Initial Study

ROTTEN ROBBIE #67 PROJECT

File Numbers: GP16-011, C17-008, CP17-015

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

October 2017

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SECTION 1.0 INTRODUCTION AND PURPOSE

San José Municipal Code Title 21 incorporates by reference and adopts the objectives, criteria and procedures for environmental review contained in the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq. and the CEQA Guidelines. This Initial Study of environmental impacts is being prepared to conform to the requirements of the CEQA, the CEQA Guidelines (California Code of Regulations 15000 et. seq.), and the regulations and policies of the City of San José (City).

This Initial Study evaluates the potential environmental impacts, which might reasonably be anticipated to result from implementation of the proposed project. The City of San José is the Lead Agency under CEQA and has prepared this Initial Study to address the impacts of implementing the proposed project.

This Initial Study and all documents referenced in it are available for public review in the Department of Planning, Building and Code Enforcement at San José City Hall, 200 E. Santa Clara Street, 3rd floor, during normal business hours.

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

Rotten Robbie #67

2.2 PROJECT FILE NUMBER

GP16-011, C17-008, CP17-015

2.3 PROJECT LOCATION

1202 Oakland Road, San Jose, CA
Assessor's Parcel Numbers: 241-11-014 / 020 / 021 / 022

2.4 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

City of San José
Department of Planning, Building & Code Enforcement
200 East Santa Clara Street, 3rd Floor
San José, CA 95113

2.5 PROJECT APPLICANT

John Hicks
(707) 333-5080
P.O. Box 1676
Santa Rosa, California, 95402

Representing

Robison Oil Corporation
955 Martin Avenue, Santa Clara, California, 95050

2.6 GENERAL PLAN LAND USE DESIGNATION AND ZONING DISTRICT

Existing General Plan Land Use Designation:	HI Heavy Industrial
Existing Zoning District:	HI Heavy Industrial
Proposed General Plan Land Use Designation:	CIC) Combined Industrial Commercial
Proposed Zoning District:	CIC – Combined Industrial/Commercial

2.7 HABITAT PLAN DESIGNATION

Land Cover Designation:	Urban - Suburban
Development Zone:	Area 4: Urban Development Equal to or Greater Than 2 Acres Covered
Fee Zone:	Urban Areas (No Land Cover Fee)

