribution to the broad pattern of our history; or
2. that are associated with the lives of persons significant to our past; or
3. that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
4. that have yielded, or may be likely to yield, information important in prehistory or history.

##### California Register of Historical Resources

The California Register of Historical Resources (CRHR) was created to identify resources deemed worthy of preservation and was modeled closely after the NRHP. The criteria are nearly identical to those of the NRHP, which includes resources of local, state, and regional and/or national levels of significance. A CRHR-eligible resource generally must be greater than 50 years old and significant at the local, state, or national level under one or more of the following four criteria:

1. It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States.
2. It is associated with the lives of persons important to local, California, or national history.
3. It embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master or important creative individual, or possesses high artistic values.

4. It has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California, or the nation.

Properties of local significance designated under a local preservation or identified in a local historical resources inventory may be eligible for listing in the CRHR and are presumed to be historical resources for the purposes of CEQA unless a preponderance of evidence indicates otherwise.

### Tribal Cultural Resources

On September 25, 2014, Governor Edmund G. Brown signed Assembly Bill 52 (AB 52), creating a new category of environmental resources (tribal cultural resources), which must be considered under CEQA. A tribal cultural resource can be a site, feature, place, or cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe.

The legislation imposes new requirements for consultation regarding projects that may affect a tribal cultural resource, includes a broad definition of what may be considered to be a tribal cultural resource, and includes a list of recommended mitigation measures. AB 52 also requires lead agencies to provide notice to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified of projects proposed within that area. Where a project may have a significant impact on a tribal cultural resource, consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource or when it is concluded that mutual agreement cannot be reached.

## **City of San José**

### Envision San José 2040 General Plan

The City’s General Plan also includes historic preservation and archaeological and cultural resources policies regarding preservation of those resources within the City and are applicable to the proposed project.

<b>Policy</b>	<b>Description</b>
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.
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 would 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.
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.



## Municipal Code

Under the City of San José Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code), preservation of historic or architecturally worthy structures and neighborhoods is promoted in order to stabilize neighborhoods and areas of the city; to enhance, preserve and increase property values; carry out the goals and policies of the City's General Plan; increase cultural, economic, and aesthetic benefits to the city and its residents; preserve, continue, and encourage the development of the City to reflect its historical, architectural, cultural, and aesthetic value or traditions; protect and enhance the City's cultural and aesthetic heritage; and to promote and encourage continued private ownership and utilization of such structures.

The landmark designation process itself requires that findings be made that proposed landmarks have special historical, architectural, cultural, aesthetic, or engineering interest or value of an historical nature, and that designation as a landmark conforms to the goals and policies of the General Plan. The following factors can be considered to make those findings, among other relevant factors:

1. Its character, interest or value as a part of the local, regional, state or national history, heritage or culture;
2. Its location as a site of a significant historic event;
3. Its identification with a person or persons who significantly contributed to the local, regional, state or national culture and history;
4. Its exemplification of the cultural, economic, social or historic heritage of the city of San José;
5. Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;
6. Its embodiment of distinguishing characteristics of an architectural type or specimen;
7. Its identification as the work of an architect or master builder whose individual work has influenced the development of the city of San José;
8. Its embodiment of elements of architectural or engineering design, detail, materials or craftsmanship which represents a significant architectural innovation or which is unique.

### **4.5.1.2**      *Existing Conditions*

#### **Historical Resources**

The 3.26-acre site contains a 1930s residential structure, garage, and office building; as well as a mix of twentieth century (mid-century) industrial buildings. Residential uses were removed with the introduction of the Giacomazzi Transportation Company onto the site in the 1930s/1940s, which operated at the site until the mid-1980s in coordination with the Modern Ice and Storage Company plant that existed across Oakland Road, but is now gone. Although it originally evolved under a single user, at present the site is home to a variety of industrial tenants.

The complex of buildings at the site retain their mid-century industrial feeling and look. The property maintains most of its historical integrity, per NRHP guidelines. The building coverage on this site has been stable for over 60 years and the buildings remain in their original location as constructed in the 1940s and 1950s. The historic setting is much the same as it has existed at mid-

twentieth century and the buildings retain their original integrity. With some exceptions, original finishes and structural materials remain. Each structure's location is shown in **Figure 4.5-1**, which follows. Their history, design, architectural integrity, and condition are described in detail in the subsections that follow.

**Figure 4.5-1: On-Site Structures Key**



Structure 1: Residential Structure at 645 Horning Street

This one-story, stucco residential structure (at the corner of Horning Street and Oakland Road) is a modest representation of the Spanish Eclectic-style with a detached two-car garage may have been built in the 1930s by the prior owner of the property, Manuel Vierra, or moved onto the site or built in the early 1940s by Elven Giacomazzi. It is generally rectangular in footprint, with the front façade facing Oakland Road; however, it is no longer accessible from the street. The front façade has a forward protruding wing with a gable-fronted roof that extends out to the side over a covered walkway to the front door. The roofing is Spanish tile, and the roof structure of the house is a mix of moderately sloped gabled sections at the front, and mansards along the sides that edge a high flat roof that covers most of the building.

The walls are stucco-clad with a dashed texture and extend seamlessly to enclose the front patio. An arched wing wall with arched passage leads to a pathway along the north side of the building. Arched openings to the porch, as well as the recessed focal window, are a version of trefoil arches. Original fenestration is mostly wood one-over-one double-hung sash with board moulding including large flat wood headers embedded in the stucco. Some openings have doubled-window sets. Several of the sash windows at the street elevations have been replaced with sliders or other contemporary retrofits. The front focal window glazing is framed by barley-twist columns.

A small two-car garage sits to the southwest of the house with access off Horning Street. It matches the house, with stucco walls, Spanish tile roof at the street, and partial tile coping along the walls facing the house.

### Structure 2: Office Building (1109 North 13<sup>th</sup> Street)

This one-story, stucco-clad, Spanish Eclectic-style office structure is located at the corner of Oakland Road and the US 101/Oakland Road off-ramp. This building was likely built during or after World War II. The building has a simple rectangle shape with a Spanish tile gabled roof. During the 1950s, the structure was expanded southward, with the addition being compatible in design and having matching stucco cladding but with an untrimmed flat roof. The entry is along the long north side of the building within a recessed stoop framed by timbers and a large wood header. Original fenestration consists of steel casements fixed to the stucco with large sills. The doors are not original to the structure.

### Structure 3: Truck Repair and Storage Building

This long, rectangular, truck repair and storage structure was originally constructed in the 1940s and is located along the vacated remnant of 13th Street. The structure has metal siding and corrugated metal roofing. The first phase of this large truck repair and storage building was constructed in the 1940s. The original long, linear front and rear gabled metal building is the largest structure on the site. It is a vernacular industrial building with corrugated metal siding and roofing, roll-up metal doors, and a row of 12-lite metal framed windows along the south elevation facing Horning Street. Several of the roll-up doors have been replaced, as have portions of the corrugated roofing.

An addition to the west side of the original structure occurred in the 1950s (pushing the building out to the property line to the 13<sup>th</sup> Street right-of-way, which was vacated in 1969. This addition is clad with standing-seam metal siding and corrugated metal roofing, and has similar roll-up metal doors to the original structure.

### Structure(s) 4: Maintenance Buildings

Three maintenance buildings from the 1950s are located along the Horning Street frontage. The two easterly buildings were constructed first and used for vehicle painting and repair, with the westerly building being constructed later and used for vehicle storage. All three of these buildings are metal structures with corrugated metal siding and roofing. Windows are steel casements or fixed, matching those on the truck repair and storage building (described above). The first structure has large glazing areas on three sides with two large swinging door entries. The second structure has lesser fenestration and one, high double-sliding door entry. On this building, the sloped corrugated roofing

curves at the lower end, flowing into the wall panels. The third building, used as a garage, is a small two-bay building roll-up metal doors.

### **Historic Evaluation**

The buildings as they exist today do not physically represent important patterns of development or events, nor do they contribute to a recognized district of historical significance. The use does not have important roots in the history of the neighborhood, and the related Modern Ice and Storage Company plant that had a relationship to this site through ownership and operating control was demolished approximately ten years ago. The light-industrial neighborhood along Horning Street lacks a visually coherent development history. The property would, therefore, not appear to qualify for the NRHP or CRHR under Criterion A or 1, respectively.

None of the persons associated with Giacomazzi Bros. Transportation Co. were found to be historically significant in the history of San José in a prior review, and no additional information was uncovered as a part of this investigation and recording. Therefore, the property would not be eligible for the NRHP or CRHR based on its association with personages (Criteria B and 2).

The site contains both a residential building and related industrial buildings first used for truck maintenance. While having recognizable qualities of the Spanish-Eclectic style, it is not a distinctive representation of this era in residential architecture. The adjacent office building also lacks distinctive qualities as it is a modest structure that has been expanded twice. The industrial buildings are not important representatives of and lack visual distinction with the industrial and commercial architecture of their time. The site and its buildings do not appear eligible for the NRHR listing under Criterion C or the CRHP per Criterion 3, as the buildings are not distinctive architecturally.

An evaluation performed per the City of San José historic evaluation-rating system resulted in a point score (38.89) that is above the threshold for listing on the San José Historic Resources Inventory. The property, and in particular the house at 645 Horning Street, could be considered a Structure of Merit due mainly to its architectural qualities, but does not raise the building to a level of a significant resource. This house and the related buildings on the site do not, however, appear to be eligible for San José Historic Landmark designation when considered under the qualitative criteria of the City's Historic Preservation Ordinance.

### **Archaeological Resources**

The project site is located adjacent to, but not within, an area of archaeological sensitivity, as mapped for the *Envision San José 2040 General Plan Environmental Impact Report* as supplemented (General Plan EIR).

### **Paleontological Resources**

The area is mapped in Appendix J of the General Plan EIR as an area of high paleontological sensitivity at depth, but not at ground surface.

## Tribal Cultural Resources

No tribes have requested notice of projects within the geographic area of the proposed project, and no known tribal cultural resources are located at the project site.

### 4.5.2 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Cause a substantial adverse change in the significance of an historical resource as defined in CEQA Guidelines Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,13
b) Cause a substantial adverse change in the significance of an archaeological resource as defined in CEQA Guidelines Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
c) Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
d) Disturb any human remains, including those interred outside of dedicated cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
e) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:					1,2
1. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k); or	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2
2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying this criteria, the significance of the resource to a California Native American tribe shall be considered.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2

#### 4.5.2.2 *Historic Resources Impacts (Checklist Question a)*

Neither the property nor individual structures on the site are currently listed on the NRHP, CRHR, or San José Historic Resources Inventory. The site has not been evaluated as a part of any local historic resource survey conducted by the City of San José or any other agency that has been filed with the State Office of Historic Preservation. Based on the information contained within the historic report prepared for the project (included as Appendix C), the structures on the project site are not eligible for the HRHR or CRHP. While the property meets the threshold for listing on the San José Historic Resources Inventory under the City of San José evaluation rating system, it would not qualify for designation as a City Landmark under the City's Historic Preservation Ordinance and removal of the structures on the property would not result in an impact under CEQA. Because historic resources are irreplaceable (including City Structures of Merit), however, General Plan policy states that their preservation should be a key consideration in the development review process. As such, the City would require the following Standard Permit Condition.

**Standard Permit Conditions:** While demolition of a Structure of Merit is not a significant environmental impact, the following Standard Permit Conditions to address the loss of these historic resources that add to the historic fabric of the City of San Jose Historic Resources Inventory are required.

##### **Documentation**

Professional Qualifications: The documentation is to be prepared by a qualified consultant meeting the professional qualification standards of the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation*. Submitted Department of Parks and Recreation, Primary Record (DPR A) and Building, Structure, and Object (DPR 523B) forms shall include the following:

- The bound and electronic copy of the Historic Report and/or DPR forms for the structures/site
- Non-HABS Archival Photo-Documentation:
- Cover sheet-The documentation shall include a cover sheet identifying the following:
  - Photographer, address of building, common or historic building name, date of construction, date of photographs and description of photographs.
  - Camera- A 35mm camera.
  - Lenses- May include normal focus length, wide angle and telephoto (no soft focus).
  - Filters-Photographer's choice. Use of a pola screen is encouraged.
  - Film-Must use black and white film; tri-X, Plus-X, or T-Max film is recommended.
  - View-Perspective view-front and other elevations. All photographs shall be composed to give primary consideration to the architectural and/or engineering features of the structure with aesthetic considerations necessary, but secondary.
  - Lighting-Sunlight is usually preferred for exteriors, especially of the front facade. Light overcast days, however, may provide more satisfactory lighting



for some structures. A flash may be needed to cast light into porch areas or overhangs.

- o Technical-All areas of the photograph must be in sharp focus

Submission of Photo-Documentation: Evidence that the documentation, including the original prints and negatives, has been submitted to History San Jose [Attention: Jim Reed, History San Jose, 1650 Senter Road, San Jose, CA 95112-2599, (408) 287-2290], shall be submitted to the Historic Preservation Officer. Digital photos may be provided as a supplement to, but not in place of, the above photo-documentation. The above shall be accompanied by a transmittal stating that the documentation is submitted in fulfillment of standard measures for the loss of the Structure of Merit, which shall be named and the address stated.

### **Relocation**

Prior to issuance of Public Works clearance, the structure(s) shall be advertised for relocation. The project applicant shall provide evidence that the structure has been retained and advertised for relocation by placing an advertisement in a newspaper of general circulation, posting on a website, and on-site posting for 30 days.

### **Salvage**

If relocation is not successful, prior to issuance of Public Works Clearance, the structure and site shall be retained and advertised for salvage by placing an advertisement in a newspaper of general circulation, posting on a website, and on-site posting for 30 days.

With incorporation of these City's Standard Permit Conditions (consistent with General Plan policy), impacts as a result of demolition of the structures would be less than significant. (**Less than Significant Impact**)

#### **4.5.2.3 Archaeological Resources Impacts (Checklist Questions b and d)**

The project proposes to demolish existing structures and pavement from the site. It is anticipated that the maximum disturbance depth would be ten feet below grade. While the top two to three feet of the site is fill material, disturbance of native soils could occur during trenching for utilities and excavation for the structure foundations.<sup>7</sup> While the project site is located adjacent to an area of archaeological sensitivity, discovery of archaeological resources or pre-historic human remains is unlikely given the location of the project site in comparison to known culturally sensitive areas and previous development activities. Although unlikely, excavation and trenching for utilities on the site could, however, damage as yet unrecorded subsurface resources. However, consistent with General Plan policies, the following standard permit condition will be implemented by the project to reduce and avoid impacts to potential disturbance of buried archaeological resources during construction.

**Standard Permit Conditions:** The project would implement the following Standard Permit Conditions to lessen potential impacts to archaeological resources or pre-historic human remains.

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<sup>7</sup> HP Inspections, Inc. *Geotechnical Investigation for Mixed-Use Development 645 Horning Street, San José CA.* August 5, 2015.

- In the event that any prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Supervising Environmental Planner and Historic Preservation Officer of the Department of Planning, Building and Code Enforcement shall be notified, and a qualified archaeologist will examine the find and make appropriate recommendations prior to the issuance of a building permit. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery during monitoring shall be submitted to the Supervising Environmental Planner and Historic Preservation Officer of the Department of Planning, Building and Code Enforcement prior to issuance of building permits.
- If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement and the qualified archaeologist, who will then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American.

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

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

- The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission.
- The descendant identified fails to make a recommendation; or
- The landowner or his authorized representative rejects the recommendation of the descendant, the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner. **(Less than Significant Impact)**

#### **4.5.2.4**      *Paleontological Resources Impacts (Checklist Question c)*

The project site is immediately underlain by Holocene sediments that have low potential to yield fossil resources or to contain significant nonrenewable paleontological resources. These recent sediments, however, may overlie older Pleistocene sediments with high potential to contain paleontological resources. These older sediments are often found at depths of greater than 10 feet below the ground surface. Excavation on-site will not exceed 10 feet in depth and it is improbable that paleontological resources will be discovered on-site due to the anticipated depths of ground

disturbance and the age of underlying sediments. However, consistent with General Plan policies, the following standard permit condition will be implemented by the project to reduce and avoid impacts to paleontological resources during demolition and construction phases.