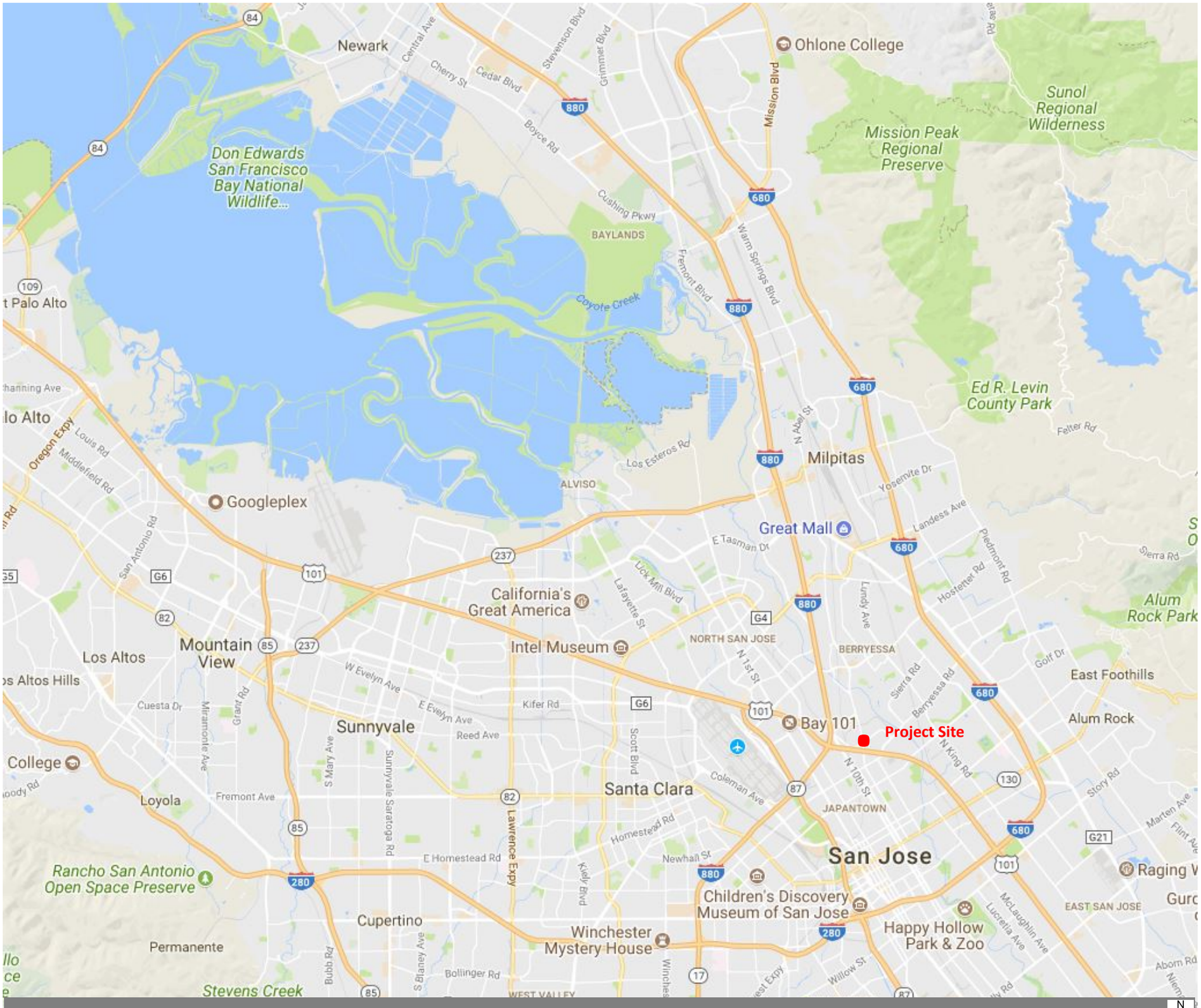


FIGURE 1: REGIONAL MAP

Source: Google Map, accessed October 2017

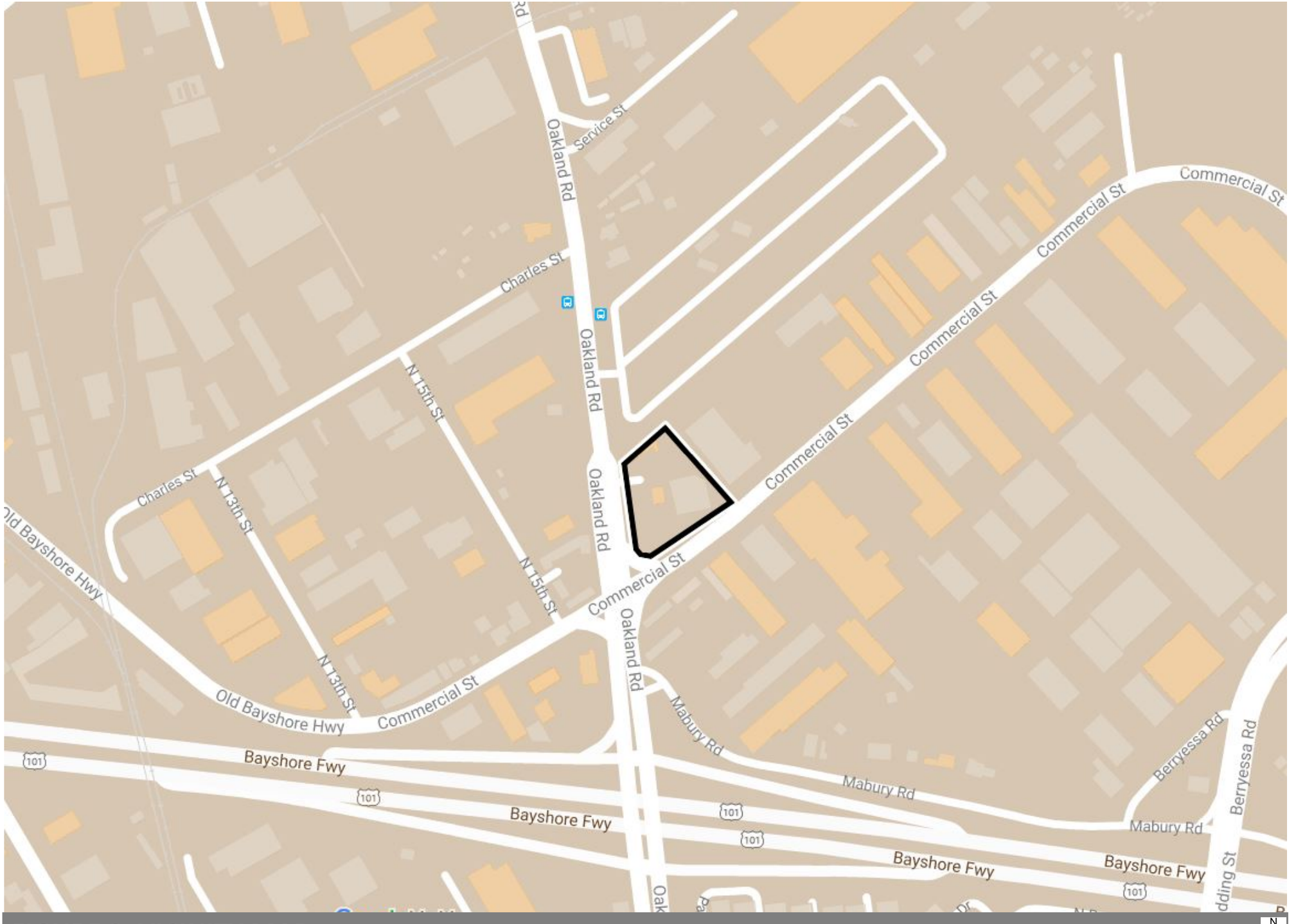


FIGURE 2: VICINITY MAP

Source: Google Map, accessed October 2017

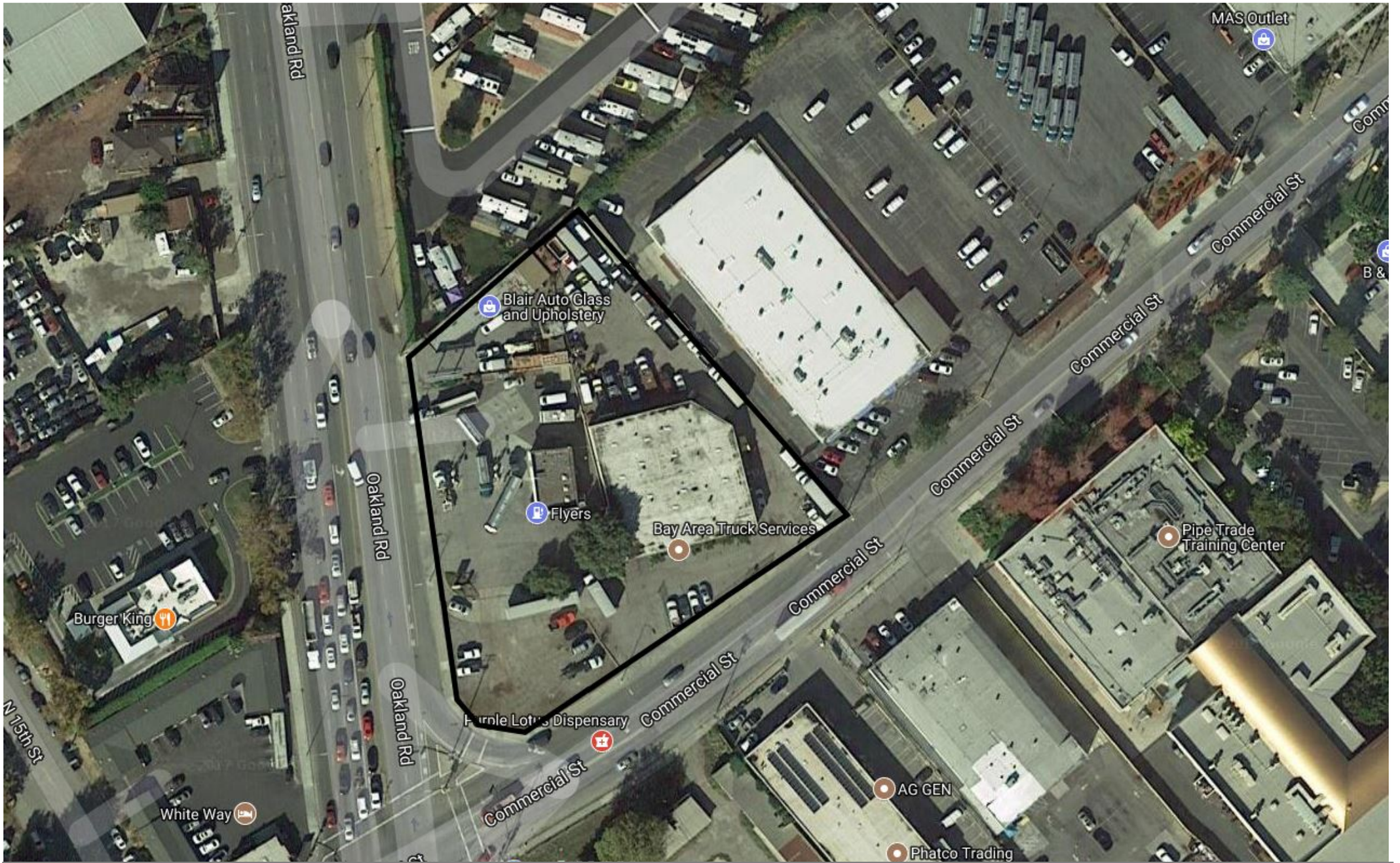
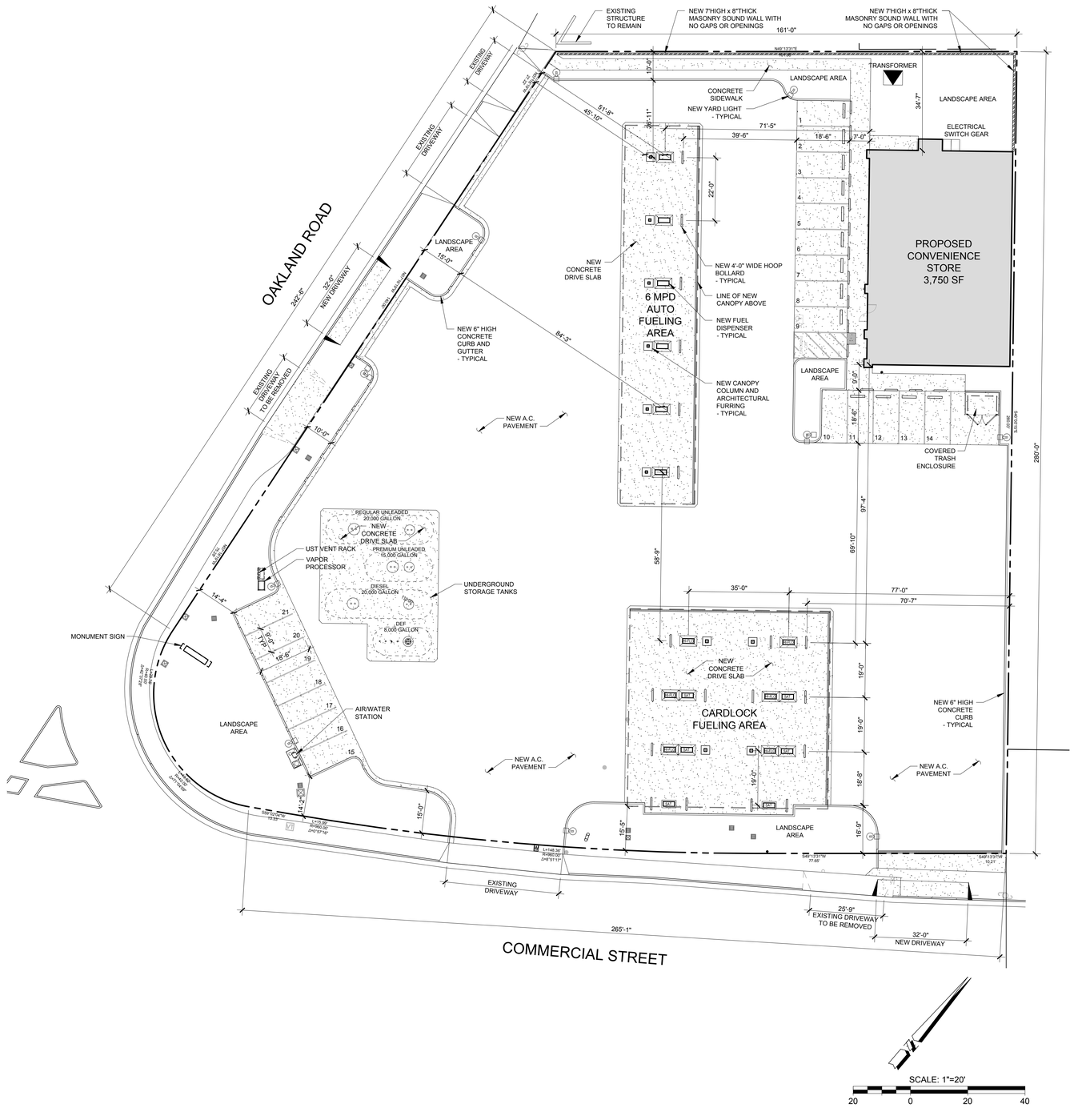
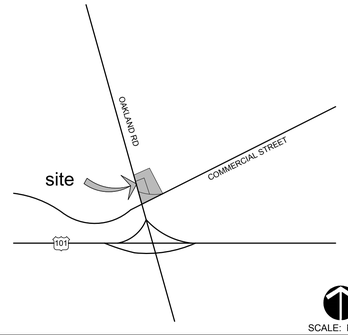


FIGURE 3: AERIAL MAP

Source: Google Map, accessed October 2017



LOCATION MAP



SCALE: N.T.S.

SITE STATISTICS

A.P.N.: APN: 241-11-014 / 020 / 021 / 022

LOT SIZE: 67,144 S.F. OR 1.54 ACRES

BUILDING GROSS AREA: 3,750 S.F.; TOTAL FLOOR AREA: 3,656 S.F.
(3,656 S.F. TOTAL FLOOR AREA x 85% / 200 = 16 STALLS; (1) AIR/WATER; (1) INFORMATION; (2) EMPLOYEE) = 20
PARKING: REQUIRED = 20 SPACES
PARKING: PROVIDED = 21 SPACES

SITE COVERAGE:
CONVENIENCE STORE: 5.6%
CANOPY: 11.7%
HARDSCAPE: 67.3%
LANDSCAPE: 15.4%

NOTE:
TOPOGRAPHIC INFORMATION SHOWN PROVIDED BY SLOOTEN CONSULTING, INC.
DATED FEBRUARY 2014.

architecture
engineering
LHB & Associates, Ltd.
867 Pacific Street, Suite 120
San Luis Obispo, CA 93401
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CONSULTANTS

REVISIONS

SUBMITTAL DATES

OWNER:	06/12/2017
REG. AGENCIES	--
O.T.B.:	--

PROJECT NO.	09-30-67
DRAWN BY:	JRB
CHECKED BY:	JRB

ROTTEN ROBBIE #67
SAN JOSE, CALIFORNIA

1202 OAKLAND ROAD
SAN JOSE, CALIFORNIA 95112

SHEET TITLE

SITE PLAN

SHEET NO.

C-1

G:\09-30 Robinson Oil\67 San Jose\2 Entitlements\Submittals\67 C-1.dwg 6/06/17 07:51 PM JR

SECTION 3.0 PROJECT DESCRIPTION

3.1 EXISTING SITE

The subject site is located at 1202 Oakland Road on the northeast corner of Oakland Road and Commercial Street. The site is adjacent to an existing motel, Burger King, Chevron gas station, RV park, Direct TV warehouse, and a lumber yard. The approximately 1.54-acre project site is currently developed with an existing fuel station building of approximately 1,300 square feet with 4 fuel dispensers, 9,700 square feet truck service building, and 1,800 square feet glass and upholstery building.

3.2 PROPOSED DEVELOPMENT

The project is for a General Plan Land Use / Transportation Diagram Amendment from Heavy Industrial to Combined Industrial Commercial, a conforming Rezoning from Heavy Industrial (HI) to Combined Industrial/Commercial (CIC) zoning district, and Conditional Use Permit to allow the demolition of existing structures on site and construction of an approximately 3,750 square foot one-story convenience store, a 3,432 square foot canopy over the auto fueling area, and a 4,813 square foot canopy over the cardlock fueling dispensers . The project proposes six fuel stations for auto dispensers (12 pumps) and 12 fuel stations for cardlock fueling dispensers (24 pumps). The proposed cardlock fueling dispensers are restricted to diesel and would be accessed for specific businesses. Other improvements include parking lot upgrades, landscape upgrades, and the installation of a covered trash enclosure. Additionally, the off-sale of alcohol and 24-hour operation is proposed as part of the project.

The existing Flyers fuel station and utility building currently occupies the center portion of the project site with minimal landscaping and significant amount of hardscape along the perimeter of the site. The proposed project will orient the convenience store at the rear with new landscaping on and around the buildings to provide a landscape buffer. The auto fueling stations will be located west and south of the convenience store

The truck service and upholstery shop commercial buildings will be demolished to allow for the construction of the single-story convenience store. The existing uncovered fuel pumps will also be demolished to allow new fuel canopy areas that includes both auto retail fueling dispensers and cardlock fueling dispensers.

Fuel Tanks. The existing three (3) underground storage tanks (UST) containing diesel fuel products are proposed to be removed and disposed of in accordance with State and County standards. This will consist of the USTs being emptied and cleaned and then disposed of in an acceptable location. The proposed four (4) USTs are double walled per current regulations and will be installed per manufacturer recommendations. The four USTs will contain gasoline, diesel fuel, and diesel exhaust fluid products. As required per current regulations, the USTs and

underground product, vent, and vapor piping will be double walled with continuous monitoring of the interstitial spaces. A monitoring panel will be installed in the convenience store in a readily accessible location that can be viewed by the employees. In the event the primary wall fails and begins to leak fuel into the secondary containment interstitial space, the monitoring panel alarms to notify the employees. A service team would immediately be dispatched to diagnose leak location, and the system would be isolated to repair leak.

3.2.1 Access, Circulation, and Parking

The required off-street vehicular parking is 20 spaces. The proposed quantity of parking stalls is 21 spaces. Two full-access driveways on Commercial Street and two right-in/right-out driveways on Oakland Road. New driveway along Oakland Road street frontages will be located further away from Oakland Road/Commercial Street intersection to promote safe onsite/offsite vehicle circulation.

3.2.2 Lighting

Exterior lighting is proposed for the new gas station and parking area for security and access. All outdoor lighting will conform to the City Council's Outdoor Lighting Policy (4-3) and meet energy efficiency requirements.

3.2.3 Landscaping/Tree Removal

A landscape plan has been prepared for the project that shows shade trees, shrubs, vines, and bio-retention areas. The proposed shade trees will also aid in screening the fuel center development from the neighboring parcels. Proposed landscaping is chosen to meet water efficiency standards and bio-retention requirements. The existing landscape is approximately 13% of the site, and the proposed landscape will cover 17% of the site, for an increase of 4%.

3.2.4 Utilities

The proposed project will utilize the existing onsite utilities as much as possible, including domestic and irrigation water supply. It is anticipated that an upgraded electric service will be required and will be accomplished with a new pad mount electric transformer. Existing sanitary main along Oakland Road and Commercial Street is approximately 10". Storm water will be routed via overland sheet flow and underground storm drain systems into landscape bio-retention areas for bio-treatment, and then collected for conveying into the City's existing storm drain located in Commercial Street. A new covered trash enclosure will be constructed for solid waste disposal and is proposed to be located east of the new convenience store.

3.3 PROJECT-RELATED APPROVALS AND PERMITS

The information contained in this Initial Study will be used by the City of San José as it considers whether or not to approve the proposed project. If the project is approved, the Initial Study would be used by the City and responsible and trustee agencies in conjunction with various approvals and permits. These actions include, but may not be limited to, the following approvals by the agencies indicated:

City of San José

- General Plan Amendment
- Rezoning
- Conditional Use Permit
- Development Permits
- Building Permits
- Demolition Permits
- Grading Permits
- Any other associated Public Works Clearances

SECTION 4.0 ENVIRONMENTAL CHECKLIST AND DISCUSSION OF IMPACTS

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

The right-hand column in the checklist lists the source(s) for the answer to each question. The sources cited are identified at the end of this section. Mitigation measures are identified for all significant project impacts. Mitigation Measures are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guideline 15370). Measures that are required by the Lead Agency or other regulatory agency that will reduce or avoid impacts are categorized as "Environmental Conditions."

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., noise) affecting a proposed project, which are also addressed below. 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 "planning considerations" that relate to City policies pertaining to existing conditions. Such examples include, but are not limited to, locating a project near sources of air emissions that can pose a health risk, in a floodplain, in a geologic hazard zone, in a high noise environment, or on/adjacent to sites involving hazardous substances.

4.1 AESTHETICS

4.1.1 Environmental Setting

4.1.1.1 *Regulatory Framework*

State

Scenic Highway Program

The California Scenic Highway Program was created by the Legislature in 1963 to preserve and protect scenic highway corridors from change which would diminish the aesthetic value of lands adjacent to highways. The State Scenic Highways Program is under the jurisdiction of the California Department of Transportation (Caltrans) and includes a list of highways that are both eligible for, and designated as scenic highways. The state laws governing the Scenic Highway Program are found in the Streets and Highway Code, Sections 260 through 263. The nearest state-designated scenic highway is State Route 9, approximately 10 miles from the site (straight distance measurement). The next closest eligible State Scenic Highway, but is not official designated is Interstate 280, which is approximately 5 miles from the site (straight distant measurement).

Local

Scenic Corridors

The City of San José has many scenic resources including the Santa Clara Valley, the hills and mountains which frame the Valley floor, the baylands, and the urban skyline. The designation of a scenic route applies to routes which afford especially aesthetic views. There are no scenic route located in the proximity of the project.

Envision San José 2040 General Plan

The City's General Plan Scenic Corridors Diagram identifies Gateways and Urban Throughways where preservation and enhancement of views of the natural and man-made environment are crucial.

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

Policies	Description
Policy CD-1.1	Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
Policy CD-1.7	Require developers to provide pedestrian amenities, such as trees, lighting,

Policies	Description
	recycling and refuse containers, seating, awnings, art, or other amenities, in pedestrian areas along project frontages. When funding is available, install pedestrian amenities in public rights-of-ways.
Policy CD-1.8	Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity through the City.
Policy CD-1.9	Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian-oriented areas such as Downtown, Urban Villages, or along Main Streets, place commercial and mixed-use building frontages at or near the street-facing property line with entrances directly to the public sidewalk, provide high-quality pedestrian facilities that promote pedestrian activity, including adequate sidewalk dimensions for both circulation and outdoor activities related to adjacent land uses, a continuous tree canopy, and other pedestrian amenities. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street facade and pedestrian access to buildings.
Policy CD-1.11	To create a more pleasing pedestrian-oriented environment, for new building frontages, include design elements with a human scale, varied and articulated facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Provide windows or entries along sidewalks and pathways; avoid blank walls that do not enhance the pedestrian experience. Encourage inviting, transparent facades for ground-floor commercial spaces that attract customers by revealing active uses and merchandise displays.
Policy CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
Policy CD-1.27	When approving new construction, require the undergrounding of distribution utility lines serving the development. Encourage programs for undergrounding existing overhead distribution lines. Overhead lines

Policies	Description
	providing electrical power to light rail transit vehicles and high tension electrical transmission lines are exempt from this policy.
Policy CD-1.18	Encourage the placement of loading docks and other utility uses within parking structures or at other locations that minimize their visibility and reduce their potential to detract from pedestrian activity.
Policy CD-7.1	Support intensive development and uses within Urban Villages, while ensuring an appropriate interface with lower-intensity development in surrounding areas and the protection of appropriate historic resources.
Policy CD-7.3	Review development proposed within an Urban Village Area prior to approval of an Urban Village Plan for consistency with any applicable design policies pertaining to the proposed use. Review proposed mixed-use projects that include residential units for consistency with the Design Policies for Urban Villages. Following adoption of an Urban Village Plan, review new development for consistency with design policies included within the Urban Village Plan as well as for consistency with any other applicable design policies.
Policy CD-10.1	Recognize the importance of Gateways in shaping perceptions of San José.
Policy CD-10.2	Require that new public and private development adjacent to Gateways, freeways (including U.S. 101, I-880, I-680, I-280, SR 17, SR 85, SR 237, and SR 87), and Grand Boulevards consist of high-quality architecture, use high-quality materials, and contribute to a positive image of San José.
Policy CD-10.3	Require that development visible from freeways (including US 101, I-880, I-680, I-280, SR17, SR85, SR237, and SR87) be designed to preserve and enhance attractive natural and man-made vistas.

City Council Outdoor Lighting Policy

San José City Council Policy 4-3 contains guidelines for use of outdoor lighting. The purpose of this policy is to promote energy-efficient outdoor lighting on private development in the City of San José that provides 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.

4.1.1.2 *Existing Conditions*

The project area is generally flat and is surrounded by public roadways on two sides, with Commercial Street to the south and Oakland Road to the west. The Trailer Tel RV Park is located to the north of the project site and an existing commercial uses to the east. 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.

Currently, the project site is occupied by a variety of industrial tenants including an existing fuel station building of approximately 1,300 square feet with 4 fuel dispensers (Flyer), 9,700 square feet truck service building (Bay Area Truck Services), and 1,800 square feet glass and upholstery building (Blair Auto Glass and Upholstery).

The project area is primarily industrial in nature, with residential uses (Trailer Tel RV Park) directly adjacent to the project site to the north. Aside from the RV park, the surrounding uses includes an existing motel, Burger King, Chevron gas station, Direct TV warehouse, and a lumber yard.

4.1.2 Aesthetics Environmental Checklist

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

4.1.3 Impacts Evaluation

a. Would the project have a substantial adverse effect on a scenic vista? [No Impact]

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.

b. Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? [No Impact]

The project site is not part of a scenic vista, nor is it within a state scenic highway.

c. Substantially degrade the existing visual character or quality of the site and its surroundings? [Less Than Significant Impact]

The project would upgrade the site with new fueling stations and a convenience store. The site would improve the site landscaping and new access in and out of the site. The improvements would be consistent with the industrial architecture of the site and surrounding areas. The project would be required to undergo architectural and site design review by the Planning Staff to ensure compatibility with the surrounding neighborhood. Therefore, the proposed project would not alter the existing visual character of the site and its surrounding significantly.

d. Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area? [Less Than Significant Impact]

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 project would install new light fixtures as part of the redevelopment. The new convenience store and new fueling canopies would not create substantial light or glare that would affect day or night time views in the area. The City of 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 new lighting would be LED high efficiency light fixtures and conform to the City's Outdoor Lighting Policy (4-3). Properties adjacent to the project site do not contain public open space including parks, plazas or school yards, so there would be no shading of public open space. Therefore, the proposed project would not significantly degrade the existing visual character of the site. 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.

In addition, the proposed project would 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.

4.1.4 Conclusion

Implementation of the proposed project would not result in significant adverse visual or aesthetic impacts.