**Standard Permit Conditions:** If vertebrate fossils are discovered during construction, the Director of Planning, Building, and Code Enforcement shall be notified and all work on the site will stop immediately until a qualified professional paleontologist can assess the nature and importance of the find and recommend appropriate treatment. Treatment may include preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project proponent will be responsible for implementing the recommendations of the paleontological monitor, and a final report documenting the implementation of the treatment program shall be provided to the Supervising Environmental Planner and Historic Preservation Officer of the Department of Planning, Building and Code Enforcement. **(Less than Significant Impact)**

#### **4.5.2.5**            *Tribal Cultural Resources Impacts (Checklist Question e)*

No tribes have requested notice under AB 52 of projects within the geographic area of the proposed project. No known tribal cultural resources are located at the project site. For these reasons, there would be no impact to tribal cultural resources identified as having cultural value to a Native American tribe. **(No Impact)**

#### **4.5.3**            **Conclusion**

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

## 4.6 GEOLOGY AND SOILS

The discussion within this section is based on a geotechnical investigation prepared for the project site by HP Inspections, Inc. in August of 2015. The geotechnical investigation is included with this document as Appendix D.

### 4.6.1 Environmental Setting

#### 4.6.1.1 *Regulatory Framework*

##### State

##### California Building Code

The California Building Code prescribes a standard for constructing safer buildings throughout the State of California. It contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, strength of the ground and distance to seismic sources. The code is renewed on a triennial basis every three years; the current version is the 2016 Building Standards Code.

##### City of San José

##### Municipal Code

Title 24 of the San José Municipal Code includes the 2016 California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. Requirements for building safety and earthquake hazard reduction are also addressed in Chapter 17.40 (Dangerous Buildings) and Chapter 17.10 (Geologic Hazards Regulations) of the Municipal Code. Requirements for grading, excavation, and erosion control are included in Chapter 17.10 (Building Code, Part 6 Excavation and Grading). In accordance with the Municipal Code, the Director of Public Works must issue a Certificate of Geologic Hazard Clearance prior to the issuance of grading and building permits within defined geologic hazard zones, including State Seismic Hazard Zones for Liquefaction.

##### Envision San José 2040 General Plan

The following General Plan policies are specific to geological resources and are applicable to the proposed project.

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

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

#### 4.6.1.2 Existing Conditions

##### Soils

Below the existing pavement section and building foundations, the site is generally underlain by an average of about seven feet of loose silty sand to sandy silt. This layer has no plasticity and has low potential for expansion. Below this layer of loose sand and silt, the site is underlain by silty clay to a depth of up approximately 50 feet. This layer of sand/silt has no plasticity and has a low potential for expansion.

##### Seismicity and Seismic Hazards

The project site is located within the seismically active San Francisco Bay Area region. There is a 72 percent probability that one or more major earthquakes (6.7 in magnitude or greater) will occur in the region by 2044.<sup>8</sup> Although the site is within a seismically active region, it is not located within a designated Alquist-Priolo Earthquake Fault Zone<sup>9</sup> and no known active or potentially active faults exist on the site. Since no known surface active faults cross the site, fault rupture is not a significant geologic hazard.

Significant active faults (which have a capability generating an earthquake with a magnitude of 6.7 or greater)<sup>10</sup> within the region include the Hayward Fault, Calaveras Fault, and San Andreas Fault, located approximately seven miles northeast, seven miles east, and 13 miles west of the site, respectively. Due to the proximity of the project site to these active or potentially active faults, ground shaking and/or ground failure as a result of an earthquake could cause damage to structures on the site.

##### 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

<sup>8</sup> US Geological Survey. “UCERF3: A New Earthquake Forecast for California’s Complex Fault System”. Fact Sheet 2015–3009. March 2015. Accessed February 15, 2017. <http://pubs.usgs.gov/fs/2015/3009/pdf/fs2015-3009.pdf>.

<sup>9</sup> California Geological Survey. *Seismic Hazards Zones*. Map. Accessed February 15, 2017. [http://gmw.consrv.ca.gov/shmp/download/quad/SAN\\_JOSE\\_WEST/maps/ozn\\_sjosw.pdf](http://gmw.consrv.ca.gov/shmp/download/quad/SAN_JOSE_WEST/maps/ozn_sjosw.pdf).

<sup>10</sup> Active faults is one that has ruptured in the last 11,000 years. California Geological Survey. Alquist-Priolo Earthquake Fault Zoning Act. Accessed February 15, 2017. <http://www.conservation.ca.gov/cgs/rghm/ap/Pages/main.aspx>.

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 Hazard Zone.<sup>11</sup> However, the potential for liquefaction was evaluated as part of the site-specific geotechnical investigation, which found that the clayey nature of the soil that underlies the project site would not be subject to liquefaction (even under the influence of ground shaking).

#### 4.6.2 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:					
1. Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,14
2. Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,14
3. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,14
4. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,3
c) Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,3,14
d) Be located on expansive soil, as defined in Table 18-1-B Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,3,14
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1

<sup>11</sup> California Geological Survey. *Seismic Hazards Zones*. Map. Accessed February 15, 2017. [http://gmw.consrv.ca.gov/shmp/download/quad/SAN\\_JOSE\\_WEST/maps/ozn\\_sjosw.pdf](http://gmw.consrv.ca.gov/shmp/download/quad/SAN_JOSE_WEST/maps/ozn_sjosw.pdf).



#### 4.6.2.2 *Seismicity and Seismic Hazards (Checklist Questions a and c)*

The project site is located in a seismically active region of California and strong ground shaking would be expected during the lifetime of the proposed project. However, there are no known active faults traversing the project site and the potential for surface rupture from displacement or fault movement directly beneath the proposed project is considered low. Depending upon the intensity and magnitude of a seismic event, new buildings may experience shaking due to the site's proximity to the active faults in the vicinity. As discussed previously, the project site is also located within a liquefaction hazard zone, though the clay soils underlying the project site would not likely be subject to liquefaction. Nonetheless, implementation of the following Standard Permit Condition would reduce seismic hazards and impacts to a less than significant level.

**Standard Permit Condition:** To avoid or minimize potential damage from seismic shaking, the project would be built using standard engineering and seismic safety design techniques. Building design and construction at the site will be completed in conformance with the recommendations of a design-level geotechnical investigation. The structural designs for the proposed development will account for repeatable horizontal ground accelerations. The report shall be reviewed and approved of by the City of San José's Building Division as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes, including the 2016 California Building Code Chapter 16, Section 1613, as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code. **(Less than Significant Impact)**

#### 4.6.2.3 *Soils Impacts (Checklist Questions b and d)*

The project site is located in a relatively flat area and would not be exposed to substantial slope instability, erosion, or landslide-related hazards. The soil expansion potential is low. To ensure that future buildings on the site are designed properly to account for the presence of unstable soils, the following Standard Permit Conditions shall be implemented as part of the project.

**Standard Permit Conditions:** The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. In addition, the City of San José Department of Public Works requires a grading permit to be obtained prior to the issuance of a Public Works Clearance. These standard practices, including the measures outlined below, would ensure that future buildings on the site are designed properly to account for soils-related hazards on the site and to prevent soil erosion.

- The project shall conform to the recommendations of a project-specific geotechnical report, including design considerations for proposed foundations.
- The project shall prepare and implement an Erosion Control Plan in conformance with the requirements of the Department of Public Works.

The project, with the implementation of the Standard Permit Conditions outlined above, would not result in significant soil impacts from expansive soils or result in soil erosion. **(Less than Significant Impact)**

#### 4.6.2.4 *Septic Systems (Checklist Question e)*

The project site is located within an urbanized area of San José where sanitary sewer lines are available to dispose of 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

The proposed project would result in less than significant geologic and soils impacts, and would not expose people or structures to new adverse seismic risks. **(Less than Significant Impact)**

## 4.7 GREENHOUSE GAS EMISSIONS

### 4.7.1 Environmental Setting

#### 4.7.1.1 *Regulatory Framework*

##### **Federal**

##### Clean Air Act

The EPA is the federal agency responsible for implementing the Clean Air Act (CAA). The United States Supreme Court in its 2007 decision in *Massachusetts et al. v. Environmental Protection Agency et al.* ruled that carbon dioxide (CO<sub>2</sub>) is an air pollutant as defined under the CAA, and that EPA has the authority to regulate emissions of greenhouse gases (GHGs). Following the court decision, EPA has taken actions to regulate, monitor, and potentially reduce GHG emissions (primarily mobile emissions).

##### **State**

##### California Global Warming Solutions Act (Assembly Bill 32)

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

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

##### Senate Bill 375 – Redesigning Communities to Reduce GHGs

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

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

## Regional

### Bay Area Air Quality Management District

BAAQMD is the regional, government agency that regulates sources of air pollution within the nine San Francisco Bay Area counties. BAAQMD and other agencies prepare clean air plans as required under the state and federal CAAs. The *Bay Area 2017 Clean Air Plan* (2017 CAP) focuses on two closely related BAAQMD goals: protecting public health and protecting the climate. The 2017 CAP lays the groundwork for the BAAQMD's long-term effort to reduce Bay Area GHG emissions 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050. The 2017 CAP includes a wide range of control measures designed to decrease emissions of methane and other super-GHGs that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

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

## City of San José

### General Plan and Greenhouse Gas Reduction Strategy

The General Plan includes strategies, policies, and action items that are incorporated in the City's GHG Reduction Strategy to help reduce GHG emissions. Multiple policies and actions in the General Plan have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings. The GHG Reduction Strategy is intended to meet the mandates outlined in the CEQA *Air Quality Guidelines*, as well as the BAAQMD requirements for Qualified GHG Reduction Strategies.

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

The primary test for consistency with the City's GHG Reduction Strategy is conformance with the General Plan Land Use/Transportation Diagram and supporting policies. CEQA clearance for development proposals are required to address the consistency of individual projects with the goals and policies in the General Plan designed to reduce GHG emissions. Compliance with the mandatory measures and voluntary measures (if required by the City) would ensure an individual project's consistency with the GHG Reduction Strategy. Projects that are consistent with the GHG

Reduction Strategy would have a less than significant impact related to GHG emissions through 2020 and would not conflict with targets in the currently adopted *Climate Change Scoping Plan* through 2020.

The environmental impacts of the GHG Reduction Strategy were analyzed in the General Plan EIR, and as supplemented. Beyond 2020, the emission reductions in the GHG Reduction Strategy are not large enough to meet the City’s identified 3.04 metric tons (MT) CO<sub>2</sub>e/SP efficiency metric for 2035. An additional reduction of 5,392,000 MT CO<sub>2</sub>e per year would be required for the projected service population to meet the City’s target for 2035.<sup>12</sup>

Achieving the substantial communitywide GHG emissions reductions needed beyond 2020 cannot be done alone with the measures identified in the GHG Reduction Strategy adopted by the City Council in 2015. The General Plan EIR disclosed that it will require an aggressive multiple-pronged approach that includes policy decisions and additional emission controls at the federal and state level, new and substantially advanced technologies, and substantial behavioral changes to reduce single occupant vehicle trips—especially to and from work places. Future policy and regulatory decisions by other agencies (such as CARB, California Public Utilities Commission, California Energy Commission, MTC, and BAAQMD) and technological advances are outside the City’s control, and therefore could not be relied upon as feasible mitigation strategies at the time of the latest revisions to the GHG Reduction Strategy. Thus, the City Council adopted overriding considerations for the identified cumulative impact for the 2030 to 2035 timeframe.

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

The following General Plan policies are related to GHG emissions and are applicable to the proposed project.

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

<sup>12</sup> As described in General Plan EIR, the 2035 efficiency target above, reflects a straight line 40 percent emissions reduction compared to the projected citywide emissions (10.90 MT CO<sub>2</sub>e) for San José in 2020. It was developed prior to issuance of Executive Order S-30-15 in April 2015, which calls for a statewide reduction target of 40 percent by 2030 (five years earlier) to keep on track with the more aggressive target of 80 percent reduction by 2050. The necessary information to estimate a second mid-term or interim efficiency target (e.g., statewide emissions, population and employment in 2030) is being developed by CARB.

MS-14.4	Implement the City’s Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
CD-3.2:	Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure that the design of new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity.
CD-5.1	Design areas to promote pedestrian and bicycle movements and to facilitate interaction between community members and to strengthen the sense of community.
LU-5.4	Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections; and including secure and convenient bike storage.

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### City of San José Municipal Code

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

- Green Building Ordinance (Chapter 17.84)
- Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10)
- Construction and Demolition Diversion Deposit Program (Chapter 9.10)
- Wood Burning Ordinance (Chapter 9.10)

### City of San José Private Sector Green Building Policy (6-32)

In October 2008, the City adopted the Private Sector Green Building Policy (6-32) that establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. This policy requires that applicable projects achieve minimum green building performance levels using the Council adopted standards. The green building standards required by this policy are intended to advance greenhouse gas reduction by reducing per capita energy use, providing energy from renewable sources, diverting waste from landfills, using less water, and encouraging the use of recycled wastewater.

#### **4.7.1.2 Existing Conditions**

The project site is currently developed with light-industrial and commercial uses, which generate GHG emissions from the combustion of fossil fuels (oil, natural gas, and coal) for energy production. The energy is used in various ways, directly and indirectly, ranging from electricity used to operate heating, ventilation, and air conditioning, to the fuel used to transport employees and customers to and from the site.



## 4.7.2 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,9
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,9

### 4.7.2.1 *GHG Impact Assessment (Checklist Question a)*

The following discussion focuses on whether project emissions represent a cumulatively considerable contribution to climate change as determined by consistency with the City of San José and statewide efforts to curb GHG emissions. The City’s projected emissions and the GHG Reduction Strategy are consistent with measures necessary to meet statewide 2020 goals established by AB 32 and addressed in the Climate Change Scoping Plan. As previously noted, projects that are consistent with the City’s adopted GHG Reduction Strategy would have a less than significant impact related to GHG emissions through 2020.

#### **Construction Emissions**

Construction of the proposed project would result in a minor increase in GHG emissions from on-site 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 number of personnel. Because project construction will be a temporary condition (up to 14 months) and would not result in a permanent increase in emissions that would interfere with the implementation of AB32, the temporary increase in emissions would be less than significant. **(Less than Significant Impact)**

#### **Operational Emissions**

##### Development Through 2020

The proposed project would allow intensification and redevelopment of the site with a car wash, convenience store, gas station, fast-food restaurant, and mini-storage buildings. The project is anticipated to result in a net increase in traffic trips and energy usage compared to the existing site conditions, due primarily to the addition of the convenience store, gas station, and fast-food restaurant. While this would result in an overall increase in GHG emissions, well over half the trips to the site would be pass-by trips for vehicles traveling to other destinations and the project would not be expected to significantly increase vehicle miles traveled due to the project’s urban location.

Development of the project will be subject to the City’s Green Building Ordinance, which will ensure operational emissions reductions consistent with the GHG Reduction Strategy. Consistent

with the mandatory measures of the GHG Reduction Strategy, the proposed project would enhance the pedestrian environment with a new sidewalk along the project frontage. The proposed project, therefore, would not conflict with the City's GHG Reduction Strategy and 2020 local targets and statewide targets developed based upon AB 32. Thus, the project would have a less than significant GHG emissions impact for development through 2020. **(Less than Significant Impact)**

#### **4.7.2.2 Conformance with Applicable Plans (Checklist Question b)**

##### **Consistency with GHG Reduction Strategy**

The General Plan and the City's GHG Reduction Strategy contains goals and policies adopted for the purpose of reducing GHG emissions. Measures are either mandatory for proposed development projects, or they are voluntary. Voluntary measures can be incorporated as mitigation measures for projects at the discretion of the City. Mandatory GHG reduction criteria and its applicability to the project is detailed below.