4.2 AGRICULTURAL AND FORESTRY RESOURCES

4.2.1 Environmental Setting

4.2.1.1 *Regulatory Framework*

State

California Department of Conservation Farmland Mapping and Monitoring Program

According to the California Department of Conservation Farmland Mapping and Monitoring Program, the project site is categorized as "Farmland of Local Importance." The U.S. Department of Agriculture defines "Farmland of Local Importance" as small orchards or vineyards primarily in the foothill areas, also land cultivated as dry cropland for grains and hay. The subject property was cultivated with orchards, including apricot and prune, from as early as 1939 through 1984. Subsequently, the property was cultivated with hay through the late-2000s. The current undeveloped state of the property was documented in 2010 to the present.

Williamson Act

The Williamson Act of 1965 allows local governments to enter into contract agreements with local landowners with the purpose of trying to limit specific parcels of land to agricultural or other related open space uses. The project site does not contain any state designated agricultural lands or open space. The project site is not subject to a Williamson Act Contract..

Local

Santa Clara County Important Farmland Map

According to the California Farmland Mapping and Monitoring Program1, 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.

Envision San José 2040 General Plan

The General Plan also includes the following agricultural and forestry resources policies applicable to the proposed project:

[1] California Department of Conservation, CA Farmland Mapping and Monitoring Program, Accessed August 2017, https://www.arcgis.com/home/webmap/viewer.html?useExisting=1&layers=6586b7d276d84581adf921de7452f765

Policies	Description
Policy LU-12.1	Maintain existing and facilitate the development of new and expanded community gardens and farmers markets throughout San José, prioritizing the provision of these gardens in low income, nutritionally-deficient neighborhoods.
Policy LU-12.3	Protect and preserve the remaining farmlands within San José's sphere of influence that are not planned for urbanization in the timeframe of the Envision General Plan through the following means: • Limit residential uses in agricultural areas to those which are incidental to agriculture. • Restrict and discourage subdivision of agricultural lands. • Encourage contractual protection for agricultural lands, such as Williamson Act contracts, agricultural conservation easements, and transfers of development rights. • Prohibit land uses within or adjacent to agricultural lands that would compromise the viability of these lands for agricultural uses. • Strictly maintain the Urban Growth Boundary in accordance with other goals and policies in this Plan

4.2.1.2 *Existing Conditions*

The project site is currently occupied by an existing fuel station building of approximately 1,300 square feet with 4 fuel dispensers (Flyer), 9,700 square feet truck service building (Bay Area Truck Services), and 1,800 square feet glass and upholstery building (Blair Auto Glass and Upholstery).

The project area is primarily industrial in nature, with residential uses (Trailer Tel RV Park) directly adjacent to the project site to the north. Aside from the RV park, the surrounding uses includes an existing motel, Burger King, Chevron gas station, Direct TV warehouse, and a lumber yard.

4.2.2 Agricultural and Forestry Resources Environmental Checklist

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
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?	☐	☐	☐	☒	1,2,3,4
b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒	1,2,3,4,5
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))?	☐	☐	☐	☒	1,2,3,4
d. Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒	1,2,3,4
e. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒	1,2,3,4

4.2.3 Impacts Evaluation

a. Would the project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) to non-agricultural use? AND

b. Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract? AND

c. Would the project 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))? AND

d. Would the project result in a loss of forest land or conversion of forest land to non-forest use? AND

e. Would the project 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? [All No Impact]

There are no farmlands or lands in agricultural use on site or in the immediate vicinity. The project site is an existing gas station, upholstery shop and truck service center in an HI zoning district surrounded by commercial development and RV park.

The project site is currently developed as a Flyers fuel refilling station, Bay Area Truck Service center, Auto-Truck Glass and Upholstery shop. The 1.54 acre parcel is not located in an area identified as prime farmland, nor is the site being used for or zoned for agricultural use. The project does not result in the conversion of farmland to non-agricultural use. Therefore, the proposed project will not result in a significant impact on the City's or Region's agricultural resources.

4.2.4 Conclusion

Implementation of the proposed project would have no impact on agricultural or forestry resources in the area.

4.3 AIR QUALITY

The discussion within this section is based, in part, on the technical report by Michael Baker on March 2017 completed for the proposed project, provided in Appendix A of this Initial Study. Since the completion of this Air Quality Report in March 2017, the applicant has removed the car wash use from the project proposal. The Air Quality Report is analyzing the conservative scenario with the car wash use. In addition, a Health Risk Assessment was completed by ECORP Consulting, Inc. in September 2017, provided in Appendix B with the revised project description.

4.3.1 Environmental Setting

4.3.1.1 *Regulatory Setting*

Federal

Federal Clean Air Act

The Federal Clean Air Act (Federal CAA) establishes pollutant thresholds for air quality in the United States (U.S.). At the federal level, the U.S. Environmental Protection Agency (EPA) administers the CAA. The U.S. EPA is responsible for establishing the National Ambient Air Quality Standards (NAAQS) and 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 U.S. EPA regulates emission sources that are under the exclusive authority of the federal government, such as aircraft, ships, and certain types of locomotives. The agency also establishes various emission standards for vehicles sold in states other than California.

State

California Clean Air Act

In addition to being subject to federal requirements, California has its own more stringent regulations under the California Clean Air Act (California CAA). The California CAA is administered by the California Air Resources Board (CARB) at the state level under the California EPA (CalEPA). CARB is responsible for meeting the state requirements of the Federal CAA, administering the California CAA, and establishing the California Ambient Air Quality Standards (CAAQS). The California CAA requires all air districts in the state to achieve and maintain CAAQS. Similar to the EPA, CARB also regulates mobile air pollution sources such as motor vehicles.

The California Air Resources Board (CARB) is responsible for air pollution control and setting State ambient air quality standards and allowable emission levels for motor vehicles. The State is divided into air basins governed by districts. The project site is located in the Bay Area Air

Quality Management District (BAAQMD).

Regional

Bay Area Air Quality Management District

The Bay Area Air Quality Management District (BAAQMD) is primarily responsible for ensuring that the national and state ambient air quality standards are attained and maintained in the nine-county Bay Area. BAAQMD is also the air pollution regulatory agency in the San Francisco Bay Area Air Basin that maintains air quality monitoring stations which process ambient air quality. These ambient air quality standards specify levels of contaminants that represent safe levels that avoid specific adverse health effects associated with each pollutant. The ambient air quality standards cover what are called criteria pollutants.

BAAQMD most recently adopted the Bay Area 2017 Clean Air Plan (2017 CAP) that focuses on protecting public health and protecting the climate. Determining a project's consistency with the 2017 CAP involves assessing whether applicable control measures contained within the 2017 CAP are implemented. Implementation of control measures improve air quality and protect public health. Control Strategy in the 2017 CAP are organized into five categories: Stationary (Industrial) Sources, Transportation, Energy, Buildings, Agriculture, Natural and Working Lands, Waste Management, Water, and Super-GHG Pollutants.

Local

Envision San José 2040 General Plan

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

Policies	Description
Policy MS-10.1	Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement air emissions reduction measures.
Policy MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.
Policy TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new

Policies	Description
	facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
Policy TR-7.1	Require large employers to develop and maintain Transportation Demand Management (TDM) programs to reduce the vehicle trips generated by their employees.

4.3.1.2 *Existing Conditions*

San José is located in the southern portion of the San Francisco Bay Area Air Basin (SFBAAB). The proximity of Santa Clara County to both the Pacific Ocean and San Francisco Bay has a moderating influence on the climate. Ambient air quality in San Jose can be inferred from ambient air quality measurements conducted at nearby air quality monitoring stations. Existing levels of ambient air quality and historical trends and projections in the vicinity of San Jose are documented by measurements made by the BAAQMD.

Criteria Air Pollutants

Major criteria pollutants, listed in "criteria" documents by the U.S. Environmental Protection Agency (USEPA) and the California Air Resources Board (CARB) include ozone (O_3), carbon monoxide (CO), nitrogen dioxide (NO_x), sulfur dioxide (SO_2), and suspended particulate matter (PM, specifically $PM_{2.5}$ and PM_{10}). These pollutants can have health effects such as respiratory impairment and heart/lung disease symptoms.

Table 1
Criteria Air Pollutants – Summary of Common Sources and Effects

Pollutant	**Major Man-Made Sources**	**Human Health & Welfare Effects**
Carbon Monoxide (CO)	An odorless, colorless gas formed when carbon in fuel is not burned completely; a component of motor vehicle exhaust.	Reduces the ability of blood to deliver oxygen to vital tissues, effecting the cardiovascular and nervous system. Impairs vision, causes dizziness, and can lead to unconsciousness or death.
Nitrogen Dioxide (NO_2)	A reddish-brown gas formed during fuel combustion for motor vehicles, energy utilities and industrial sources.	Respiratory irritant; aggravates lung and heart problems. Precursor to ozone and acid rain. Contributes to nutrient overloading which deteriorates water quality. Causes brown discoloration of the atmosphere.
Ozone (O_3)	Formed by a chemical reaction between reactive organic gases (ROGs) and nitrous oxides (NOx)	Irritates and causes inflammation of the mucous membranes and lung airways; causes wheezing,

	in the presence of sunlight. Common sources of these precursor pollutants include motor vehicle exhaust, industrial emissions, solvents, paints and landfills.	coughing and pain when inhaling deeply; decreases lung capacity; aggravates lung and heart problems. Damages plants; reduces crop yield.
Particulate Matter (PM_{10} and $PM_{2.5}$)	Power plants, steel mills, chemical plants, unpaved roads and parking lots, wood-burning stoves and fireplaces, automobiles and others.	Increased respiratory symptoms, such as irritation of the airways, coughing, or difficulty breathing; aggravated asthma; development of chronic bronchitis; irregular heartbeat; nonfatal heart attacks; and premature death in people with heart or lung disease. Impairs visibility (haze).
Sulfur Dioxide (SO_2)	A colorless, nonflammable gas formed when fuel containing sulfur is burned. Examples are refineries, cement manufacturing, metal processing facilities, locomotives, and ships.	Respiratory irritant. Aggravates lung and heart problems. In the presence of moisture and oxygen, can damage marble, iron and steel; damage crops and natural vegetation. Impairs visibility.
Source: California Air Pollution Control Officers Association, 2009, Health Risk Assessment for Proposed Land Use Projects; Appendix A for the Rotten Robbie #67 Project Initial Study, March 2017 amended August 2017.		

High ozone levels are caused by the cumulative emissions of reactive organic gases (ROG) and NOx. These precursor pollutants react under certain meteorological conditions to form high ozone levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to reduce ozone levels. The highest ozone levels in the Bay Area occur in the eastern and southern inland valleys that are downwind of air pollutant sources. Particulate matter is assessed and measured in terms of respirable particulate matter or particles that have a diameter of 10 micrometers or less (PM_{10}) and fine particulate matter where particles have a diameter of 2.5 micrometers or less ($PM_{2.5}$).

Violations of ambient air quality standards are based on air pollutant monitoring data and are judged for each air pollutant. The SFBAAB is currently designated as nonattainment for the state and federal ambient air quality standards for ground-level O_3 and $PM_{2.5}$ as well as for the state standards for PM_{10}. The area is considered attainment or unclassified for all other pollutants.

Toxic Air Contaminants

The California Health and Safety Code defines a TAC as "an air pollutant which may cause or contribute to an increase in mortality or in serious illness, or which may pose a present or potential hazard to human health." The State of California regulates TACs primarily through Assembly Bill (AB) 1807 (Tanner Air Toxics Act) and AB 2588 (Air Toxics "Hot Spot" Information and Assessment Act of 1987).

Toxic Air Contaminants (TACs) are a broad class of compounds known to cause morbidity or mortality due to the correlation with the cause of cancer. TACs are found in ambient air, especially in urban areas, and are caused by industry, agriculture, fuel combustion, and commercial operations (e.g., dry cleaners). TACs are typically found in low concentrations, even near their source (e.g., diesel particulate matter [DPM] near a freeway). Because chronic

exposure can result in adverse health effects, TACs are regulated at the regional, state, and federal level.

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs. According to CARB, diesel exhaust is a complex mixture of gases, vapors, and fine particles. This complexity makes the evaluation of health effects of diesel exhaust a complex scientific issue. Some of the chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the CARB, and are listed as carcinogens either under the State's Proposition 65 or under the Federal Hazardous Air Pollutants programs.

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 ($PM_{2.5}$) emissions and reduce statewide cancer risk from diesel exhaust.

Cancer risk is expressed in terms of expected incremental incidence per million population. The BAAQMD has established an incidence rate of 10 persons per million as the maximum acceptable incremental cancer risk. This threshold serves to determine whether or not a given project has a potentially significant development-specific and cumulative impact. The 10 in one million standard is a very health-protective significance threshold. A risk level of 10 in one million implies a likelihood that up to 10 persons, out of one million equally exposed people would contract cancer if exposed continuously (24 hours per day) to the levels of toxic air contaminants over a specified duration of time. This risk would be an excess cancer that is in addition to any cancer risk borne by a person not exposed to these air toxics. To put this risk in perspective, the risk of dying from accidental drowning is 1,000 in a million which is 100 times more than the BAAQMD's threshold of 10 in one million.

Sensitive Receptors

Sensitive receptors are groups of people more affected by air pollution than others. CARB has identified the following persons who are most likely to be affected by air pollution: children under 16, the elderly over 65, athletes, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive receptors. Locations that may contain a high concentration of these sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, elementary schools, and parks.

The nearest sensitive air quality receptors are RV park to the north of the project site, approximately 50 feet. The nearest business is a Direct TV directly East, A-1 Lumber to the South, and White Way Motel to the West, located on adjacent parcels of the proposed project.

The nearest school is Challenger School-Berryessa private school located about 2,500 feet Northwest of the project site at 711 East Gish Road. The nearest hospital, Regional Medical Center, is located 2.2 miles East of the project site at 225 North Jackson Avenue.

Odors

Common sources of odors and odor complaints include wastewater treatment plants, transfer stations, coffee roasters, painting/coating operations, and landfills. The project is located close to body shops with paint/coating services and other gas stations.

4.3.2.1 *Air Quality Impact Thresholds of Significance*

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the Lead Agency and must be based to the extent possible on scientific and factual data. The City of San José, and other jurisdictions in the San Francisco Bay Area Air Basin, often utilize the thresholds and methodology for assessing air emissions and/or health effects adopted by the Bay Area Air Quality Management District (BAAQMD) based upon the scientific and other factual data prepared by BAAQMD in developing those thresholds.

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 $PM_{2.5}$. The analysis in this Initial Study is based upon the general methodologies in the most recent BAAQMD *CEQA Air Quality Guidelines* (dated May 2017) and numeric thresholds identified for the San Francisco Bay Area Air Basin in the May 2011 *BAAQMD CEQA Air Quality Guidelines*, as shown in Table 2, below.

Table 2
BAAQMD Thresholds of Significance Used in Air Quality Analyses

Pollutant	Construction	Operation-Related	
	Average Daily Emissions (pounds/day)	Average Daily Emissions (pounds/day)	Maximum Annual Emissions (tons/year)
ROG, NO_x	54	54	10
PM_{10}	82 (exhaust)	82	15
$PM_{2.5}$	54 (exhaust)	54	10
Fugitive Dust (PM_{10}/$PM_{2.5}$)	Best Management Practices	None	None
Local CO	None	9.0 ppm (8-hour average), 20.0 ppm (1-hour average)	
Risk and Hazards for New Sources and Receptors (Project)	Same as Operational Threshold	• Increased cancer risk of > 10.0 in one million • Increase non-cancer risk of >10.0 Hazard Index (chronic or acute) • Ambient $PM_{2.5}$ increase: >0.3 μ/m^3	

		[Zone of influence: 1,000-foot radius from property line of source or receptor]
Risk and Hazards for New Sources and Receptors (Cumulative)	Same as Operational Threshold	• Increased cancer risk of > 100 in one million • Increase non-cancer risk of >10.0 Hazard Index (chronic or acute) • Ambient $PM_{2.5}$ increase: >0.8 μ/m^3 [Zone of influence: 1,000-foot radius from property line of source or receptor]
Sources: *Bay Area Air Quality Management District CEQA Guidelines (updated May 2011) and BAAQMD. Revised Draft Options and Justification Report California Environmental Quality Act Thresholds of Significance. October 2009.*		

The BAAQMD *CEQA Air Quality Guidelines* (Air Quality Guidelines) recommend that projects be evaluated for community risk when they are located within 1,000 feet of freeways, high traffic volume roadways (10,000 average annual daily trips or more), and/or stationary permitted sources of toxic air contaminants (TACs).

4.3.2 Air Quality Environmental Checklist

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
a. Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐	1,7,8
b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☒	☐	1,7,8
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?	☐	☐	☒	☐	1,7,8,9,10
d. Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☒	☐	1,7,8,9, 10
e. Create objectionable odors affecting a substantial number of people?	☐	☐	☒	☐	1,7,8,9, 10

4.3.3 Impacts Evaluation

a. Would the project conflict with or obstruct implementation of the applicable air quality plan? [Less Than Significant Impact]

The 2017 CAP is an update to the Air District's most recent state ozone plan, the 2010 Clean Air Plan. The 2010 Clean Air Plan laid out a comprehensive strategy to reduce emissions of ozone precursors, particulate matter (PM), greenhouse gases (GHGs) and toxic air contaminants (TACs). The plan included:

- 18 Stationary Source Measures (SSMs),
- 10 Mobile Source Measures (MSMs),
- 17 Transportation Control Measures (TCMs),
- 6 Land Use and Local Impact Measures (LUMs),
- 4 Energy and Climate Measures (ECMs).

Development in San Jose is consistent with the growth projections in the San Jose General Plan is considered to be consistent with the Clean Air Plan. While the project would update and expand the existing gas station and increase the intensity of building square footage, it would not represent a new type of land use or new air emissions generation source, as it is the modernization of an existing facility.

In addition, gasoline dispensing facilities would be required to obtain special permits from the BAAQMD and would be required to comply with BAAQMD emissions regulations and measures associated with the permits. As noted in this section, the project would result in air quality impacts that are less than significant with the incorporation of environmental conditions to reduce potential construction impacts and would not conflict with measures in the 2017 CAP to reduce air pollutant emissions. Overall, the proposed redevelopment the proposed project would not exceed the population or job growth projections used to inform the air quality forecasts of the Clean Air Plan. Therefore, the project would not conflict with implementation of the 2017 CAP.

b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation? [Less Than Significant Impact]

Table 3 summarizes the published data since 2013 from the San Jose-Jackson Street air quality monitoring station for each year hat monitoring data is available.

Table 3 Summary of Ambient Air Quality Data			
Pollutant Standards	**2013**	**2014**	**2015**
Ozone			
Max 1-hour concentration (ppm)	0.093	0.089	0.094
Max 8-hour concentration (ppm) (state/federal)	0.080/0.079	0.066/0.066	0.081/0.081
Number of days above state 1-hour standard	0	0	0
Number of days above state/federal 8-hour standard	1/1	0/0	2/2
Respirable Particulate Matter (PM10)			
Max 24-hour concentration (ug/m3) (state/federal)	58.1/55.8	54.7/56.4	58.0/58.8
Number of days above state/federal standard	15.2/0	3.1/0	3.0/0
Fine Particulate Matter (PM2.5)			
Max 24-hour concentration (ug/m3) (state/federal)	57.7/57.7	60.4/60.4	49.4/49.4
Number of days above state/federal standard	6	2	2.1
Source: CARB 2016; Appendix A for the Rotten Robbie #67 Project Initial Study, March 2017 amended August 2017.			

The City of San Jose uses the thresholds of significant established by BAAQMD to assess air quality impacts. The project include gasoline dispensing facilities that would have emissions associated with loading, storage, refueling vehicles and potential spillage from evaporation during refueling. The project would be regulated by BAAMD and require appropriate permit for operations.

The project would result in long-term operational emission of criteria air pollutants and ozone precursors. Project-generated emissions would be predominantly associated with motor vehicle uses. It is estimated that the proposed fuel dispensers at the existing gas station would not generate any substantial new net trips per day. Assumptions, modeling, and calculations are presented in details in Appendix A. Table 4 reports the predicted emission in terms of annual emissions in tons and average daily operational emissions, assuming 365 days of operation per year.

Table 4 Long-Term Operational Emission						
Source	ROG	NO_X	CO	SO_2	PM_{10}	$PM_{2.5}$
Summer Emissions (Maximum Pounds per Day)						
Proposed Project	14.5	35.19	86.76	0.18	12.73	3.55
BAAQMD Potential Significant Impact Threshold (Daily Emissions)	54	54	None	None	82	54
Exceed BAAQMND Daily Threshold?	No	No	No	No	No	No
Winter Emission (Maximum Pound per Day)						
Proposed Project	12.37	36.42	100.19	0.17	12.73	3.55

BAAQMD Potential Significant Impact Threshold (Daily Emissions)	54	54	None	None	82	54
Exceed BAAQMND Daily Threshold?	**No**	**No**	**No**	**No**	**No**	**No**
Annual Emission (Maximum Tons per Year)						
Proposed Project	2.11	6.13	15.59	0.03	2.08	0.58
BAAQMD Potential Significant Impact Threshold (Daily Emissions)	10	10	None	None	15	10
Exceed BAAQMND Daily Threshold?	**No**	**No**	**No**	**No**	**No**	**No**
Source: CalEEMod version 2016.3.1, Appendix A for the Rotten Robbie #67 Project Initial Study, March 2017 amended August 2017.						