1. Consistency with the Land Use/Transportation Diagram (General Plan Goals/Policies ip-1, LU-10)
2. Implementation of Green Building Measures (GP Goals: MS-1, MS-2, MS-14)
  - Solar Site Orientation
  - Site Design
  - Architectural Design
  - Construction Techniques
  - Consistency with City Green Building Ordinance and Policies
  - Consistency with GHG Reduction Strategy Policies: MS-2.3, MS-2.11, and MS-14.4
3. Pedestrian/Bicycle Site Design Measures
  - Consistency with Zoning Ordinance
  - Consistency with GHG Reduction Strategy Policies: CD-2.1, CD-3.2, CD-3.3, CD-3.4, CD-3.6, CD-3.8, CD-3.10, CD-5.1, LU-5.4, LU-5.5, LU-9.1, TR-2.8, TR-2.11, TR-2.18, TR-3.3, TR-6.7)
4. Salvage building materials and architectural elements from historic structures to be demolished to allow re-use (General Plan Policy LU-16.4), if applicable; **Not Applicable**
5. Complete an evaluation of operational energy efficiency and design measures for energy-intensive industries (e.g. data centers) (General Plan Policy MS-2.8), if applicable; **Not Applicable**
6. Preparation and implementation of the Transportation Demand Management Program at large employers (General Plan Policy TR-7.1), if applicable; **Not Applicable**

7. Limit on drive-through and vehicle serving uses; all new uses that serve the occupants of vehicles (e.g., drive-through windows, car washes, service stations) must not disrupt pedestrian flow (General Plan Policy LU-3.6).

Per Criteria 1, the proposed project is consistent with the General Plan designation for the site in the Land Use/Transportation Diagram. Per Criteria 2 and 3, new structures would be constructed in compliance with Municipal Code Chapter 17.84 (Green Building Regulations for Private Development) and California Green Building Standards. At a minimum, eight bicycle parking spaces would be required consistent with San José requirements.

Criteria 4, 5, and 6 are not applicable to the proposed project because the site does not contain historic structures, the project is not an energy-intensive use, and is not a large employer. While the project proposes redevelopment of existing vehicle-serving uses (fast-food with drive-through and a gas station), the project would eliminate a driveway curb cut along Horning Street, construct a new 10-foot-wide sidewalk on Horning Street (consistent with Criteria 7), and improve pedestrian connections from the existing Oakland Road sidewalk. There is also adequate queuing space on site for the proposed uses so as to avoid disruption of pedestrian flow at the public sidewalks.

The following Table 4.7-1 provides a summary of the City’s voluntary GHG Reduction Strategy criteria and describes the proposed project’s compliance with each criterion.

<b>Table 4.7-1: Voluntary Greenhouse Gas Reduction Strategy Criteria</b>		
<b>Policies</b>	<b>Description of Project Measure</b>	<b>Project Applicability</b>
<b>BUILT ENVIRONMENT AND RECYCLING</b>		
Installation of solar panels or other clean energy power generation sources, especially over parking areas (MS-2.7, MS-15.3, MS-16.2)	The project does not propose installation of solar panels or other clean energy sources on-site.	<input type="checkbox"/> Proposed <input checked="" type="checkbox"/> Not Proposed <input type="checkbox"/> Not Applicable
Use recycled water wherever feasible and cost-effective, including non-residential uses outside of the Urban Service Area (MS-17.2, MS-19.4)	There are no recycled water lines currently available in the immediate project vicinity and there are no large areas of landscaping that will require significant levels of irrigation.	<input type="checkbox"/> Required/ Proposed <input type="checkbox"/> Not Proposed <input checked="" type="checkbox"/> Not Applicable
<b>TRANSPORTATION AND LAND USE</b>		
Have new residential developers build and maintain trails when development occurs adjacent to a designated trail location. (PR-8.5, TN-2.7)	The project is not a residential project and there are no trails adjacent to the site.	<input type="checkbox"/> Proposed <input type="checkbox"/> Not Proposed <input checked="" type="checkbox"/> Not Applicable
Promote car share programs to minimize the need for parking spaces (TR-8.5)	A car share program is not currently proposed as a part of project and no spaces are proposed to be reserved in the parking lot for this use.	<input type="checkbox"/> Proposed <input checked="" type="checkbox"/> Not Proposed <input type="checkbox"/> Not Applicable

<b>Table 4.7-1: Voluntary Greenhouse Gas Reduction Strategy Criteria</b>		
<b>Policies</b>	<b>Description of Project Measure</b>	<b>Project Applicability</b>
Parking in downtown and urban village overlay areas: avoid the construction of surface parking except as an interim use and use structured parking to fulfill parking requirements. (CD-2.11)	The project site is not located within an Urban Village Overlay area.	<input type="checkbox"/> Surface Parking Proposed <input type="checkbox"/> Surface Parking Not Proposed <input checked="" type="checkbox"/> Not Applicable
Limit parking above code requirements (TR-8.4)	The proposed number of parking spaces meets the requirements in the Municipal Code.	<input checked="" type="checkbox"/> Parked at or below Code <input type="checkbox"/> Parked above Code <input type="checkbox"/> Not Applicable
Consider opportunities for reducing parking spaces, including measures such as shared parking, transportation demand management, and parking pricing to reduce demand (TR-8.12)	A reduction in parking spaces is not proposed.	<input type="checkbox"/> Proposed <input type="checkbox"/> Project Does Not Propose <input checked="" type="checkbox"/> Not Applicable

The proposed project is consistent with the existing General Plan land use designation (*Combined Industrial/Commercial*) and would comply with applicable mandatory measures of the GHG Reduction Strategy. Therefore, the proposed project is consistent with local policies and programs designed to reduce GHG emissions and impacts would be less than significant. **(Less than Significant Impact)**

**Consistency with Plan Bay Area**

The development assumptions in *Plan Bay Area* are based on the zoning and General Plan land use designations in affect at the time *Plan Bay Area* was developed. The project site is located with the Urban Service Area of San José and is currently designated for commercial and industrial development. Because the proposed use is generally consistent with the City’s land use assumptions, it would not be inconsistent with efforts to reduce GHG emissions contained in *Plan Bay Area*. **(Less than Significant Impact)**

**4.7.3 Conclusion**

Development of the proposed project will incorporate measures from applicable policies of the City’s General Plan and adopted GHG Reduction Strategy; therefore, it would have a less than significant GHG emissions impact for development through 2020. **(Less than Significant Impact)**

## 4.8 HAZARDS AND HAZARDOUS MATERIALS

The discussion contained within this section is based in part on the information contained within the *Phase I Environmental Site Assessment* prepared for the project site by Partner Engineering and Science Inc. (dated July 24, 2014) and a *Soil and Groundwater Quality Evaluation* prepared by HP Inspections, Inc. (dated December 6, 2001). These reports are included with this Initial Study as Appendix E and Appendix F, respectively.

### 4.8.1 Environmental Setting

#### 4.8.1.1 *Regulatory Framework*

Hazardous waste generators and users in the City are required to comply with regulations enforced by several federal, state, and local 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.

#### **Federal and State**

##### Government Code Section 65962.5 (Cortese List)

The Hazardous Waste and Substances Sites (Cortese List) is a planning document used by 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 CalEPA 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).<sup>13</sup>

##### California Division of Occupational Safety and Health

The California Occupational Safety and Health Act of 1970 provides measures that address the safety of construction and industrial workers. The California Occupational Safety and Health Administration (Cal/OSHA) is responsible for enforcing the occupational and public safety laws adopted by the U.S. Department of Labor's Occupational Safety and Health Administration.

Cal/OSHA requires preparation and implementation of an Injury and Illness Prevention Program, which addresses the handling of hazardous materials. Cal/OSHA requires that workers have training and instruction on general and job-specific safety and health practices. A Code of Safety Practices is required to be prepared implementing Cal/OSHA Construction Safety Orders. The Code of Safe Practices is required to be posted at a conspicuous location at each job site office or be provided to each supervisory employee who must have it readily available.

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<sup>13</sup> California Department Toxic Substances Control. Cortese List. Accessed February 16, 2017. [http://www.dtsc.ca.gov/SiteCleanup/Cortese\\_List.cfm](http://www.dtsc.ca.gov/SiteCleanup/Cortese_List.cfm).

## City of San José

### Envision San José 2040 General Plan

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

<b>Policy</b>	<b>Description</b>
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.
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.
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.
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.
EC-7.9	Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.
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.
EC-7.11	Require sampling for residual agricultural chemicals, based on the history of land use, on sites to be used for any development or redevelopment to account for worker and community safety during construction. Mitigation to meet appropriate end use such as residential or commercial/industrial shall be provided.
MS-13.2	Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxics control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

#### 4.8.1.2 Existing Conditions

##### Project Site

###### Case Number 06SIE32N05f

As described within the Phase I Environmental Site Assessment (contained within Appendix E), the project site was formerly equipped with one 7,500-gallon steel gasoline underground storage tank (UST), one 12,000-gallon steel diesel UST, one 10,000-gallon steel diesel UST, and one 2,000-gallon steel waste oil UST; all of which were removed in March 1992 along with their associated piping. During preparations for the removal, a release of diesel fuel was discovered and reported to the Santa Clara Valley Water District (SCVWD), which opened case number 06SIE32N05f. Soil samples collected from beneath each of the tanks during removal activities showed petroleum hydrocarbons had impacted the soil, though groundwater samples taken showed concentrations of contaminants at levels below laboratory reporting limits. As a result, approximately 740 cubic yards of impacted soil was excavated and disposed.

In 1999 and 2001, soil borings were advanced in presumed downgradient locations from the former USTs. Groundwater samples from each of these two borings showed concentrations below the laboratory reporting limits for petroleum hydrocarbons. Regulatory closure was obtained for the four USTs on November 15, 2002.

###### Case Number 11-049

The subject property was formerly equipped with an additional 10,000-gallon gasoline UST, a 1,000-gallon gasoline UST, and a 5,000-gallon diesel UST; which were removed in November 7, 1991. During removal, the bottom of the gasoline USTs was noted to be severely pitted and a release of gasoline was reported to the SCVWD, which opened case number 11-049. Following tank removal, approximately 600 cubic yards of soil were excavated from the area, stockpiled, aerated, and reused to fill the excavation. Samples collected from the stockpiled soils showed concentrations of petroleum hydrocarbons contaminants in the soil, which was left in place. Six monitoring wells were installed in the area and groundwater monitoring was conducted quarterly until 1995. The final groundwater samples were collected in November 1995 and only one sample from a downgradient well showed any petroleum hydrocarbon impacts to groundwater. Regulatory closure was obtained for the three USTs on May 14, 1996.

###### Septic Tank

The subject property is reportedly equipped with a septic tank at the eastern portion of the property. No information was available regarding the location of a leach bed or current or former usage of the septic tank.

###### Other Potential Contaminants

Due to the age of the existing commercial buildings, construction prior to 1978, lead-based paint and asbestos-containing materials (ACMs) may be present. Construction activities that disturb lead-based paint or ACMs require pre-construction surveys and special handling during remodeling and demolition to avoid their release into the environment.



## Surrounding Properties

The property to the south is identified in the LUST, Historical LUST, Historic CORTESE, and Certified Unified Program Agency (CUPA) listings databases. The property, identified as Haines & Sons Painting, is located approximately 400 feet south of the project site and is hydrologically upgradient. This site reported a release of gasoline on October 23, 1984 during removal of one 9,000-gallon gasoline UST. Approximately 70 cubic yards of soil were excavated for disposal. Three groundwater monitoring wells were installed at the property in 1994 and subsequent groundwater sampling results showed no detectable impacts to groundwater. Regulatory closure was obtained from the SCVWD on October 4, 1994.

### 4.8.2 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,13,14
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,13,14
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
f) For a project within the vicinity of a private airstrip, will the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1

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

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

The project proposes to construct a fast-food restaurant, convenience store, gas station, and mini-storage facility. Hazardous substances such as fuels, oils, and detergents would be present at the site. Materials such as solvents, paints, and fuels could also be utilized during project construction. Compliance with applicable federal, state, and local handling, storage, and disposal requirements would ensure that no significant hazards to the public or the environment are created by the routine transport, use, or disposal of these substances. **(Less than Significant Impact)**

#### 4.8.2.2 *Accidental Release of Hazardous Materials (Checklist Question b)*

##### **Contaminated Soil and Groundwater**

A former septic system is located on the eastern portion of the property. No information is available regarding the location of a leach bed or current or former usage of the septic tank. Removal of the septic system and associated infrastructure, as well as abatement of the adjacent area soils, would occur as part of the Building Permit process and will be overseen by the City of San José. Compliance with removal standards and requirements, impacts as a result of a release of any nitrates or other chemicals associated with removal of the septic system would be unlikely to occur and any impact would be less than significant.

Due to the history of past releases from USTs at the project site and at Haines & Sons Painting (400 feet south of and upgradient from the project site), there is the potential that contaminated soil or groundwater could be encountered during excavation and grading, subsurface utility installation, maintenance, or landscaping. If improperly handled, these activities could result in risks to people and the environment.

**Impact HAZ-1:** Hazardous materials contamination on the site, if discovered in soil or groundwater, could pose a risk to construction workers and others on or around the project site. **(Significant Impact)**

**Mitigation Measures:** The following mitigation measures will be implemented prior to the start of ground-disturbing activities to reduce the potential for construction workers or others to encounter hazardous materials contamination.

**MM HAZ-1.1:**

Prior to the issuance of a demolition or grading permit, a Site Management Plan (SMP) shall be prepared by a qualified hazardous materials consultant to establish management practices for handling contaminated soil or other materials encountered during construction activities. Appropriate soil testing, characterization, storage, transportation, and disposal procedures shall be specified in the SMP. The sampling results shall be compared to appropriate risk-based screening levels in the SMP. The SMP shall identify potential health, safety, and environmental exposure considerations associated with redevelopment activities and shall identify appropriate mitigation measures.

The SMP shall be submitted to the Santa Clara County Department of Environmental Health (or equivalent agency) for review and approval. A copy of the approved SMP shall be submitted to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement and Municipal Compliance Officer of the City of San Jose Environmental Services Department for approval prior to the issuance of any grading permits. The SMP shall include, but is not limited to, the following:

- A detailed discussion of the site background;
- Proper mitigation as needed for demolition of existing structures;
- Management of stockpiles, including sampling, disposal, and dust and runoff control including implementation of a stormwater pollution prevention program;
- Management of underground structures encountered, including utilities and/or underground storage tanks;
- Procedures to follow if evidence of an unknown historic release of hazardous materials (e.g., underground storage tanks, polychlorinated biphenyls [PCBs], asbestos containing materials, lead-based paint, etc.) is discovered during excavation or demolition activities.
- A health and safety plan (HSP) for each contractor working at the site that addresses the safety and health hazards of each site operation phase, including the requirements and procedures for employee protection. The HSP shall outline proper soil handling procedures and health and safety requirements to minimize work and public exposure to hazardous materials during construction.

With the implementation MM HAZ-1.1 and adherence to the Cal/OSHA-required Injury and Illness Prevention Program, impacts to construction workers or others in the project vicinity would be less than significant. **(Less than Significant Impact with Mitigation Incorporated)**

### **Asbestos-Containing Materials**

Based on the construction date of the structures on the site, there is a potential for ACMs to be present in building materials. During demolition activities, these materials may create a health risk to construction workers if not properly handled. The following Standard Permit Conditions, based on

BAAQMD and Cal/OSHA rules and regulations would ensure that potential impacts to construction workers and others from ACMs would be less than significant.

**Standard Permit Conditions:** Based on BAAQMD and Cal/OSHA rules and regulations, the following conditions are required to limit impacts to construction workers and others from ACMs.

- In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building to determine the presence of asbestos-containing materials and/or lead-based paint.
- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code Regulations 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings would be disposed of at landfills that meet acceptance criteria for the waste being disposed.
- All potentially friable ACMs shall be removed in accordance with NESHAP guidelines prior to building demolition or renovation that may disturb the materials. All demolition activities will be undertaken in accordance with Cal/OSHA standards contained in Title 8 of CCR, Section 1529, to protect workers from asbestos exposure.
- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
- Materials containing more than one percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

**(Less than Significant Impact)**

### **Lead-Based Paint**

Based on the construction date of the structures on the site, the structures could contain lead-based paint, which could expose workers and others to potential health risks during demolition activities. The following Standard Permit Conditions, based on Cal/OSHA and other applicable regulations, would ensure that potential impacts to construction workers and others from lead-based paint are less than significant.

**Standard Permit Conditions:** Based on Cal/OSHA rules and regulations, the following conditions are required to limit impacts to construction workers and others lead-based paint.

- To identify and quantify building materials containing lead-based paint, a building survey, including sampling and testing, shall be completed prior to the commencement of demolition activities.
- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR 1532.1, including employee training, employee air monitoring and dust control.
- Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the waste being disposed. **(Less than Significant Impact)**

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

The nearest school is Burnett Academy Middle School, which is approximately 0.70 mile southwest of the project site. There are no existing or proposed schools within 0.25 mile of the site; therefore, there would be no impact. **(No Impact)**

#### **4.8.2.4**            *Hazardous Materials Sites (Checklist Question d)*

The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. Though the project site has been impacted by two leaking UST cases that occurred on the site, the site has undergone follow-up testing and monitoring, and the cases have been closed. Further, the project would implement MM HAZ-1.1 and comply with Cal/OSHA requirements to reduce the potential for exposure to contaminated groundwater or soils. **(Less than Significant Impact)**

#### **4.8.2.5**            *Other Hazards (Checklist Questions e through h)*

Federal Aviation Regulations, Part 77, “Objects Affecting Navigable Airspace” (referred to as FAR Part 77) sets forth standards and review requirements for protecting the airspace for safe aircraft operation. For the project site, any proposed structure of a height greater than approximately 70 feet above ground level would trigger FAR Part 77 safety review by the FAA. The maximum height of the proposed project would be approximately 48 feet AGL and therefore, would not be subject to FAA review. The project does not propose any building or structures at a height greater than 70 feet above ground.

In addition, the nearest airport is the Norman Y. Mineta San José International Airport, which is located approximately 1.2 miles west of the project site. The project site is not located within an airport land use plan referral area or wildland fire hazard 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 Permit Conditions and mitigation measures listed above, as well as 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 with Mitigation)**

## **4.9 HYDROLOGY AND WATER QUALITY**

### **4.9.1 Environmental Setting**

#### **4.9.1.1 *Regulatory Framework***

##### **Federal and State**

##### Clean Water Act and California's Porter-Cologne Water Quality Control Act

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 of the United States (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by water quality control boards, which for the San José area is the San Francisco Bay Regional Water Quality Control Board (RWQCB).

##### NPDES Permit Program

Any construction or demolition activity that results in land disturbance equal to or greater than one acre must comply with the Construction General Permit (CGP), administered by the SWRCB. The CGP requires the installation and maintenance of Best Management Practices (BMPs) to protect water quality until the site is stabilized.

Under the provisions of the Municipal Regional Stormwater NPDES Permit (MRP), development projects that create or replace 10,000 square feet or more of impervious surfaces are required to design and construct stormwater treatment controls to treat post-construction stormwater runoff. Provision C.3 of the MRP requires fuel service facilities that create or replace greater than 5,000 square feet of impervious surface 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. If the new/replaced impervious surface will be greater than 50 percent of the pre-project impervious surface area, stormwater treatment for the entire site will be required. If the new/replaced impervious surface for the project will be less than 50 percent of the pre-project impervious surface area, stormwater treatment for only the new/replaced area will be required.

The Municipal Regional Permit also requires regulated projects to include measures to control hydromodification impacts where the project would otherwise cause increased erosion, silt pollutant generation, or other adverse impacts to local rivers and creeks. Development projects that create and/or replace 1 acre or more of impervious surface and are located in a subwatershed 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.

## City of San José

### Post-Construction Urban Runoff Management (Policy 6-29)

The City has developed policies that implement Provision C.3 consistent with the MRP. The City's Post-Construction Urban Runoff Management Policy (6-29) establishes specific requirements to minimize and treat stormwater runoff from new and redevelopment projects. Per the MRP and Council Policy 6-29, gas stations and car washes are Land Uses of Concern. Source Control Measures are required for Land Uses of Concern uses regardless of project size. This could include creating a 'treatment train' that includes mechanical filtration of urban runoff prior to release to a LID treatment measure.

### Post-Construction Hydromodification Management (Policy 8-14)

The City's Post-Construction Hydromodification Management Policy (8-14) implements Provision C.3, consistent with the MRP and requires an implementation framework for incorporating measures to control hydromodification impacts from development projects. Based on its location within a catchment and subwatershed greater than or equal to 65% impervious, the project would not be required to comply with the hydromodification requirements of Provision C.3 of the Municipal Regional Permit.

### Envision San José 2040 General Plan

The following General Plan policies are specific to hydrology and water quality and are applicable to the proposed project.

<b>Policy</b>	<b>Description</b>
IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.
MS-3.4	Promote the use of green roofs (i.e., roofs with vegetated cover), landscape-based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.
ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
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 1 and April 30.
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.



#### **4.9.1.2 Existing Conditions**

##### **Stormwater Drainage**

The City of San José Public Works Department operates and maintains the storm drainage system in the City. Currently, stormwater runs off the site to curb-attached inlets connected to a stormwater line in Oakland Road, which ultimately drains to Coyote Creek.

##### **Water Quality**

The water quality of streams, creeks, ponds, and other surface water bodies can be greatly affected by pollution carried in contaminated surface runoff. Pollutants from unidentified sources, known as non-point source pollutants, are washed from streets, construction sites, parking lots, and other exposed surfaces into storm drains. Urban stormwater runoff often contains contaminants such as oil and grease, plant and animal debris (e.g., leaves, dust, animal feces, etc.), pesticides, litter, and heavy metals. In sufficient concentration, these pollutants have been found to adversely affect the aquatic habitats to which they drain. The nearest waterway to the project site is Coyote Creek, located 1.0 mile east. Guadalupe Creek is located 1.2 miles west and the project is located with the Guadalupe Watershed.

##### **Groundwater**

Groundwater levels typically fluctuate seasonally depending on the variations in rainfall, irrigation from landscaping, and other factors. The depth to groundwater under the site is approximately 24 feet.<sup>14</sup> The project site is mostly composed of impervious surfaces and does not contribute to the recharging of the groundwater aquifer.

##### **Flooding**

The project site is located in Flood Zone D, which is an area of undetermined but possible flood hazard that is outside the 100-year floodplain.<sup>15</sup>

##### **Dam Failure**

ABAG 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.<sup>16</sup>

##### **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.

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<sup>14</sup> HP Inspections, Inc. *Geotechnical Investigation for Mixed-Use Development 645 Horning Street, San José CA*. August 5, 2015.

<sup>15</sup> Federal Emergency Management Agency. Site accessed February 20, 2017.

<https://www.arcgis.com/home/webmap/viewer.html?webmap=9c75f8f50c6a42e79b3591d4fead4a36>.

<sup>16</sup> City of San José. General Plan EIR. September 2011.

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.<sup>17</sup>

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.<sup>18</sup>

#### 4.9.2 Checklist and Discussion of Impacts

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

<sup>17</sup> California Emergency Management Agency. *Tsunami Inundation Map for Emergency Planning San Francisco Bay Area*. Site accessed February 20, 2017. [http://www.consrv.ca.gov/cgs/geologic\\_hazards/Tsunami/Inundation\\_Maps/Documents/Tsunami\\_Inundation\\_SanFranciscoBayArea300.pdf](http://www.consrv.ca.gov/cgs/geologic_hazards/Tsunami/Inundation_Maps/Documents/Tsunami_Inundation_SanFranciscoBayArea300.pdf).

<sup>18</sup> County of Santa Clara. *Santa Clara County Geologic Hazard Zones*. Map 12. Accessed February 24, 2017. [https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO\\_GeohazardATLAS.pdf](https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf).

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
g) Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,8
h) Place within a 100-year flood hazard area structures which will impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,8
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,8,9
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,8,10

#### 4.9.2.1 *Water Quality Impacts (Checklist Question a, e, and f)*

##### **Construction Activities**

The project site would disturb more than 1.0 acre; therefore, compliance with the NPDES General Permit for Construction Activities (including submitting a Notice of Intent to the RWQCB and development of a Stormwater Pollution Prevention Plan to control discharge associated with construction activities) is required.

Construction activities could result in a temporary increase in stormwater pollutants during ground disturbing activities. The project applicant is required to comply with the City of San José Grading Ordinance, including implementation of erosion and dust control during site preparation, and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction. Compliance would ensure that the level of stormwater pollutants would not be significant.

**Standard Permit Conditions:** The following project-specific measures, based on RWQCB BMPs, have been included in the project to reduce construction and development-related water quality impacts. BMPs would be implemented prior to and during earthmoving activities on-site and would continue until the construction is complete, and during the post-construction period, as appropriate.

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

- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be required to cover all trucks or maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- Vegetation in disturbed areas shall be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system may also be employed at the request of the City.
- The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.
- A Storm Water Permit will be administered by the State Water Resources Control Board (SWRCB). Prior to construction grading for the proposed land uses, the project proponent will file an NOI to comply with the General Permit and prepare a SWPPP which addresses measures that would be included in the project to minimize and control construction and post-construction runoff. Measures will include, but are not limited to, the aforementioned RWQCB Best Management Practices.
- The SWPPP shall be posted at the project site and will be updated to reflect current site conditions.
- When construction is complete, a Notice of Termination (NOT) for the General Permit for Construction shall be filed with the SWRCB. The NOT shall document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction stormwater management plan is in place as described in the SWPPP for the site.

### **Post-Construction**

The NPDES MRP requires fuel service facilities that create or replace greater than 5,000 square feet of impervious surface to design and install 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 proposed project would replace over 5,000 square feet of impervious surface, so LID requirements would apply. Additionally, a car wash and a gas station are Land Uses of Concern, which require pollutant control measures regardless of project size. The project proposes to install biofiltration planters on the site as LID control measures.

The project site currently has no pervious surfaces on site and the redevelopment would decrease the impervious surfaces by approximately 24,580 square feet (17 percent of project site area). The project will be required to implement specific requirements to minimize and treat stormwater runoff, per the MRP and Council Policy 6-29. Details of specific site design, pollutant source control, and stormwater treatment control measures demonstrating compliance with C.3 of the 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. For these reasons, the project would not result in substantial additional sources of polluted runoff, nor would it create or contribute runoff

water which will exceed the capacity of existing or planned stormwater drainage systems. **(Less than Significant Impact)**

#### **4.9.2.2**      *Groundwater (Checklist Question b)*

The project would not substantially deplete groundwater supplies because groundwater would not be used or accessed on the project site. The project site does not presently contribute to recharging of the groundwater aquifers used for water supply (managed by the Santa Clara Valley Water District) and this condition would not change once development is complete. **(Less than Significant Impact)**

#### **4.9.2.3**      *Drainage Patterns (Checklist Question c and d)*

The project would reduce the amount of paved surfaces by 24,580 square feet, thus reducing runoff on site and off site. In addition, the project would be required to implement the construction-related Standard Permit Conditions to minimize erosion, as well as post-construction requirements to minimize and treat stormwater runoff (per the NPDES MRP and Council Policy 6-29). Thus, the project would not substantially alter the existing drainage pattern of the site such that erosion or siltation would occur, nor would the project result in a substantial increase the rate or amount of surface runoff. **(Less than Significant Impact)**

#### **4.9.2.4**      *Flooding (Checklist Questions g through i)*

The proposed project would not place structures in a 100-year floodplain or in a dam failure inundation hazard zone; therefore, there would be no impact. **(No Impact)**

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

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

#### **4.9.3**      **Conclusion**

The proposed project would have a less than significant impact on hydrology and water quality with incorporation of Standard Permit Conditions and compliance with Construction General Permit requirements. **(Less than Significant Impact)**

## 4.10 LAND USE AND PLANNING

### 4.10.1 Environmental Setting

#### 4.10.1.1 *Regulatory Framework*

##### **General Plan**

The General Plan includes several land use policies that are applicable to new commercial development in San José. The following land use policies are applicable to the proposed project.

<b>Policy</b>	<b>Description</b>
LU-3.6	Prohibit uses that serve occupants of vehicles (such as drive-through windows) and discourage uses that serve the vehicle (such as car washes and service stations), except where they do not disrupt pedestrian flow, are not concentrated, do not break up the building mass of the streetscape, and are compatible with the planned uses of the area.
LU-4.3	Concentrate new commercial development in identified growth areas and other sites designated for commercial uses on the Land Use/Transportation Diagram. Allow new and expansion of existing commercial development within established neighborhoods when such development is appropriately located and designed, and is primarily neighborhood serving.
LU-5.2	To facilitate pedestrian access to a variety of commercial establishments and services that meet the daily needs of residents and employees, locate neighborhood-serving commercial uses throughout the city, including identified growth areas and areas where there is existing or future demand for such uses.
LU-5.3	Encourage new and intensification of existing commercial development, including stand-alone, vertical mixed-use, or integrated horizontal mixed-use projects, consistent with the Land Use / Transportation Diagram.

##### **Zoning Ordinance**

The project site and is zoned *Light Industrial* (LI). The project proposes to rezone the site to the *Combined Industrial/ Commercial-Planned Development* CIC(PD) district to allow the proposed retail, fast-food, gas station, and mini-storage uses. A single zoning designation to allow all the particular combination of uses proposed does not exist within the City of San José Zoning Ordinance. The proposed uses are consistent with the *Combined Industrial /Commercial* General Plan designation.

##### **Criteria for Drive-Through Uses – Council Policy 6-10**

The City of San José has established Criteria for Review of Drive-Through Uses (Council Policy 6-10) for the analysis of drive-through uses, such as the proposed car wash, gas station, and fast-food restaurant. The criteria address ingress and egress locations, vehicle stacking, and turning movements. The goal of the policy is to ensure that drive-through uses do not impact adjacent uses, intersections, or streets; and do not create safety issues for drivers and pedestrians. The project's consistency with this policy is described in detail within Section 4-16 Transportation/Traffic.

##### **Habitat Conservation Plan/Natural Community Conservation Plan**

As described in Section 4.4 Biological Resources, the Santa Clara Valley Habitat Plan (Habitat Plan) encompasses a study area of 519,506 acres. It was adopted by six local entities in Santa Clara

County and went into effect in October 2013. The proposed project is a covered activity under the plan and the project site is designated as Urban – Suburban land cover area.

**4.10.1.2 Existing Conditions**

**Project Site**

The 3.26-acre project site is located at the northwest corner of Oakland Road and Horning Street. It is bound on the northeast by the US 101 southbound off-ramp. Existing land uses on the site consist of automotive repair, welding shops and other industrial uses contained in six one-story buildings, with paved parking areas and outdoor material storage. There is a small amount of landscaping on the site, and several trees are located along the perimeter.

Surrounding land uses include the US 101 freeway to the north, multi-family residential to the east across Oakland Road, a tire shop, truck wash, and single-family residential uses to the south across Horning Avenue, and a building materials business to the west. Farther to the west along Horning Street, there is a mix of industrial and residential uses.

**Surrounding Land Uses**

The project site is surrounded by a mix of commercial and residential land uses and zoning districts, as shown in Table 4.10-1.