Construction Emissions

Approximately 59,000 square feet of impervious surface is to be removed and replaced with new 56,000 square feet of impervious area and new 3,000 square feet of landscaping. Construction activities would temporarily generate fugitive dust such as PM_{10} or $PM_{2.5}$. These construction equipment emissions may affect localized air quality on a short term basis during the construction period. 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. However, because the construction period is temporary, construction emissions will not significantly contribute to violation of any air quality standard or significantly contribute to an existing or projected air quality violation.

Even so, construction-related emissions were estimated using CalEEMod and are summarized in Table 5.

Table 5
Construction-Related Criteria Pollutant and Precursor Emissions (Maximum Pounds Per Day)

Construction Activities	ROG	NOX	Exhaust PM10	Exhaust PM2.5	Fugitive Dust	Fugitive Dust PM 2.5
Proposed Project (2017)	5.10	34.18	2.15	2.05	2.68	1.35
Proposed Project (2018)	4.50	30.34	1.82	1.76	0.19	0.05
BAAQMD Potentially Significant Impact Threshold	54	54	82	54	Basic Construction Best Practices	Basic Construction Best Practices ruction
Exceed BAAQMD Daily Threshold?	No	No	No	No	No	No

Source: CalEEMod version 2016.3.1, Appendix A for the Rotten Robbie #67 Project Initial Study, March 2017 amended August 2017.

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. To further reduce pollutants from construction related activities, the following measures are incorporated into the project to ensure that construction-related air quality impacts are avoided or minimized to less-than-significant levels.

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

- All active construction areas shall be watered twice daily or more often if necessary. Increased watering frequency shall be required whenever wind speeds exceed 15 miles-per-hour.
- Pave, apply water three times daily, or apply non-toxic soil stabilizers on all unpaved access roads and parking and staging areas at construction sites.
- Cover stockpiles of debris, soil, sand, and any other materials that can be windblown. Trucks transporting these materials shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Subsequent to clearing, grading, or excavating, exposed portions of the site shall be watered, landscaped, treated with soil stabilizers, or covered as soon as possible. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas and previously graded areas inactive for 10 days or more.
- Installation of sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Replanting of vegetation in disturbed areas as soon as possible after completion of construction.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes. Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.

- Post a publicly visible sign with the telephone number and person to contact at the City of San José regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.

Construction and Operational TACs

Though the construction of the proposed project could create a hazard to the nearby sensitive receptors, these impacts are anticipated to be temporary and short term. Nonetheless, there are mobile residences adjacent to the project site to the north. The use of diesel-powered construction equipment would be temporary and episodic and would occur over several locations isolated from one another. Additionally, it is generally considered that construction projects contained on a site of this small size represent less than significant health risk impacts due to:

- limitations on the off-road diesel equipment able to operate and thus a reduced amount of generated diesel PM,
- the reduced amount of dust-generating ground disturbance possible compared to larger construction sites, and
- the reduced duration of construction activities compared to the development of larger sites.

Given the temporary nature of construction activities, the concentrations and durations of any TAC exposure would be very limited. Construction-related activities associated with the project would comply with all applicable BAAQMD regulations, including environmental conditions listed above to ensure reduction in TAC during construction activities. Considering the relatively low mass of DPM emissions that would be generated during even the most intense season of construction, the relatively short duration of construction activities, and overall and the highly dispersive properties of DPM, construction related TAC emissions would not expose sensitive receptors to an incremental increase in cancer risk that exceeds 10 in one million or a hazard index greater than 1.0. Therefore, only the risk associated with operations of the proposed Project was assessed as construction emissions would be negligible.

Out of the toxic compounds emitted from the gasoline stations, benzene, ethylbenzene, and naphthalene have cancer toxicity values. However, benzene is the toxic air contaminant (TAC) which drives the risk, accounting for 87 percent of cancer risk from gasoline vapors. Furthermore, benzene constitutes more than three to four times the weight of gasoline than ethylbenzene and naphthalene, respectively. Therefore, ethylbenzene and naphthalene have not been modeled and are instead considered significant in the case that benzene emissions are significant.

As mentioned above, the thresholds for air toxic emissions are as follows:

- Cancer Risk: Emit carcinogenic or toxic contaminants that exceed the maximum

individual cancer risk of 10 in one million.

- Non-Cancer Risk: Emit toxic contaminants that exceed the maximum hazard quotient of 1 in one million.

According to Appendix B, maximum operational health risk at the nearest residences are below the BAQQMD threshold and is shown in Table 7.

Table 6
Maximum Operational Health Risk at the Nearest Residences

	Maximum Cancer Risk (Risk Per Million)
70-Year Exposure	3.22
30-Year Exposure	2.47
9-Year Exposure	1.52
BAAQMD Potentially Significant Impact Threshold	10
Exceed BAAQMD Daily Threshold?	No
Source: Appendix A for the Rotten Robbie #67 Project Initial Study, September 2017.	

The cancer risk as a result of these TAC emissions for operation of this site was found to be less than 10 in one million, which is below the BAAQMD's significance threshold. The non-carcinogenic hazards risk due to the emissions from the gasoline dispensing facility was calculated to be almost zero. In addition, regarding the non-carcinogenic hazards risk calculation, the highest maximum chronic and acute hazard index associated with benzene emissions from the Project would be 0.02 and 0.526, respectively. Therefore, non-carcinogenic hazards are calculated to be within acceptable limits.

c. Would the project 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? [Less Than Significant Impact]

The SFBAAB is currently designated as nonattainment for the state and federal ambient air quality standards for ground-level O_3 and $PM_{2.5}$ as well as for the state standards for PM_{10}. Past, present, and future development projects contribute to the region's adverse air quality impacts on a cumulative basis. According to the BAAQMD, no single project is sufficient in size, by itself, to result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. In developing thresholds of significance for air pollutants, the BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. According to the air district, if a project exceeds its identified significance thresholds, the project would be cumulatively considerable.

The project's contribution to vehicle emissions is negligible when compared to the total number of vehicle trips and emissions occurring throughout the San Francisco Basin. In addition, as previously demonstrated in question B, the proposed project would not exceed BAAQMD thresholds for air pollutant emissions during construction or operations. Therefore, since the project does not exceed BAAQMD significance thresholds, it would result in less than significant cumulative impacts.

d. Would the project expose sensitive receptors to substantial pollutant concentrations? [Less Than Significant Impact]

Given the short duration of construction, the nature of the construction activities, and implementation of the measures listed above to control dust that are consistent with BAAQMD requirements, the project will not expose sensitive receptors to substantial pollutant concentrations. Pursuant to BAAQMD Regulation 2, Rule 5, stationary sources having the potential to emit TACs, including gas stations, are required to obtain permits from BAAQMD. Permits may be granted to these operations provided they are operated in accordance with applicable BAAQMD rules and regulations. The BAAQMD's permitting procedures require substantial control of emissions, and permits are not issued unless TAC risk screening or TAC risk assessment can show that risks are not significant. The BAAQMD may impose limits on annual throughput to ensure that risks are within acceptable limits.

In addition, as previously demonstrated, the proposed project would not exceed BAAQMD thresholds for air pollutant emissions during construction or operations (Table 4 and Table 5). Therefore, the impact is considered less than significant.

e. Create objectionable odors affecting a substantial number of people? [Less Than Significant Impact]

The project will be consistent with all State's and local regulations to control odor and vapors during operations of the gasoline station. In addition, environmental conditions that was identified in this section will lessen the potential impact during construction.

4.3.4 Conclusion

With implementation of the environmental conditions, the proposed project would not result in significant air quality impacts.

4.4 BIOLOGICAL RESOURCES

The discussion within this section is based, in part, on an arborist report by Timothy C. Ghirardelli Consulting Arborist Services on February 2017 completed for the proposed project, provided in Appendix C.

4.4.1 Existing Setting

4.4.1.1 *Regulatory Framework*

Federal

Federal Endangered Species Acts

Special-status species are those plants and animals listed under the federal and state Endangered Species Acts (including candidate species). The federal Endangered Species Act (FESA) prohibits the take of any fish or wildlife species that is federally listed as threatened or endangered without prior approval. "Take" is broadly defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt to engage in any such conduct. Take can also include habitat modification or degradation that directly results in death or injury of a listed wildlife species.

Migratory Bird Treaty and Nesting Bird Protections

The federal Migratory Bird Treaty Act (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 could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment, a violation of the MBTA[2].

Additionally, nesting birds are considered special-status species and are protected by the U.S. Fish and Wildlife Service (USFWS) and CDFW under the MBTA. Most special status animal species occurring in the Bay Area use habitats that are not present on the project site, such as salt marsh, freshwater marsh, and serpentine grassland habitats. Since the native vegetation of the area is no longer present, native wildlife species have been supplanted by species that are more compatible with an urbanized area; however, there is still the potential for nesting birds to be located in trees located on or in the area surrounding the project site.

[2] United States Fish & Wildlife Service, Migratory Bird Treaty Act Protect Species, Accessed August 2017, https://www.fws.gov/birds/management/managed-species/migratory-bird-treaty-act-protected-species.php.

State

California Endangered Species Acts

Special status species in California include plants or animals that are listed as threatened or endangered under the California Endangered Species Act (CESA), species identified by the California Department of Fish and Wildlife (CDFW) as California Species of Special Concern, as well as plants identified by the California Native Plant Society (CNPS) as rare, threatened, or endangered. The CDFW has jurisdiction over state-listed species and regulate activities that may result in take of individuals[3].

Regional

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan (Habitat Plan) is a conservation program intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of central and southern Santa Clara County. The Habitat Plan is a regional partnership between six Local Partners (the County of Santa Clara, Santa Clara Valley Transportation Authority, Santa Clara Valley Water District, and the cities of San José, Gilroy, and Morgan Hill) and two Wildlife Agencies (the CDFW and USFWS). The Habitat Plan identifies and preserves land that provides important habitat for endangered and threatened species. The land preservation is intended to mitigate for the environmental impacts of planned development, public infrastructure operations, and maintenance activities, as well as to enhance the long term viability of endangered species.

The project is located in Urban-Suburban Land Cover Designation, Area 4: Urban Development Equal to or Greater Than 2 Acres Covered Development Zone, and Urban Areas (Land Cover Fee) zone.