<b>Direction</b>	<b>General Plan Land Use Designation</b>	<b>Zoning</b>	<b>Existing Use</b>
North	US 101	US 101	US 101
South	Combined Industrial Commercial (CIC)	Light Industrial (LI)	Tire Sales and Storage, Vacant Lot, single-family residences
East	Urban Residential (UR)	Planned Development A(PD)	Multi-family residential
West	Light Industrial (LI)	Light Industrial (LI)	Retail tile and stone sales

**4.10.2 Checklist and Discussion of Impacts**

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2

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

**4.10.2.1 Land Use Compatibility Impacts (Checklist Questions a and b)**

The project site is located in an area that contains a mix of commercial, industrial, and residential uses. The project would replace existing industrial uses and outdoor material storage with new commercial uses, consistent with the General Plan. The proposed new retail, restaurant, gasoline station, and mini-storage uses would serve the surrounding community and would be compatible with existing uses in the neighborhood. The proposed *Combined Industrial/ Commercial-Planned Development* CIC(PD) zoning designation would allow the project to utilize custom development and performance standards tailored to address any potential conflicts between the project design and the surrounding neighborhood. The project would not therefore divide an established community, and would have a less than significant impact on surrounding land uses.

Traffic-related impacts of drive-through uses are regulated within the City by Council Policy 6-10. The project’s consistency with this policy is further discussed within Section 4-16 Transportation/Traffic.

General Plan Policy LU-3.6 prohibits uses that serve occupants of vehicles (such as drive-through windows) and discourages uses that serve the vehicle (such as car washes and service stations), except where they do not disrupt pedestrian flow, are not concentrated, do not break up the building mass of the streetscape, and are compatible with the planned uses of the area. The proposed drive-through uses would not be inconsistent with the light-industrial uses in the immediate vicinity. The proposed fast-food restaurant and car wash are located entirely on the project site and adequate queuing and stacking capacity (consistent with Council Policy 6-10) exists, such that pedestrian flow would not be disrupted. The drive-through uses would be screened by landscaping and fencing elements or (in the case of the car wash) by a building and would not impact the streetscape, which has an inconsistent and irregular massing. There are no other drive-through uses in the immediate vicinity, the nearest drive through is a fast-food restaurant is 0.25 mile from the project site on the north side of US 101. Therefore, the project would not conflict with General Plan Policy LU 3.6 and any impact would be less than significant. **(Less Than Significant Impact)**



#### **4.10.2.2**      *Habitat/Conservation Plan Impacts (Checklist Question c)*

The project would not conflict with any habitat conservation plan or natural community conservation plan, as described in Section 4.4 Biological Resources. **(No Impact)**

#### **4.10.3**      **Conclusion**

The proposed project is consistent with General Plan policies related to commercial development and location of drive-through uses, and conforms to its Land Use/Transportation Diagram designation of *Combined Industrial/ Commercial*. The proposed land uses are compatible with the surrounding neighborhood and similar to other uses in the vicinity. Thus, the project therefore would not result in significant land use impacts. **(Less Than Significant Impact)**

## 4.11 MINERAL RESOURCES

### 4.11.1 Environmental Setting

#### 4.11.1.1 *Regulatory Framework*

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, 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.

#### 4.11.1.2 *Existing Conditions*

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, San José does not have known mineral resource deposits. The project site is located outside of the Communications Hill area.

### 4.11.2 Checklist and Discussion of Impacts

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

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

The project would not result in the loss of availability of a known mineral resource, and no mineral excavation sites are present with the general area. The proposed project, therefore, would not result in impacts to mineral resources. **(No Impact)**

### 4.11.3 Conclusion

The project would not result in impacts to known mineral resources. **(No Impact)**

## 4.12 NOISE AND VIBRATION

The discussion in this section is based on a noise report prepared for the project by Extant Acoustical Consulting, LLC on September 9, 2016. This report is provided as Appendix G of this Initial Study.

### 4.12.1 Overview

Acceptable levels of noise vary from land use to 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 land use with its noise environment.

A decibel (dB) is measured based on the relative amplitude of a sound. Ten on the decibel scale marks the lowest sound level that a healthy, unimpaired human ear can detect. Sound levels in decibels are calculated on a logarithmic basis such that each 10 decibel increase is perceived as a doubling of loudness. The California A-weighted sound level, or dBA, gives greater weight to sounds to which the human ear is most sensitive.  $L_{max}$  and  $L_{eq}$  are used to define the maximum and average A-weighted noise levels during a measurement period, respectively.

Sensitivity to noise increases during the evening and at night because excessive noise interferes with the ability to sleep. To emphasize quiet-time noise events, the Day/Night Average Sound Level (DNL or  $L_{dn}$ ) and Community Noise Equivalent Level (CNEL) were developed to measure the average cumulative noise exposure over a 24-hour period. Both DNL and CNEL include a 10 dB addition to noise levels from 10:00 p.m. to 7:00 a.m. to account for human sensitivity to night noise, while CNEL also includes a 5 dB addition to noise generated between 7:00 p.m. and 10:00 p.m.

### 4.12.2 Environmental Setting

#### **Envision San José 2040 General Plan**

The General Plan includes the following policies that are specific to noise and vibration and are applicable to the proposed project.

<b>Policies</b>	<b>Description</b>
EC-1.2	Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Land Use Categories 1, 2, 3 and 6 in Table 4.12-1) 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: <ul style="list-style-type: none"><li>• Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain “Normally Acceptable”; or</li><li>• 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.</li></ul>
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.
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.


- EC-1.7      Require construction operations within San José 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. For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.
- 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.


The General Plan considers noise impacts to be significant if a project would increase noise levels at adjacent land uses by 5 dBA or more where noise levels would remain within the “normally acceptable” category or 3 dBA where noise levels would equal or exceed the “normally acceptable” level.


Noise and land use compatibility guidelines set forth in the General Plan are shown below in Table 4.12-1. Based on the General Plan Noise and Land Use Compatibility Guidelines, commercial development is allowed in areas with ambient noise levels up to 70 dBA DNL and is conditionally allowed in areas with noise levels up to 80 dBA DNL

Table 4.12-1: General Plan Noise and Land Use Compatibility Guidelines						
Land Use Category	Exterior DNL Value in Decibels					
	55	60	65	70	75	80
1. Residential, Hotels and Motels, Hospitals and Residential Care <sup>1</sup>						
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
3. Schools, Libraries, Museums, Meeting Halls, and Churches						
4. Office Buildings, Business Commercial, and Professional Offices						
5. Sports Arena, Outdoor Spectator Sports						
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters						

<sup>1</sup>Noise mitigation to reduce interior noise levels pursuant to Policy EC-1.1 is required.

**Normally Acceptable:**  
 Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.

**Conditionally Acceptable:**  
 Specified land use may be permitted only after detailed analysis of the noise reduction requirements and noise mitigation features included in the design.

**Unacceptable:**  
 New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies. Development will only be considered when technically feasible mitigation is identified that is also compatible with relevant design guidelines.

### City of San José Municipal Code

The City’s Municipal Code restricts construction hours within 500 feet of a residential unit to 7:00 a.m. to 7:00 p.m. Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval.<sup>19</sup> The proposed project is within 500 feet of a residential unit and is therefore subject to this requirement. The City’s Municipal Code also limits noise levels at abutting property lines of specific uses, as shown in the following Table 4.12-2.

Table 4.12-2: City of San José Municipal Code Noise Standards	
Land Use Types	Maximum Noise Levels at Property Line (dBA)
Residential, open space, industrial or commercial uses adjacent to a property used or zoned for residential purposes	55
Open space, commercial, or industrial use adjacent to a property used for zoned for commercial purposes or other non-residential uses	60
Industrial use adjacent to a property used or zoned for industrial use or other use other than commercial or residential purposes	70

<sup>19</sup> The Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.

## Council Policy 6-10

The City of San José Council Policy 6-10: Criteria for the Review of Drive-Through Uses is intended to provide guidelines for the development of establishments with drive-through facilities within the City. Policy 6-10 includes the following noise-related guidelines:

- Drive-through speakers shall not be audible from adjacent residentially used, zoned, or General Planned properties.
- Drive-through speakers shall not be used when the drive-through lane abuts residentially used, zoned, or General Planned Property.
- Use of sound attenuation walls and landscaping shall be encouraged

### 4.12.2.1 *Existing Conditions*

The existing noise environment in the project area experiences a number of noise influences, which are characteristic of urbanized areas. The dominant noise source in the project area is vehicular traffic on US 101 and Oakland Road. Light-industrial and commercial areas in the general project area contribute to the ambient noise level, though to a lesser extent. The project area experiences occasional aircraft overflights largely associated with Norman Y. Mineta San José International Airport, which is located approximately 1.2 miles west of the project site.

Noise-sensitive land uses included uses where exposure to excessive noise would result in adverse effects, as well as uses where quiet is an essential element of the intended purpose. Residential dwellings are of primary concern due to the potential for increased and prolonged exposure of individuals to excessive interior and exterior noise levels. While there are no noise-sensitive receptors immediately adjacent to the proposed project, there are multi-family residential receptors located approximately 95 feet south (across Horning Street) and approximately 130 feet east of the project (across Oakland Road).

An ambient noise survey was conducted from January 16, 2017 through January 18, 2017 to document the long- and short-term ambient noise levels in the vicinity of the proposed project and at nearby representative noise-sensitive receptors. Two long-term unattended ambient noise measurements (LT-01 and LT-02) were performed and three short-term noise level monitoring measurements (ST-01 to ST-03) were taken. The noise monitoring locations are shown in Figure 4.12-1.

During the long-term monitoring, the primary background noise source affecting the monitoring location was vehicular traffic on the local and regional roadway network (Oakland Road and US 101). The average day-night (DNL) noise level measured during the long-term ambient noise monitoring survey ranged from approximately 71 to 74 dBA DNL. Maximum hourly noise levels (L<sub>max</sub>) documented during the long-term monitoring ranged from approximately 75 to 98 dBA L<sub>max</sub>; with average maximum levels ranging from 79 to 91 dBA L<sub>max</sub>. Maximum noise levels at measurement location LT-01 were found to be influenced by vehicles impacting a steel road plate/trench work cover plate near the measurement site. Noise levels at measurement location LT-02 were not found to be influenced by the road plate; and are therefore considered more representative of typical traffic noise exposure at uses adjacent to Oakland Road.





NOISE MONITORING LOCATIONS

FIGURE 4.12-1

Noise experienced at the short-term monitoring locations ST-01 through ST-03 was also predominately due to vehicular traffic on the local roadway network. Overall noise levels measured at the short-term environmental noise monitoring locations ranged from approximately 64 to 74 dBA Leq. Maximum noise levels documented during the monitoring survey ranged from approximately 80 to 93 dBA Lmax. Generally, noise level exposure was directly dependent on the distance of the monitoring location from surrounding traffic noise sources. Monitoring location ST-01 was influenced by vehicles traversing the road/trench plates, resulting in maximum (Lmax) noise levels being elevated when the trench plate was impacted. However, the average noise level (Leq) experienced at ST-01 was not significantly affected due to the trench plate.

#### 4.12.3 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project result in:					
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,17
b) Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,17
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,17
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,17
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,17
f) For a project within the vicinity of a private airstrip, will the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,17

Appendix G of the CEQA Guidelines states that a project would normally be considered to have significant noise impacts if noise levels generated by the project conflict with adopted environmental standards or plans or if ambient noise levels at sensitive receptors would be substantially increased over a permanent, temporary, or periodic basis. Consistent with Appendix G, the following applicable criteria was used to evaluate the significance of environmental noise resulting from the project:



- A significant noise impact would be identified if the project would expose persons to or generate noise levels that would exceed applicable noise standards presented in the General Plan.
- A significant impact would be identified if the project would substantially increase noise levels at sensitive receptors in the vicinity. A substantial increase would occur if: a) the noise level increase is 5 dBA DNL or greater where the noise levels would remain “Normally Acceptable” or b) the noise level increase is 3 dBA DNL or greater where noise levels would equal or exceed the “Normally Acceptable” level as indicated in Table EC-1 of the General Plan and Table 4.12-1 above.

#### **4.12.3.1      *Operational Noise Impacts (Checklist Questions a and c)***

Noise sources associated with the operation of the proposed project would include people accessing the fast-food restaurant drive-through and self-storage buildings, fueling, or shopping, as well as operations of the automated car wash. Sources of operational noise are described in the following subsections.

### **Noise Sources**

#### Self-Storage Facility

Noise sources associated with the long-term operation of the self-storage facility are anticipated to be limited to patrons accessing the site, on-site parking, and loading/unloading activities. No other significant noise sources are proposed. Noise generated by the self-storage use would be shielded by on-site buildings and would not impact nearby noise-sensitive receptors. Additionally, the noise generated by patrons of the self-storage facility would be similar to other commercial and light-industrial noise sources in the area, but at a lower level.

#### Fast-Food Restaurant

Noise sources associated with the restaurant includes parking lot activities, vehicles idling in the drive-through, and the drive-through speaker system. Additional noise attributable to restaurant use may include intermittent noise from loading and unloading of delivery trucks, as well as pedestrians accessing the site.

Council Policy 6-10 specifies that drive-through speakers should not be audible at any adjacent residential parcels. The proposed project is not located directly adjacent to noise sensitive land uses. However, there are residential land uses in the project study area that may have the potential to be affected by the proposed drive-through speaker. During the quietest portions of the long-term monitoring period, background noise levels in the project vicinity were noted to be as low as 49 dBA L<sub>90</sub>, during the proposed operational hours for the fast-food restaurant (6:00 a.m. to 2:00 a.m.). Maximum noise levels from the drive-through speaker would be 41 dBA L<sub>max</sub> at nearby noise-sensitive receptors, which would be audible at certain times of day when there is less traffic noise. The project proposes install an automated volume control speaker system, which senses the noise levels in the area and adjusts the volume of the speaker in accordance with ambient noise levels so that nearby residents would not be impacted by intermittent audible speaker noise.

## Gasoline Station, Convenience Store, and Car Wash

The primary noise sources associated with the proposed gas station, convenience store and car wash would be the operation of the automated car wash. Additional noise sources associated with the gas station and convenience store would include an air-water station, vacuum station, and customers or deliveries accessing the site.

Noise from automated car wash facilities occurs as a result of the general operating of pumps, compressors, high-pressure applicators, and scrubbers; and dryers. The majority of the mechanical equipment (such as pumps and compressors) would be fully enclosed within an equipment room adjacent to the car wash tunnel, which would limit noise. The dryers however, are the dominant noise source associated with car wash systems. To limit noise from the dryers, the proposed car wash would include use of a Proto-Vest Windshear II Dryer system with incorporated Proto-Vest silencer. Manufacturers specifications for noise reduction for this dryer equipment were included in the noise study within Appendix G.

### **Noise Level Conformance**

#### General Plan

General Plan Policy EC 1.2 states that noise impacts of new development on sensitive land uses should be lessened by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. Additionally, General Plan Policy EC-1.3 states that non-residential land uses should mitigate noise generation to meet 55 dBA at adjacent residential land uses.<sup>20</sup>

The existing noise levels at the property line of adjacent residential uses already exceed the 55 dBA limit. The project would add into this noise level; however, as indicated Table 4.12-3, the increase would be less than 3 or 5 dBA DNL and would not conflict with EC-1.2, the project-related effects on the baseline ambient noise environment were calculated to result in a change of less than 1 dBA to approximately 2 dBA. The project related effects on the baseline ambient noise environment at noise sensitive residential receptors were calculated to result in a change of less than 1 dBA. Project-generated noise levels are not predicted to result in an increase of 3 dB or more in the existing noise environment, as set forth in Policy EC-1.2 of the City of San José General Plan. Additionally, the project would not result in noise levels exceeding the 55 dBA limit per General Plan Policy EC-1.3. Therefore, the proposed project would comply with noise thresholds in Policy EC-1.2 and would not conflict with Policy EC-1.3.

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<sup>20</sup> The project site is surrounded by road right-of-way area on all sides (Horning Street, Oakland Road, and the remnant of 13<sup>th</sup> Street) and is technically not immediately next to the nearest adjacent industrial or residential uses.

<b>Table 4.12-3: Modeled General Plan Project Noise Level Impact</b>						
Site	Location	Noise Level (dBA DNL)				
		Existing Traffic	Project Overall	Existing Plus Project	Effect on Ambient Noise Levels	Impact
<i>Industrial Property Lines</i>						
P-01	Eastern Property Line	71	65	72	1	No
P-02	Northwestern Property Line	63	59	64	2	No
P-03	Southwestern Property Line	61	61	63	2	No
P-04	995 Oakland Road	68	61	67	1	No
<i>Residential Property Lines</i>						
P-05	552 Horning Street	64	53	64	<1	No
P-06	973 Pavilion Loop	75	54	75	<1	No
P-07	961 Pavilion Loop	73	55	73	<1	No
P-08	951 Pavilion Loop	73	54	73	<1	No
P-09	End of Pavilion Loop	72	53	72	<1	No
Notes: dBA = A-weighted decibels; DNL = Day Night noise level. Source: Extant Acoustical Consulting, LLC. <i>Environmental Noise Assessment Report - 645 Horning Street</i> . February 27, 2017.						

### City of San José Municipal Code

The project proposes inclusion of a dryer system (Proto-Vest Windshear II Dryer with incorporated Proto-Vest silencer) and sound attenuating speakers for noise-reduction. As shown in Table 4.12-3 noise levels generated from the proposed project would not exceed 70 dB at an adjacent industrial property line with these noise-attenuating features included. Noise levels at surrounding residential uses would increase as a result of the project but would be within the 55 decibel at the residential property line across the Old Oakland Road. To ensure operational noise associated with the car wash, fast-food restaurant, convenience store, and gas station, would be within the limits established by the San José General Plan and Municipal Code (as shown in Table 4.12-2), the project applicant would be required to comply with the following Standard Permit Condition and submit a noise study to the City’s Chief Building Official to ensure all applicable noise attenuation equipment are installed and operating accordingly. **(Less than Significant Impact)**

**Standard Permit Condition:** Prior to construction, during the design phase of the building, an acoustical study will be required to demonstrate to the City’s Chief Building Official that noise emissions from the car wash and fast-food restaurant speakers would conform to the City’s requirements. The purpose of the acoustical study is to ensure that appropriate noise reducing equipment (Proto-Vest Windshear II Dryer with incorporated Proto-Vest silencer and sound attenuating speakers) is included in the final design. Completion of this study would be required prior to issuance of a building permit.

#### 4.12.3.2 *Construction Noise and Vibration Impacts (Checklist Questions b and d)*

The overall duration of construction for the project is anticipated to last up to 14 months. It would not require extended periods of heavy equipment use or substantial noise-generating activities, such as pile-driving, that would continue for 12 or more months of the construction period. Given the scale and size of the project, and the relatively high ambient noise levels, it is anticipated that the effects of construction noise levels would be reduced to a less-than-significant level with adherence to the City's standard construction hours, which are summarized within the following Standard Permit Condition.

**Standard Permit Condition:** Noise minimization measures includes, but is not limited to, the following:

- Construction activities shall be limited to the hours between 7:00 am and 7:00 pm, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines shall be strictly prohibited.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
- If complaints are received or excessive noise levels cannot be reduced using the measures above, a temporary noise control blanket barrier shall be erected along surrounding building facades that face the construction sites.
- Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

Implementation of this Standard Permit Condition would avoid potentially significant construction-related noise and vibration impacts to adjacent residential receptors during demolition and

construction activities; therefore, the proposed project would have a less than significant construction noise impact. **(Less than Significant Impact)**

#### **4.12.3.3**      *Areas within Airport Land Use Plan or Private Airstrip (e and f)*

The project area experiences occasional aircraft overflights largely associated with the aviation operations of San José International Airport, which is located approximately 1.2 miles west of the project site. The site is currently developed as a gas station and the proposed project would continue this use. Though the project site experiences some level of aircraft noise, it is not located within the Airport Influence Area in the Comprehensive Land Use Plan and outside of the airport's 65 dB CNEL noise contour. The proposed project would not be exposed to excessive noise levels from aircraft overflights. **(Less than Significant Impact)**

#### **4.12.4**      **Conclusion**

Construction of the project as proposed along with the implementation of the Standard Permit Condition would not result in significant noise impacts. **(Less than Significant Impact)**

## 4.13 POPULATION AND HOUSING

### 4.13.1 Environmental Setting

#### 4.13.1.1 *Existing Conditions*

Based on California Department of Finance estimates for 2016, San José has a population of 1,042,094 persons and 329,824 households, with an average of 3.22 persons per household.<sup>21</sup> According to the City’s General Plan, the projected population in 2035 will be 1.3 million persons occupying 429,350 households. Assumptions, as amended in the first four-year review in 2016, envisions a jobs/employee resident ratio of 1.1/1, or 382,000 jobs by 2040.<sup>22</sup>

In 2014, there were approximately 382,200 jobs in San José.<sup>23</sup> The General Plan envisions adding 382,000 jobs by 2040. To meet the current and projected housing needs in the City, the Envision San José 2040 General Plan identifies areas for residential development to accommodate 120,000 new dwelling units by 2040.

The jobs/housing balance is the relationship between the number of housing units required as a result of local jobs and the number of residential units available in the City. This relationship is quantified by the jobs/employed resident ratio. When the ratio reaches 1.0, a balance is struck between the supply of local housing and local jobs. The jobs/employed resident ratio is determined by dividing the number of local jobs by the number of employed residents that can be housed in local housing. At the time of preparation of the General Plan EIR, San José had a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident) but this trend is projected to reverse with full build-out under the current General Plan.

### 4.13.2 Checklist and Discussion of Impacts

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

<sup>21</sup> State of California Department of Finance. *Table 2: E-5 City/County Population and Housing Estimates*. January 1, 2016. Accessed February 27, 2017. <http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/>.

<sup>22</sup> City of San José. *Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report and Supplemental Program Environmental Impact Report; Envision San José 2040 Four-Year Review*. November 2016. Text amendments approved by the City Council on December 13, 2016.

<sup>23</sup> Strategic Economics. *San José Market Overview and Employment Lands Analysis*. February 24, 2017. <https://www.sanJoseca.gov/DocumentCenter/View/53472>.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1

#### 4.13.2.1 *Impacts to Population and Housing (Checklist Questions a through c)*

The proposed project would not result in the displacement of people or housing. The proposed project would not directly induce substantial population growth through the provision of new housing or substantial job growth. It is anticipated that there would be approximately six to 10 employees at the site on a daily basis, which is similar (if not less than) to the number of the employees currently assumed to work at the industrial uses currently at the site. As discussed further in Section 4.17 Utilities and Service Systems, the extension of new infrastructure is not proposed and, therefore, the project would not indirectly induce substantial population growth through the extension of roads or other infrastructure. **(Less than Significant Impact)**

#### 4.13.3 Conclusion

The proposed project would not induce substantial population growth and would have a less than significant impact on population and housing. **(Less than Significant Impact)**

**4.14 PUBLIC SERVICES**  
**4.14.1 Environmental Setting**  
**4.14.1.1 *Regulatory Framework***

**City of San José**

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The following policies are specific to public services and are applicable to the proposed project.

<b>Policies</b>	<b>Description</b>
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.
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.
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

Parkland Dedication Ordinance and the Park Impact Ordinance

The City of San José has adopted a PDO and PIO requiring new residential development to either dedicate sufficient land to serve new residents, or pay fees to offset the increased costs of providing new park facilities for new development. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities on-site. The acreage of parkland required is based on the minimum acreage dedication formula outlined in the PDO.

**4.14.1.2 *Existing Conditions***

**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 33 fire stations located throughout the City.

The nearest station to the project site is Station 5, approximately 0.43 mile northwest of the project site at 1380 North 10<sup>th</sup> Street.



## Police Service

Police protection services for the site are provided by the San José Police Department. Officers patrolling the project area are dispatched from police headquarters located approximately 0.90 mile south of the project site at 201 West Mission Street.

## Schools

The project site is located within the San José Unified School District. The nearest school is Burnett Academy Middle School, which is approximately 0.70 mile southwest of the project site.

## Parks

The nearest park to the project site is Luna Park, located approximately 0.10 mile southeast.

### 4.14.2 Checklist and Discussion of Impacts

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

#### 4.14.2.1 *Impacts to Public Services and Facilities (Checklist Question a)*

### Fire and Police Protection Services

The demand for fire and police services is not anticipated to change with implementation of the project, which would intensify the amount of development at an existing urban site. As discussed in Section 4.8 Hazards and Hazardous Materials, the project would adhere to applicable federal, state, and local regulations related to the use, handling, and storage of hazardous materials. Additionally, the project would be reviewed for compliance with relevant fire and building codes and site lighting is proposed to increase safety at the site. 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, Parks, and Other Public Facilities**

The proposed project is not a student-generating use (i.e., housing); therefore, it would not impact schools. The proposed project involves an increase in commercial development at an existing site and would not increase the use of or otherwise affect local parks or other public facilities (e.g., libraries) in the project area. **(No Impact)**

#### **4.14.3 Conclusion**

The proposed project 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 Environmental Setting**

**4.15.1.1 *Regulatory Framework***

**4.15.1.2 *Existing Conditions***

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 for regional and neighborhood uses. The nearest park to the project site is Luna Park, located 0.10 mile southeast.

**4.15.2 Checklist and Discussion of Impacts**

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

**4.15.2.1 *Impacts to Recreational Facilities (Checklist Questions a and b)***

The proposed commercial and light-industrial project would not increase usage of existing recreational facilities and would not require the construction or expansion of recreational facilities. **(No Impact)**

**4.15.3 Conclusion**

The proposed project would not adversely affect recreational facilities in the project area. **(No Impact)**

## **4.16 TRANSPORTATION/TRAFFIC**

The following discussion is based on the *Transportation Impact Analysis* prepared by Hexagon Transportation Consultants, Inc. A copy of the report, dated August 2, 2017, is provided in Appendix H.

### **4.16.1 Environmental Setting**

#### **4.16.1.1 *Regulatory Framework***

##### **Regional**

##### Metropolitan Transportation Commission

Metropolitan Transportation Commission (MTC) is the transportation planning, coordinating, and financing agency of the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan (RTP), a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and the Association of Bay Area Governments (ABAG) adopted *Plan Bay Area 2040* in July 2017, which includes the area's RTP.

##### Congestion Management Program

The Santa Clara Valley Transportation Authority (VTA) oversees the county's Congestion Management Program (CMP). The relevant state legislation requires that urbanized counties in California prepare a CMP in order to obtain each county's share of gas tax revenues. The CMP legislation requires that each CMP contain the following five mandatory elements: 1) a system definition and traffic level of service standard element; 2) a transit service and standards element; 3) a trip reduction and transportation demand management element; 4) a land use impact analysis program element; and 5) a capital improvement element. The Santa Clara County CMP includes three additional elements: a countywide transportation model data base, annual monitoring and conformance, and deficiency plan elements.

##### **City of San José**

##### Level of Service Standards and City Council Policy 5-3

As established in Council Policy 5-3 Transportation Impact Policy, the City of San José uses the same level of service (LOS) method for assessing transportation impacts as the VTA's CMP, although the City's standard is LOS D, rather than the LOS E standard within the CMP. According to this policy and General Plan Policy TR-5.3, an intersection impact would be satisfactorily mitigated if the implementation of measures would restore the level of service to existing conditions or better, unless the mitigation measures would have an unacceptable impact on the neighborhood or on other transportation facilities (such as pedestrian, bicycle, and transit facilities).<sup>24</sup> The City's Transportation Impact Policy (also referred to as the LOS Policy) also protects pedestrian and bicycle facilities from undue encroachment by automobiles.

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<sup>24</sup> Examples of unacceptable impacts include reducing the width of a sidewalk or bicycle lane below the city standard or creating unsafe pedestrian operating conditions.

### City of San José Protected Intersections

The Oakland Road and Hedding Street intersection and the North 10th Street and Hedding Street intersection are identified as protected intersections within the City's LOS Policy (Council Policy 5-3). Protected intersections consist of locations that have been built to their planned maximum capacity and where expansion of the intersection would have an adverse effect on other transportation facilities (such as pedestrian, bicycle, transit systems, etc.). Protected intersections are, therefore, not required to maintain a Level of Service D, which is the City of San José standard. The deficiencies at all protected intersections in the City of San José have been disclosed and overridden in previous EIRs.

If a development project has significant traffic impacts at a designated protected intersection, the project may be approved if offsetting transportation system improvements are provided or an impact fee is paid. The offsetting improvements are intended to provide other transportation benefits for the community adjacent to the traffic impact. The improvements may include enhancements to pedestrian, bicycle, and transit facilities, as well as neighborhood traffic calming measures and other roadway improvements. The City has established a fee of \$3,022 per net peak hour trip generated by projects for one protected intersection impact, and \$4,533 per net peak hour project trip for two or more protected intersection impacts.

### US 101/Oakland/Mabury Transportation Development Policy

The City has identified operational problems along the Oakland Road corridor at the US 101 interchange, which are due primarily to the capacity constraints. As a result, the City has identified two key capital improvement projects: 1) modification of the US 101/Oakland Road interchange, including improvements to the Oakland Road/Commercial Street intersection, and 2) construction of a new US 101/Mabury Road interchange. Both projects will create additional capacity for accessing and crossing US 101, which will be crucial to accommodating future growth in the vicinity. To fund these interchange improvements, the City has adopted the US 101/Oakland/Mabury Transportation Development Policy (TDP) impact fee, which is assessed based on the number of PM peak hour vehicular trips that a project would add to the US 101/Oakland Road interchange. As of May 2017, the TDP impact fee was \$36,847 for each new PM peak hour vehicle trip. Projects are required to pay the traffic impact fee prior to receiving Public Works clearance.

### Criteria for Drive-Through Uses – Council Policy 6-10

The City of San José has established Criteria for Review of Drive-Through Uses (Council Policy 6-10) for the analysis of drive-through uses, such as the proposed car wash, gas station, and fast-food restaurant. The criteria address ingress and egress locations, vehicle stacking, and turning movements. The goal of the policy is to ensure that drive-through uses do not impact adjacent uses, intersections, or streets; and do not create safety issues for drivers and pedestrians.

### Envision San José 2040 General Plan

The General Plan includes the following policies for the purpose of avoiding or mitigating impacts resulting from planned development projects, which are applicable to the project.

<b>Policy</b>	<b>Description</b>
TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José’s mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).
TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects
TR-1.4	Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand
TR-1.6	Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.
TR 8.4	Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.
TR-9.1	Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.
CD-3.3	Within new development, create a pedestrian friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.
CD-3.4	Encourage pedestrian cross-access connections between adjacent properties and require pedestrian and bicycle connections to streets and other public spaces, with particular attention and priority given to providing convenient access to transit facilities. Provide pedestrian and vehicular connections with cross-access easements within and between new and existing developments to encourage walking and minimize interruptions by parking areas and curb cuts.

**4.16.1.2 Existing Conditions**

**Site Access**

Regional access to the project site is provided via US 101, Interstate 880 and Highway 87 (SR 87). Access to the project area is provided via interchanges at Old Bayshore Highway and US 101. Local access to the site is provided on Oakland Road, North 10<sup>th</sup> Street, North 11<sup>th</sup> Street, East Hedding Street, East Taylor Street, and Horning Street. The project site is currently accessed via two driveways off Horning Street.