Local

Riparian Corridor and Bird-Safe Building Policy (City Council Policy 6-34)

The City of San José's Riparian Corridor and Bird Safe Building Policy, adopted in September 2016, provides guidance consistent with the goals, policies, and actions of the General Plan for: 1) protecting, preserving, or restoring riparian habitat; 2) limiting the creation of new impervious surface within Riparian Corridor setbacks to minimize flooding from urban runoff, and control erosion; and 3) encouraging bird-safe design in baylands and riparian habitats of lower Coyote Creek, north of State Route 237. It supplements the regulations for riparian corridor protection in the Council-adopted Santa Clara Valley Habitat Plan, the Zoning Code (Title 20 of the San José Municipal Code), and other existing City policies that may provide for riparian protection and bird safe design. The general guidelines for setbacks and lighting apply to development projects within 300 feet of riparian corridors.

[3] California Fish & Wildlife, Threatened and Endangered Species, Accessed August 2017, http://www.dfg.ca.gov/wildlife/nongame/t_e_spp/

A Riparian Project is defined as "any development or activity that is located within 300 feet of a Riparian Corridor's top of bank or vegetative edge, whichever is greater, and that requires approval of a Development Permit as defined in Chapter 20.200 of Title 20 of the San José Municipal Code (the Zoning Code), except that projects that only require approval of a Single-Family House Permit under the provisions of the Zoning Code are not subject to this Policy"[4].

Tree Removal and Replacement

The City of San José maintains the urban landscape partly by promoting the health, safety, and welfare of the City by controlling the removal of ordinance trees on private property (San José Municipal Code Section 13.32). Ordinance trees are defined as trees over 56 inches in circumference, or approximately 18 inches in diameter, at a height of 24 inches above natural grade. Ordinance trees are generally mature trees that help beautify the City, slow erosion of topsoil, minimize flood hazards, minimize the risk of landslides, increase property values, and improve local air quality. A tree removal permit is required from the City of San José for the removal of ordinance trees.

In addition, any tree found by the City Council to have special significance based on factors including, but not limited to, its history, girth, height, species, or unique quality, can be designated as a heritage tree (San José Municipal Code Section 13.28.330 and 13.32.090). It is unlawful to vandalize, mutilate, remove, or destroy such heritage trees. There are no heritage trees on the project site.[5]

Envision San José 2040 General Plan

The following policies are specific to biological resources and are applicable to the proposed project.

Policies	Description
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.

[4] City of San Jose Council Policy, Riparian Corridor Protection and Bird-Safe Design, Accessed August 2017, http://www.sanjoseca.gov/DocumentCenter/View/60393

[5] City of San Jose, Heritage Tree Map, Accessed August 2017, http://www.sanjoseca.gov/index.aspx?NID=1913

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

Policy MS-21 As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.

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

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

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

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

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

4.4.1.2 *Existing Conditions*

The vicinity surrounding the project is characterized by urban development. Residential development is located North and West (RV park and motel), commercial to the East and South (Direct TV and A-1 Lumber). The project site is currently developed as a Flyers fuel station, with a Utility Kiosk, upholstery shop, and truck service. The perimeter of the site is sparsely landscape. There are approximately 10 trees on site, two of which are of ordinance sized. The remainder of the site is entirely paved.

4.4.2 Biological Resources Environmental Checklist

	Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
a	Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	☐	☐	☐	☒	1,2,3
b	Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	☐	☐	☐	☒	1,3,12,13
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?	☐	☐	☐	☒	1, 2,3
d	Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	☐	☐	☐	☒	1,2,3

Would the project:		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
e	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒	1,2, 11,14
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?	☐	☐	☐	☒	1, 2, 3, 13

4.4.3 Impacts Evaluation

a. Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish (CDFW) and Wildlife or US Fish and Wildlife Service? [Less Than Significant Impact]

The project site is an urban industrial/commercial area that is completely developed with existing buildings, paved surface parking, and sparse landscaping. The project site contains no undisturbed areas or sensitive habitats on the site, and the site does not contain any streams, waterways, or wetlands. No sensitive habitats or habitats suitable for special-status plants or wildlife species occur within or adjacent to the project site. Therefore, the temporary effect of constructions and operations of the site would not result in substantial adverse effect to any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations.

b. Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service? [Less Than Significant Impact]

The property and its immediate vicinity do not support any riparian or other sensitive natural communities. The site is a completely developed urban industrial/commercial area.

c. Would the project 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? [Less Than Significant Impact]

The project site is completely developed and devoid of wetlands, marshes or vernal pools. The project would have no impact any federally protected wetlands under the Clean Water Act.

d. Would the project 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? [Less Than Significant with Mitigation Measures]

The project is located in an urban environment and is not near existing wildlife corridors. There are no proposed project features that will block the movement of native resident or migratory fish or wildlife species or will be located in established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites.

However, there are approximately 10 existing trees on site that are part of the urban forest of the city. Of the 10 trees, two are ordinance sized trees. The urban forest as a whole is considered an important biological resource, because trees could 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. The project would remove all trees and vegetation on site. While use of the trees for raptor nesting is unlikely due to the physical environment of the site, other migratory birds could use the trees for nesting. Therefore, these nesting migratory birds could be impacts as a result of tree removal or indirectly due to demolition and constructions activities and the following mitigation measure shall apply as part of the project to reduce potential impact to less than significant.

Impact BIO-1: Construction of the project could result in impacts to nesting migratory birds.

Mitigation Measures: Consistent with the General Plan FEIR and in conformance with the California State Fish and Wildlife Code and provisions of the Migratory Bird Treaty Act, the project proposes to implement the following mitigation measures to avoid and/or reduce impacts to nesting birds (if present on or adjacent to the site) to a less than significant level:

MM BIO-1: The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in

the San Francisco Bay area, extends from February 1st through August 31st (inclusive).

If it is not possible to schedule demolition and construction between September 1st and January 31st (inclusive) 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 (CDFW), 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 demolition, grading and/or building permit.

e. Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? (Less Than Significant)

Development of the proposed project would result in the loss of approximately 10 trees on the site, two of which are considered protected under the City's Tree Ordinance.

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

- City of San José Tree Protection Ordinance
- San José Municipal Code Section 13.28
- General Plan Policies MS-21.4, MS-21.5, and MS-21.6

Table 7 below shows tree replacement ratios required by the City. Trees on-site will be

replaced at these ratios or the applicant will pay an in-lieu fee to Our City Forest to compensate for the loss of trees on-site.

Table 7
Tree Replacement Ratios

Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
56 inches or more	5:2	4:1	3:1	24-inch box
38-56 inches	3:1	2:1	None	24-inch box
Less than 38 inches	1:1	1:1	None	15-gal container

x:x= tree replacement to tree loss ratio
Note: Trees greater than or equal to 56-inch circumference 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.

With the implementation of the conditions and mitigation measures, the project would be in compliance with City's tree replacement standards and impacts to trees would be less than significant.

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? [Less Than Significant Impact]

The project site is designated as Urban-Suburban land cover under the Santa Clara Valley Habitat Conservation Plan (HCP). It is not located in any plant or animal survey

areas and is not in an area identified for sensitive habitat. However, the Habitat Plan requires payment for nitrogen deposition fees for all covered projects that generate new net vehicle trips. With the implementation of the following environmental condition, the project would be consistent with the adopted HCP and would be less than significant.

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

4.4.4 Conclusion

Redevelopment of the project site would have no impact on biological resources with the implementation of the mitigation measure and conditions mentioned above.

4.5 CULTURAL RESOURCES

Portions of the discussion within this section are based on a Cultural Resource Evaluation prepared by Archaeological Resource Management in March 2017 and Appendix D Phase I prepared by Environmental Investigation Services, Inc. in February 2017. The Cultural Resource Evaluation report is filed with the City of San Jose Department of Planning, Building and Code Enforcement.

4.5.1 Environmental Setting

4.5.1.1 *Regulatory Framework*

Federal

The national Register of Historic Places (NRHP) is the nation's most comprehensive list of historic resources and includes historic resources significant in American history, architecture, archeology, engineering and culture, at the local, state, and national level. National Register Bulletin Number 15, *How to Apply the National Register Criteria for Evaluation*, describes the Criteria for Evaluation as being composed of two factors. First, the property must be associated with an important historic context, and second, the property must retain integrity of those features necessary to convey its significance.

State

California Register of Historic Places

The California Register of Historic Places (California Register) is a guide to cultural resources that must be considered when a government agency undertakes a discretionary action subject to CEQA. The California Register helps government agencies identify, evaluate, and protect California's historical resources, and indicates which properties are to be protected from substantial adverse change (Public Resources Code, Section 5024.1(a)). The California Register is administered through the State Office of Historic Preservation, which is part of the California State Parks system.

CEQA Regulations Regarding Human Remains

Section 15064.5 of the state CEQA Guidelines specifies procedures to be used in the event of an unexpected discovery of Native American human remains on nonfederal land. These procedures are outlined in Public Resources Code, Sections 5097 and 5097.98. These codes protect such remains from disturbance, vandalism, and inadvertent destruction, establish procedures to be implemented if Native American skeletal remains are discovered during construction of a project, and establish the Native American Heritage Commission (NAHC) as the authority to resolve disputes regarding disposition of such remains.

California Native American Historical, Cultural, and Sacred Sites Act

The California Native American Historical, Cultural, and Sacred Sites Act applies to both state and private lands. The Act requires that upon discovery of human remains, construction, or excavation activity must cease and the County Coroner be notified. If the remains are of a Native American, the coroner must notify the NAHC. The NAHC then notifies those persons most likely to be related to the Native American remains. The Act stipulates the procedures that the descendants may follow for treating or disposing of the remains and associated grave goods.

California Health and Safety Code

California Health and Safety Code Section 7050.5 regulates the procedure to be followed in the event of human remains discovery. Pursuant to Public Resources Code Section 5097.98, in the event of human remains discovery, no further disturbance is allowed until the County Coroner has made the necessary findings regarding the origin and disposition of the remains. If the remains are determined to be Native American, the Coroner is required to contact the NAHC. The NAHC is responsible for contacting the most likely Native American descendent, who would consult with the local agency regarding how to proceed with the remains. According to Section 15064.5 of the CEQA Guidelines, all human remains are considered a significant resource.

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.

Local

City of San José's Historic Resources Inventory

The City of San José's Historic Resources Inventory is a list of the City's historically and/or architecturally significant buildings. 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 polices 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.

Paleontological resources are fossils, the remains or traces of prehistoric life preserved in the geologic record. They range from the well-known and well-publicized (such as mammoth and dinosaur bones) to scientifically important fossils. Based on a Paleontological Evaluation Report completed for the City's General Plan, the project site is located in an area of Bay Mud that has a high sensitivity to paleontological resources at depth.