**Pedestrian and Bicycle Facilities**

Pedestrian facilities surrounding the project site consist of sidewalks along the surrounding streets; however, sidewalks do not exist on the west side of North 10<sup>th</sup> Street between Hedding Street and Commercial Street, or along the north side of Hedding Street between North 11<sup>th</sup> Street and North 10<sup>th</sup> Street. In addition, there are no sidewalks along the project frontage on Horning Street. Crosswalks with pedestrian signal heads and push buttons are located at all of the signalized intersections in the study area.

Class II bicycle facilities (striped bike lanes) exist in the project area along the following streets:

- Hedding Street
- Oakland Road, north of Commercial Street and south of Horning Street

- N. 13<sup>th</sup> Street, south of Hedding Street
- North 10<sup>th</sup> Street
- North 11<sup>th</sup> Street
- North Seventh Street, between Commercial Street and Hedding Street
- Commercial Street, between North Fourth Street and North 10<sup>th</sup> Street

Class III bicycle facilities (sharrows) exist in the project vicinity along North Seventh Street south of Hedding Street, and Taylor Street. Sharrows are painted shared lane markings on a road that indicate to motorists that bicyclists may use the full travel lane. Sharrows are most often used on roadways that are too narrow to install a standard striped bike lane.

### **Transit Facilities**

Existing transit services in the study area are provided by VTA. Bus Route 66, which runs along Oakland Road and has a stop just south of Horning Street, provides service to the Civic Center light-rail transit station, approximately one mile southwest of the project site. Additionally, Routes 12 and 62 run along East Hedding Street and also provide service to the Civic Center light-rail station. Light-rail trains stop at this station on 15-minute headways during weekday commute hours and 30-minute headways the remainder of the weekday and weekend.

### **Intersection Levels of Service**

Traffic conditions were evaluated using a LOS analysis. LOS is a qualitative description of operating conditions ranging from LOS A, or free-flow conditions with little or no delay, to LOS F, or jammed conditions with excessive delays. As shown in Table 4.16-1, one of the five study intersections currently operate at an unacceptable LOS E during the AM peak hour of traffic. The remaining study intersections currently operate at an acceptable LOS D or better during both the AM and PM peak hours.

<b>Intersection</b>	<b>Peak Hour</b>	<b>Count Date</b>	<b>Average Delay (seconds)</b>	<b>LOS</b>
Oakland Road and Commercial Street	AM	5/19/15	40.7	D
	PM	5/19/15	51.8	D
Oakland Road and US 101 NB Ramps	AM	5/19/15	58.3	<b>E</b>
	PM	9/9/14	20.7	C
Oakland Road and US101 SB Ramps	AM	5/19/15	26.4	C
	PM	9/9/14	31.5	C
Oakland Road and Hedding Street	AM	5/19/15	46.7	D
	PM	5/19/15	43.1	D
10 <sup>th</sup> Street and Hedding Street	AM	5/20/15	19.2	B
	PM	5/19/15	40.2	D

Note: **BOLD** indicates a deficient level of service

Traffic congestion in the project area generally occurs in the northbound direction during the AM peak hour, and in the southbound direction during the PM peak hour. The AM and PM peak hour field observations show that the LOS calculations accurately reflect actual existing conditions.

**4.16.2 Checklist and Discussion of Impacts**

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,18
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,18



	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,18
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,18
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,18

#### 4.16.2.1 *City of San José Definition of Significant Intersection Impacts*

The project would result in a significant adverse impact on traffic conditions at a signalized intersection in the City of San José if for either peak hour:

1. The level of service at the intersection degrades from an acceptable LOS D or better under background conditions<sup>25</sup> to an unacceptable LOS E or F under background plus project conditions<sup>26</sup>; or
2. The level of service at the intersection is already at an unacceptable LOS E or F under background conditions and the addition of project trips causes both the critical-movement delay at the intersection to increase by four or more seconds and the volume-to-capacity ratio (V/C) to increase by one percent (.01) or more.
3. The level of service at a designated Protected Intersection is already at an unacceptable LOS E or F under background conditions and the addition of project trips causes both the critical-movement delay at the intersection to increase by two or more seconds and the V/C to increase by one-half percent (.005) or more.

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

<sup>25</sup> Background traffic volumes are estimated by adding projected volumes from approved but not yet completed developments to existing peak hour volumes. The added traffic from approved but not yet completed developments was provided by the City of San José in the form of the Approved Trips Inventory. Traffic volumes for approved projects within the City of Santa Clara also were included. Background conditions represent the baseline conditions to which project conditions are compared for the purpose of determining project impacts.

<sup>26</sup> Projected peak hour traffic volumes with the project were estimated by adding the additional traffic generated by the project to background traffic volumes. Background plus project conditions are evaluated relative to background conditions in order to determine potential project impacts.

A significant impact by City of San José standards is said to be satisfactorily mitigated when measures are implemented that would restore intersection level of service to background conditions (i.e., traffic conditions just prior to completion of the proposed project) or better.

#### **4.16.2.2      *Project Transportation Impacts (Questions a, b, and d)***

##### **Project Trip Generation**

Trip generation rates resulting from the proposed project are estimated using the trip rates detailed in the *San José Traffic Impact Analysis Handbook*, November 2009 and trip rates published within the Institute of Transportation Engineers' (ITE) *Trip Generation Manual*, 9<sup>th</sup> Edition.

##### Existing Trip Credit and Pass-By Reductions

Trips that are generated by existing uses can be subtracted from the gross project trip generation estimates. Accordingly, trip credits were applied to account for the existing light-industrial buildings that would be removed as part of the project. Pass-by-trip reductions were applied to the proposed Fast Food with Drive-Through and Convenience Market with Gas Station uses. Pass-by-trips are trips that would already be on the adjacent roadways (and so are already counted in the existing and background traffic) but would turn into the site while passing by. The pass-by reductions applied to each use are based on the recommended reductions within ITE's *Trip Generation Manual*.

##### Net Project Trips

The proposed project would generate 2,117 new daily vehicle trips, with 61 new trips occurring during the AM peak hour and 26 new trips occurring during the PM peak hour (as shown in Table 4.16-2).

<b>Table 4.16-2: Project Trip Generation Estimates</b>								
Land Use	Size (Square Feet)	Daily Trips	AM Peak Hour Trips			PM Peak Hour Trips		
			In	Out	Total	In	Out	Total
<b>Existing Use</b>								
General Light Industrial	52,634	1,053	59	25	84	46	70	116
<b>Proposed Use</b>								
Fast Food Drive-Through and Convenience Market with Gas Station	12 fuel stations	6,511	100	99	199	115	114	229
Pass-By Trips		-4,200	(63)	(62)	(125)	(76)	(75)	(151)
Gas Station Total		2,311	37	37	74	39	39	78
Fast Food Drive-Through	2,494	1,237	58	55	113	42	39	81
Pass-By Trips		-612	(28)	(27)	(55)	(21)	(20)	(41)
Fast Food Total		625	30	28	58	21	19	40
Mini-Warehouse	93,443 <sup>27</sup>	234	7	6	13	12	12	24
Total Proposed Trips		3,170	74	71	145	72	70	142
<b>Net Project Trips</b>		<b>2,117</b>	<b>15</b>	<b>46</b>	<b>61</b>	<b>26</b>	<b>0</b>	<b>26</b>

### LOS Intersection Analysis

The results of the intersection LOS analysis are shown in Table 4.16-3, below.

<sup>27</sup> The currently proposed project includes a 92,116-square-foot mini-storage facility; therefore, the trips shown in the table represent a conservative assessment trip calculation.

**Table 4.16-3: Background Plus Project Intersection Levels of Service**

Intersection	Peak Hour	Existing		Background		Background + Project			
		Ave. Delay (sec.)	LOS	Ave. Delay (sec.)	LOS	Ave. Delay (sec.)	LOS	Incr. Crit. Delay (sec.)	Incr. Crit. V/C
Oakland Rd. & Commercial Street <sup>+</sup>	AM	40.7	D	<b>85.9</b>	<b>F</b>	<b>86.7</b>	<b>F</b>	1.5	0.003
	PM	51.8	D	<b>59.8</b>	<b>E</b>	<b>59.9</b>	<b>E</b>	0.2	0.002
Oakland Road. & US 101 NB Ramps <sup>*+</sup>	AM	<b>58.3</b>	<b>E</b>	<b>163.2</b>	<b>F</b>	<b>164.5</b>	<b>F</b>	2.7	0.006
	PM	20.7	C	<b>57.0</b>	<b>E</b>	<b>57.8</b>	<b>E</b>	1.4	0.004
Oakland Road. & US 101 SB Ramps <sup>*+</sup>	AM	26.4	C	29.7	C	29.8	C	0.3	0.008
	PM	32.0	C	<b>89.4</b>	<b>F</b>	<b>90.6</b>	<b>F</b>	2.7	0.006
Oakland Road. & Hedding Street <sup>++</sup>	AM	46.7	D	<b>62.6</b>	<b>E</b>	<b>62.9</b>	<b>E</b>	0.6	0.003
	PM	43.0	D	<b>55.1</b>	<b>E</b>	<b>55.1</b>	<b>E</b>	0.0	0.000
10th Street. & Hedding Street <sup>++</sup>	AM	19.3	B	22.1	C	22.3	C	0.2	0.001
	PM	40.2	D	50.7	D	50.7	D	0.0	0.000
* - denotes a CMP Intersection + - denotes a US101/Oakland/Mabury TDP Intersection ++ - denotes a City of San José Protected Intersection <b>BOLD</b> indicates a deficient level of service									

As shown, compared to background conditions, four of the five study intersections would continue to operate at an unacceptable LOS E or F during at least one of the peak hours of traffic. These include:

- Oakland Road/Commercial Street – LOS F during the AM, LOS E during the PM peak hour
- Oakland Road/US 101 NB Ramps – LOS F during the AM, LOS E during the PM peak hour
- Oakland Road/US 101 SB Ramps – LOS F during the PM peak hour
- Oakland Road/Hedding Street – LOS E during the AM and PM peak hours

When measured against the City of San José impact criteria, however, the additional project trips would not cause both the critical-movement delay at the intersection to increase by four (4) or more seconds and the volume-to-capacity ratio (V/C) would not increase by one percent or more. Therefore, none of the study intersections would be significantly impacted by the project. The remaining study intersections would continue to operate at an acceptable LOS D or better during both the AM and PM peak hours under background plus project conditions.

### US 101/Oakland/Mabury Transportation Development Policy

As described previously, projects that add traffic to the US 101/Oakland Road interchange during the PM peak hour are required to participate in the US 101/Oakland/Mabury TDP program and pay the

required impact fee. Because the proposed project would add 26 new trips to the interchange during the PM peak hour, the estimated TDP impact fee would be approximately \$958,022.

**Standard Permit Condition:** The project shall conform to the US-101/Oakland/Mabury TDP and pay the impact fee for the additional 26 net new PM peak hour trips through the US-101/Oakland intersection. The fee shall be paid prior to issuance of a Public Works clearance. This fee is subject to an annual escalation on January 1, per the Engineering News-Record Construction Cost Index for San Francisco.

### **City of San José Protected Intersections**

Two of the intersections that are analyzed in this study (and shown in shown in Table 4.16-3) are protected intersections (per Council Policy 5-3). As further described within Appendix H, however, the proposed project would not result in a significant impact at a protected intersection. Therefore, mitigation under the City's LOS Policy is not required.

### **Intersection Operations – Queuing**

Operations at the following intersections were evaluated under project conditions to assess whether the project would create a safety impact:

- US 101 and Oakland Road
- Oakland Road and Hedding Street
- North 10<sup>th</sup> Street and Hedding Street
- Oakland Road and Boardwalk Way
- Oakland Road and Horning Street

A queuing analysis for these intersections was conducted to evaluate the size of the existing turn pockets and the number of vehicles a proposed project would generate at the existing pocket. If project traffic exceeds an existing pocket length and traffic spills out of the pocket, typically traffic will be more congested, resulting in more delay but not result in any safety concern, especially in a developed setting. From a CEQA standpoint, there are no quantitative thresholds specific to queuing. There is, however, a qualitative threshold which states that the project would have a significant impact if the project would substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).

As described in detail within the queuing analysis summary is provided in Appendix H, the project would increase queues at Oakland Road and Boardwalk Way by one vehicle during both the AM and PM peak hours. At Oakland Road and Horning Street, vehicle queuing during the PM peak hour would occur on the project site (where it can be accommodated along the proposed drive aisles) due to this intersection's close proximity to the signalized intersection of Oakland Road/US 101 SB. An increase of one vehicle to existing roadway queues and on-site queuing may cause a slowing or delay in traffic but would not create or substantially increase hazards.

## Council Policy 6-10 and On-Site Circulation

On-site vehicular circulation was reviewed for the fast-food restaurant and car wash in accordance with generally accepted traffic engineering standards and the City of San José Criteria for Review of Drive-Through Uses (Council Policy 6-10), as described below.

### Fast-Food Restaurant

According to Council Policy 6-10, primary ingress and egress to drive-through type parking lots should be from at least a four-lane major street (Traffic Criterion A). Since access to and from the site would be provided via Horning Street, a two-lane minor street, the project would not meet this requirement. The policy also requires fast-food restaurants to provide stacking space for at least eight vehicles within the drive-through lane, assuming 20 feet per vehicle (Traffic Criterion E). The site plan shows the drive-through lane would provide approximately 160 feet of storage, or enough stacking space for eight vehicles. This drive-through lane capacity would meet the City's minimum requirement. There is an additional 160 feet of available stacking space within the fast food parking area (east-west drive aisle) between the drive-through entrance and the primary north-south drive aisle that serves the site, should overflow space be required. Policy 6-10 (Traffic Criterion B) requires overflow stacking capacity to equal 50 percent of the required drive-through stacking space, with overflow restricted to the parking lot. The project would meet this requirement, as well as Traffic Criteria C and D, which are policy requirements related to drive-through lane ingress and egress.

### Car Wash

As previously noted, Council Policy 6-10 states that primary ingress and egress to drive-through type parking lots should be from at least a four-lane major street, which Horning Street is not (though the curb to curb street width is 60 feet). The policy also requires a self-service car wash to provide stacking space for at least five vehicles within the drive-through lane, assuming 20 feet per vehicle. An approximately 160-foot car wash drive-through lane with a counterclockwise circulation pattern is proposed. This would provide enough stacking space for eight vehicles, which would exceed the City requirement. Accordingly, the project would meet Traffic Criterion B (50 percent overflow stacking capacity) within the drive-through lane itself. The project would also meet the requirements described in Traffic Criteria C and D, which are policy requirements related to drive-through lane ingress and egress.

## Construction Impacts

Typical activities related to the construction of any development could include lane narrowing and/or lane closures, sidewalk and pedestrian crosswalk closures, and bike lane closures. In the event of any type of closure, clear signage (e.g., closure and detour signs) must be provided to ensure vehicles, pedestrians and bicyclists are able to adequately reach their intended destinations safely. The project would be required to submit a construction management plan for City approval that addresses schedule, closures/detours, staging, parking, and truck routes. **(Less Than Significant Impact)**

#### **4.16.2.3      *Air Traffic Patterns (Checklist Question c)***

The project site is located as the project is approximately 1.2 miles east of the Norman Y. Mineta San José International Airport. It is not located within the airport influence area or safety zone and does not require Federal Aviation Administration airspace review. The project would not result in changes in air traffic patterns. **(No Impact)**

#### **4.16.2.4      *Emergency Access (Checklist Question e)***

The City of San José Fire Department requires that all portions of the buildings are within 150 feet of a fire department access road, and requires a minimum of six feet clearance from the property line along all sides of the buildings. The proposed buildings on the site would be within 150 feet of a fire access road, and the project would meet the six-foot requirement for building clearance on all sides. Further, the proposed project would not interfere with emergency response access on adjacent public roads and would not result in inadequate emergency access or response. **(No Impact)**

#### **4.16.2.5      *Pedestrian, Bicycle, and Transit Access (Checklist Question f)***

##### **Construction**

Pedestrian volumes along Horning Street and Oakland Road are relatively low; therefore, any necessary sidewalk closures/pedestrian detours would have very little effect on the overall pedestrian circulation in the area. In addition, there are no bike lanes along Horning Street or along the project frontage on Oakland Road; thus, no bicycle facilities would be affected. No transit facilities are located along the site frontage and no impact would occur during construction.

##### **Operation**

##### Pedestrian Access and Circulation

The project is proposing to retain the existing five-foot sidewalk along the project frontage on Oakland Road, and construct a new 10-foot sidewalk along the project frontage on Horning Street. Pedestrian access to the site would be provided via a walkway from the Oakland Road sidewalk approximately 150 feet north of the Oakland Road/Horning Street intersection. A pedestrian connection from Horning Street also would be provided along the western edge of the project driveway.

##### Bicycle Access and Circulation

Overall bicycle access to the project site is somewhat limited. The project is not proposing to make any modifications or provide additions to the existing bicycle network; though, eight bicycle parking spaces are required as part of the project.

##### Transit Services

The project does not support large numbers of employees that might utilize mass transit and uses on site specifically cater to automobile traffic. The small increase in transit demand generated by the proposed project could be accommodated by the current available ridership capacities of the transit

services in the project area, and no project-sponsored transit related improvements would be necessary. **(Less Than Significant Impact)**

#### **4.16.3            Conclusion**

The proposed project would have a less than significant transportation impact with payment of the TDP impact fee. **(Less than Significant Impact)**



## 4.17 UTILITIES AND SERVICE SYSTEMS

### 4.17.1 Environmental Setting

#### 4.17.1.1 *Regulatory Framework*

### City of San José

#### Envision San José 2040 General Plan

The proposed project would be subject to the utilities and services policies of the City’s General Plan, including the following.

<b>Policy</b>	<b>Description</b>
MS-3.1	Require water-efficient landscaping, which conforms to the State’s Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
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.
MS-3.3	Promote the use of drought-tolerant plants and landscaping materials for nonresidential and residential uses.
Action EC-5.1	Implement the Post-Construction Urban Runoff Management requirements of the City’s Municipal National Pollutant Discharge Elimination System (NPDES) Permit to reduce urban runoff from project sites.
IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
IN-3.5	Require development which will have the potential to reduce downstream LOS to lower than “D”, or development which would be served by downstream lines already operating at a LOS lower than “D”, to provide mitigation measures to improve the LOS to “D” or better, either acting independently or jointly with other developments in the same area or in coordination with the City’s Sanitary Sewer Capital Improvement Program.
IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
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 NPDES permit.

#### California Green Building Standards Code

On January, 1 2017, the State of California adopted the 2016 California Green Building Standards Code that establishes mandatory green building standards for all buildings in California. These standards include a mandatory set of guidelines, as well as more rigorous voluntary measures, for new construction projects to achieve specific green building performance levels:

- Reducing indoor water use by 20 percent;

- Reducing wastewater by 20 percent;
- Recycling and/or salvaging 50 percent of nonhazardous construction and demolition debris; and
- Providing readily accessible areas for recycling by occupant.

Components of the Green Building Standards Code have been adopted by the City of San José.

#### San José Zero Waste Strategic Plan/Green Vision

The Zero Waste Strategic Plan outlines policies to help the City of San José foster a healthier community. The Green Vision provides a comprehensive approach to achieve sustainability through new technology and innovation, including 75 percent waste diversion by 2013 and zero waste by 2022. The Green Vision also includes ambitious goals for economic growth, environmental sustainability and an enhanced quality of life for San José residents and businesses.

#### Private Sector Green Building Policy

The City of San José's Green Building Policy for private sector new construction encourages building owners, architects, developers, and contractors to incorporate meaningful sustainable building goals early in building design process. This policy establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. It is also intended to enhance the public health, safety and welfare of San José residents, workers, and visitors by fostering practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water, and other resources in the City of San José.

### **Construction and Demolition Diversion Program**

More than 30 percent of landfill waste is construction and demolition debris. The Construction and Demolition Diversion program ensures that at least 75 percent of this waste is recovered and diverted from landfills. Projects are required to comply with this program to receive either a Certificate of Final Occupancy or a refund if a deposit is paid.

#### **4.17.1.2 Existing Conditions**

##### **Water Service**

Potable water service to the project site is provided by the San José Water Company. The water provided comes from a mix of imported surface water and groundwater. It is estimated that the existing uses on site utilize approximately 3,716,199 gallons of water per year (gpy).<sup>28</sup>

##### **Sanitary Sewer/Wastewater Treatment**

Sanitary sewer lines in the area are owned and maintained by the City of San José. Wastewater from the project area is treated at the San José/Santa Clara Regional Wastewater Facility (RWF) in Alviso.

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<sup>28</sup> California Air Pollution Control Officers Association. CalEEMod. *Appendix A Calculation Detail for CalEEMod*. Table 9.1 Water Use Rates. Accessed February 26, 2017. <http://www.aqmd.gov/docs/default-source/calceemod/calceemod-appendixa.pdf?sfvrsn=2>. 94,081 gallons(39.5)=3,716,199 gallons/year.

The RWF has a capacity to treat 167 million gpd of sewage during dry weather flow.<sup>29</sup> In 2015, the RWF’s average dry weather influent flow was 108 millions of gallons per day (mgd).<sup>30</sup> The resulting fresh water from the RWF is discharged to the South San Francisco Bay or delivered to the South Bay Water Recycling Project for distribution. The City’s share of the RWF’s treatment capacity is 108.6 mgd, which leaves the City with approximately 38.8 mgd of excess treatment capacity.<sup>31</sup>

Sanitary sewer lines in the area are owned and maintained by the City of San José. The General Plan EIR states that average wastewater flow rates are approximately 70 to 80 percent of domestic water use and 85 to 95 percent of business use (assuming no internal recycling or reuse programs). For the purposes of this analysis, wastewater flow rates are assumed to be 90 percent of the total on-site water use. The current land uses on-site generate approximately 3,344,579 gallons of wastewater each year.

### Storm Drainage System

The City of San José owns and maintains the storm drainage system which serves the project site. The proposed project would connect to a line in Oakland Road that ultimately drains to Coyote Creek.

### Solid Waste

Waste collection and recycling services are available to businesses from private companies franchised by the City of San José. The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year with disposal capacity through 2022. It is estimated that the uses at the existing site produces 49 tons of solid waste per year.<sup>32</sup>

#### 4.17.2 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

<sup>29</sup> City of San José. Water Pollution Control Capital Program 2016-2020 - Adopted Capital Improvement Program. Accessed March 3, 2017. <http://www.sanJoseca.gov/DocumentCenter/View/46177>.

<sup>30</sup> City of San José. Clean Bay Strategy Reports. Accessed March 3, 2017. <http://www.sanJoseca.gov/ArchiveCenter/ViewFile/Item/1629>.

<sup>31</sup> City of San José. General Plan EIR. September 2011. Page 648.

<sup>32</sup> California Air Pollution Control Officers Association. CalEEMod. Appendix A Calculation Detail for CalEEMod. Table 10.1 Solid Waste Disposal Rates. Accessed February 26, 2017. <http://www.aqmd.gov/docs/default-source/calmod/calmod-appendixa.pdf?sfvrsn=2>. 1.24 tons waste per year/39.5 existing square feet=49 tons/year.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,9
c) Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,9
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,9
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,9
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,9

#### 4.17.2.1 Water Services Impacts (Checklist Questions b and d)

It is assumed that the new mini-storage facility, fast-food restaurant, convenience store, gasoline station, and car wash would have different water demands than the existing light-industrial uses at the site. According to a report prepared for the International Carwash Association, car washes similar to the type proposed by the project can require 22,444 gallons a week for washing operations, or 1,167,088 gpy.<sup>33</sup> Modern drive-through car washes utilize recirculation systems to reuse wash water, however. The project proposes a car wash that would rely on the filtration and recycling of its own water for approximately 80 percent of the water used during operation, resulting in a potable water demand of 233,965 gpy. This is approximately the yearly water demand of three single-family homes.<sup>34</sup>

In addition to the car wash water demand, it is estimated that the self-storage facility, fast-food restaurant, convenience store, and gasoline station would require approximately 1,271,366 additional gpy of water for the structures and 98,400 gpy for the landscaping.<sup>35,36</sup> Thus, the total water demand

<sup>33</sup> International Carwash Association. *Water Use in the Professional Carwash Industry*. September 2002.

<sup>34</sup> City of San José. *Water Supply Assessment for Envision San José 2040 General Plan Update*. September, 2010.

<sup>35</sup> California Air Pollution Control Officers Association. *CalEEMod. Appendix A Calculation Detail for CalEEMod*. Table 9.1 Water Use Rates. Accessed February 26, 2017. <http://www.aqmd.gov/docs/default-source/cal-eemod/cal-eemod-appendixa.pdf?sfvrsn=2>.

<sup>36</sup> California Native Plant Society. "Ten Tips for Saving Gallons of Water in the Garden this Year". Accessed March 17, 2017. [http://www.cnps.org/cnps/grownative/tips/ten\\_tips-save\\_water.php](http://www.cnps.org/cnps/grownative/tips/ten_tips-save_water.php). 4,000(24.6)=98,400 gpy.

at the site (1,603,731 gpy) would not be anticipated to increase over the estimated water demand of the existing uses (approximately 3.7 million gpy). The proposed project would also include sustainable and green building design features to reduce water use, as required by City of San José's policies and regulations. The proposed project would not be anticipated to increase water demand or exceed available or projected water supplies. Thus, the impact would be less than significant. **(Less than Significant Impact)**

#### **4.17.2.2 Wastewater Services Impacts (Checklist Questions a, b, and e)**

The project would recycle water used at the car wash and would not increase water demand at the site; therefore, it would not result in increased wastewater generation. Additionally, the General Plan EIR found that wastewater generated by development under the General Plan would not exceed the City's allocated capacity at the RWF. The project is consistent with the General Plan land use designation; thus, it would not exceed wastewater treatment requirements of the RWQCB nor would it exceed the capacity requirements at the RWF, such that construction of new wastewater treatment facilities or expansion of existing facilities would be required. Therefore, the impact on existing wastewater services is less than significant. **(Less than Significant Impact)**

#### **4.17.2.3 Storm Drainage Impacts (Checklist Question c)**

As discussed in Section 4.9, Hydrology and Water Quality, the proposed project would connect to an existing storm drain line in Oakland Road. The project would increase the quantity of pervious surfaces on site by 24,580 square feet (approximately 17 percent) and would add bioretention features. The result of these changes would be an overall decrease in the amount of stormwater runoff from the project site compared to existing conditions. Thus, there would be no impact. **(No Impact)**

#### **4.17.2.4 Solid Waste Impacts (Checklist Question f)**

The proposed project is not anticipated to generate additional solid waste, in that it is estimated that the existing uses generate approximately 49 tons of solid waste per year and the proposed uses would generate approximately 41 tons of waste per year.<sup>37</sup> Further, the commercial uses on the site would be subject to the City's San José Zero Waste Strategic Plan/Green Vision, with its aggressive waste and recycling goals, including zero waste by 2022. Thus, the project would have a less than significant impact on solid waste disposal capacity. **(Less than Significant Impact)**

#### **4.17.3 Conclusion**

The project would not result in a utility or service facility exceeding current capacity to require the construction of new facilities or expansion of existing facilities. **(Less than Significant Impact)**

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<sup>37</sup> California Air Pollution Control Officers Association. CalEEMod. *Appendix A Calculation Detail for CalEEMod*. Table 10.1 Solid Waste Disposal Rates. Accessed February 26, 2017. <http://www.aqmd.gov/docs/default-source/calmod/calmod-appendixa.pdf?sfvrsn=2>. Fast-food=28.8 tons, convenience store with gas pumps=11.4 tons, mini-storage (from the office use)=41.1 tons waste generated/year.

4.18

**MANDATORY FINDINGS OF SIGNIFICANCE**

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1-18
b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-18
c) Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-18
d) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-18

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

The project could result in impacts to buried cultural resources, should they be discovered on site. The project could also result in impacts to migratory birds if they are present in trees located on or immediately adjacent to the project site. With the implementation of the mitigation and avoidance measures and Standard Permit Conditions included in the project and described in Section 4 Environmental Setting, Checklist, and Discussion of Impacts, the proposed project would not result in significant environmental impacts to biological or cultural resources.

**4.18.2 Cumulative Impacts (Checklist Question b)**

Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects “that are individually limited, but cumulatively considerable.” As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means “that the incremental effects of an individual project are significant when viewed in connection with the

effects of past projects, the effects of other current projects, and the effects of probable future projects.”

The project would not impact agricultural, forestry, mineral, or recreational resources. Therefore, the project would not contribute to cumulative impacts to these resources.

There are no planned or proposed developments in the immediate project site vicinity that could contribute to cumulative aesthetic and noise and vibration impacts.

The project’s geology and soils, hazardous materials, hydrology and water quality, and noise impacts are specific to the project site and would not contribute to cumulative impacts elsewhere. A minor reduction in the number of jobs at the site would not result in a contribution to a cumulative impact. Payment of the TDP impact fee would lessen the project’s contribution to cumulative traffic impacts.

The project would emit criteria air pollutants and GHG emissions and contribute to the overall regional and global emissions of such pollutants. By its very nature, air pollution and GHG emissions are largely a cumulative impact. The project-level air quality thresholds identified by BAAQMD (which the project’s impacts were compared to in Section 3.3) are the basis for determining whether a project’s individual impact is cumulatively considerable, resulting in significant adverse air quality impacts to the region’s existing air quality conditions. As discussed in Section 3.3, the project would have a less than significant impact on air quality. For this reason, the project would have a less than significant cumulative impact on air quality overall.

As discussed in Section 3.7 Greenhouse Gas Emissions, near-term development at the site would not conflict with 2020 GHG reduction target; however, as disclosed within the Final Supplemental Program EIR, development in San José in the 2030 to 2035 mid-term timeframe could contribute to projected GHG emissions impacts.

#### **4.18.3 Short-Term Versus Long-Term Environmental Goals (Checklist Question c)**

The proposed project will provide a mix of commercial and light-industrial uses and intensify the level of development at an existing, infill site. The impervious surface will be reduced and trees will be planted. Pedestrian access along the frontage will be improved with a new sidewalk. The majority of traffic will be as a result of pass-by trips. The project will be designed in a manner that reduces both short and long-term environmental impacts to the greatest extent feasible. Mitigation measures included in the project would not achieve 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 d)**

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

#### **4.18.5 Conclusion**

The project could result in temporary air quality, biological, noise, and water quality impacts during construction. The project could result in hazardous materials impacts, as well as impacts to cultural resources, should they be discovered on site. With the implementation of the mitigation and

avoidance measures and Standard Permit Conditions included in the project and described within Section 4 Environmental Setting, Checklist, and Discussion of Impacts, the proposed project would not result in significant environmental impacts. **(Less than Significant Impact with Mitigation)**



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## **SECTION 6.0 LEAD AGENCY AND CONSULTANTS**

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### **6.1 LEAD AGENCY**

#### **City of San José, Department of Planning, Building and Code Enforcement**

200 East Santa Clara Street

San José, CA 95113

Harry Freitas, Director

Meenaxi Panakkal, Supervising Environmental Planner

Thai Chau-Li, Planner

### **6.2 CONSULTANTS**

#### **David J. Powers & Associates, Inc.**

*Environmental Consultants and Planners*

Nora Monette, Principal Project Manager

Amie Ashton, Project Manager

Zach Dill, Graphic Artist

#### **Archives & Architecture**

*Historic Consultant*

Franklin Maggi, Architectural Historian

#### **Illingworth & Rodkin**

*Air Quality Consultant*

James Reyff, Principal

Tanushree Ganguly, Associate

#### **Hexagon Transportation Consultants**

*Transportation Consultants*

Gary Black, President

Brian Jackson, Senior Associate