Envision San José General Plan

The General Plan includes the following policies, which are specific to cultural resources and are applicable to the project.

Policies	Description

Policy ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
Policy ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
Policy ER-10.3	Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

4.5.1.2 *Existing Conditions*

Prehistoric and Archaeological Resources

The site is located approximately 0.5 mile from Coyote Creek. The project site is considered to be within an archaeological sensitive area.6 However, an updated Cultural Resource Evaluation concluded that there are no recorded archaeological sites within the proposed project site.

Currently, the project site is occupied by a variety of industrial tenants including an existing fuel station building of approximately 1,300 square feet with 4 fuel dispensers (Flyer), 9,700 square feet truck service building (Bay Area Truck Services), and 1,800 square feet glass and upholstery building (Blair Auto Glass and Upholstery).

Historic Resources

This project site has historically been utilized for gasoline stations, auto repair shops, storages, or other low intensity industrial uses. The summary list of uses are seen in Table 8.

[6] City of San Jose, *Envision San José 2040 General Plan Environmental Impact Report*, June 2011.

Table 8 Historic Uses Information on the Property		
Property	**Date**	**Uses**
1200 Oakland Road (formerly known as 751 Commercial Street) 241-11-022	2011-Present	Flyers Gas Station
	2009	Olympian Service Station
	1995-2007	Nella Oil Cardlock
	1985-1991	Beacon Cardlock Fuels
	1966-1980	Dan's Shell Service
	1949-1961	Address not listed
1202 Oakland Road 241-11-014	1970-present	Blair Auto Glass & Upholstery
	1966	Produce Palace
	1979-1961	Address not listed
757 Commercial Street 214-011-020	Present	Bay Area Truck Services
	2005-2007	Bay Area Truck Services, Tesi Leasing Inc.
	1995-2001	Bay Area Truck Services, Mack Truck Bay Area
	1985	Danco Graphics, Leonard & Company Inc., Rozanne Designs, South Bay Concept
	1980	Diamond Signs, Inc.
	1975	Accu Graphics, Diamond & Signs Inc., Leonard & Company Inc.
	1970	Kitz Rental System
	1679-1966	Address not Listed
Source: Appendix D, Phase I Environmental Site Assessment for Rotten Robbie # 67 Project Initial Study, February 2017.		

The structure located at 1202 Oakland Road was built in 1966 as a Produce Palace. Since 1970, it has been operating as the Blair Auto Glass & Upholstery. The uses has not substantially changed. While some of the structures have dated back to the early 1960s, based on the review of the buildings, the buildings does not appear to have exemplary characteristics in design. In addition, based on the history of uses listed above, the buildings and structures does not appear to be associated with any patterns of development or significant events in the history of the City. The structures and buildings are also not listed on the NRHP, CRHR, City of San José Historic Resources Inventory.

4.5.2 Cultural Resources Environmental Checklist

	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?	☐	☐	☒	☐	1,2
b) Cause a substantial adverse change in the significance of an archaeological resource as defined in CEQA Guidelines Section 15064.5?	☐	☐	☒	☐	1,2,3,15
c) Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	☐	☐	☒	☐	1,2,3,15
d) Disturb any human remains, including those interred outside of dedicated cemeteries?	☐	☐	☒	☐	1,2,3,15
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:					1,2,3
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	☐	☐	☒	☐	1,2,3
2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying this criteria, the significance of the resource to a California Native American tribe shall be considered.	☐	☐	☒	☐	1,2,3

4.5.3 Impacts Evaluation

a. **Would the project cause a substantial adverse change in the significance of a historical resource as defined in §15064.5? [Less Than Significant Impact]**

The project would include demolition of all structures and buildings on site for redevelopment of the site. However, 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. Although greater than 50 years in age, based on the review of the site and the buildings on site, it was determined that the buildings on site would not have any significant the properties and are not historic resources under CEQA. Based on the review of the historic of uses on the property and the physical features associated with the buildings, the structures and buildings on the project site do not appear to be eligible for the HRHR or CRHP.7 Therefore, the demolition of the structures and site would not adversely change the significance of a historic resource.

b. Would the project cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5? [Less Than Significant Impact]

The project site is within a fully developed urban area and is not located within an l historic conservation area. Based on the recent Cultural Resource Evaluation of the site and the surrounding area, no significant cultural materials, prehistoric or historic, were noted during the surface reconnaissance. However, the project is approximately 0.5 miles from Coyote Creek and is located within an archaeologically sensitive area. While it is not anticipated to encounter archaeological resources during ground disturbance activities, the project would continue to implement the following conditions to avoid potential impact and the project would be less than significant, consistent with the General Plan.

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

- 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

[7] Coordination via email with Susan Walsh, Historic Preservation Officer, July 2017.

and make appropriate recommendations prior to the issuance of a building. 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.

c. Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature? [Less Than Significant Impact]

While it is not expected to encounter undiscovered paleontological resources, based on the age and type of surface soils. It is possible, however, that deeper soils may contain older Pleistocene sediments, which have a higher sensitivity for paleontological materials. Activities that involve substantial excavation (construction of below-ground parking garage) would have a higher potential for encountering paleontological deposits. Construction activities may, therefore, result in the accidental destruction or disturbance of paleontological sites, which could convey important information. Although not anticipated, and consistent with the General Plan, construction activities associated with implementation of the project could result in a significant impact to paleontological resources, if encountered.

Environmental 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.

d. Disturb any human remains, including those interred outside of formal cemeteries? [Less Than Significant Impact]

As discussed in Section 4.5.3 b) above, the site is 0.5 mile from Coyote Creek and is within an archaeological sensitive area. While it is not anticipated that human remains would be found during excavation, demolition, or other construction activities associated with this project on the project site, the project the project would continue to implement the following conditions to avoid potential impact and the project would be less than significant.

Environmental Conditions: 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.

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) 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 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. [Less Than Significant Impact]

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.

4.5.4 Conclusion

Development of the project site, with the implementation of conditions above, would result in a less than significant impact to cultural resources.

4.6 GEOLOGY

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 2013 Building Standards Code.

Local

City of San José Municipal Code

Title 24 of the San José Municipal Code includes the 2013 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 General Plan

The General Plan includes the following policies, which are specific to cultural resources and are applicable to the project.

Policy	Description
Policy EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San Jose, including provisions regarding lateral forces.
Policy EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls.
Policy EC-4.2	Approve development in areas subject to soils and geologic hazards,

	including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
Policy EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
Policy EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 30.
Action EC-4.11:	Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.
Policy ES-4.9	Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

4.6.1.2 *Existing Conditions*

The City of San José is located within the Santa Clara Valley, which is a broad alluvial plain that lies between the Santa Cruz Mountains to the southwest and west, and the Diablo Range to the northeast. The San Andreas Fault system exists within the Santa Cruz Mountains and the Hayward and Calaveras Fault systems exist within the Diablo Range.

Soil, Seismicity, and Seismic-Related Hazards

The site is within Soil Type D zone and is considered to include some Quaternary muds, sands, gravels, silts, and mud. According to previous soil investigation reports, the soils underlying the property are clayer sand and sandy clay.[8] Significant amplification of shaking by these soils is generally expected.[9]

[8] Environmental Investigation Services, Inc., February 27, 2017, Phase I Environmental Site Assessment.
[9] United States Geological Survey, Soil Type and Shaking Hazards in the San Francisco Bay Area, Accessed

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.[10]

Significant active faults (which have a capability generating an earthquake with a magnitude of 6.7 or greater) within the region include the Hayward Fault, Calaveras Fault, and San Andreas Fault. 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. Although the site is within a seismically active region, it is not located within a designated Alquist-Priolo Earthquake Fault Zone and no known active or potentially active faults exist on the site.[11] Since no known surface active faults cross the site, fault rupture is not a significant geologic hazard.

Liquefaction

Liquefaction may occur in water-saturated sediment during moderate to great earthquakes. Liquefied sediment loses strength and may fail, causing damage to buildings, bridges, and other structures.[12] The project site is within the liquefaction zone.

4.6.1 Geology and Soils Environmental Checklist

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:					1,16,17,18,19, 20

October 2017https://earthquake.usgs.gov/hazards/urban/sfbay/soiltype/.

[10] US Geological Survey, "UCERF3: A New Earthquake Forecast for California's Complex Fault System," Fact Sheet 2015–3009, March 2015, Accessed August 2017, http://pubs.usgs.gov/fs/2015/3009/pdf/fs2015-3009.pdf.

[11] Department of Conversation, 2015 CGS Information Warehouse, Accessed October 2017, http://maps.conservation.ca.gov/cgs/informationwarehouse/.

[12] Department of Conservation, 2002, Seismic Hazard Zone Report for San Jose West, Accessed October 2017,http://gmw.conservation.ca.gov/SHP/EZRIM/Reports/SHZR/SHZR_058_San_Jose_West.pdf

Would the project:		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
i.	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.)	☐	☐	☒	☐	
ii.	Strong seismic ground shaking?	☐	☐	☒	☐	
iii.	Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐	
iv.	Landslides?	☐	☐	☒	☐	
b)	Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐	1,16,17,18,19, 20
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?	☐	☐	☒	☐	1,16,17,18,19, 20
d)	Be located on expansive soil, as defined in Table 18-1-B Uniform Building code (1994), creating substantial risks to life or property?	☐	☐	☒	☐	1,16,17,18,19, 20
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?	☐	☐	☒	☐	1,16,17,18,19, 20

4.6.3 Impacts Evaluation

a. Would the project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: i) rupture of a known earthquake fault, ii) strong seismic ground shaking, iii) seismic-related ground failure, or iv) landslides? [Less than Significant Impact]

The project is located in a seismically active region of California and strong ground shaking would be expected during the lifetime of the proposed project. The project will comply with standard construction practices, such as compliance with the California

Building Codes, which minimize seismic safety risks associated with commercial construction in a seismically active area. All building and utility improvements shall be designed and constructed in compliance with the California Building Code, which was enacted in order to minimize any seismic impacts. Prior to issuance of building permits, building and utility design drawings shall be prepared and submitted to the City for review and confirmation that the proposed project fully complies with the building code.

Surface Fault Rupture and Seismic Shaking

There are no known active faults traversing the project site and the site is not located in the Alquist-Priolo Earthquake Fault Zone. Geologic references indicate that no fault trace designated active or potentially active passes through the subject property. Table 9, lists the distance from the fault, the maximum moment magnitude, the slip rate, and fault type for local faults. The *Maps of Known Active Fault Near-Source Zones in California and Adjacent Portions of Nevada,* Uniform Building Code (1997 edition), Figure 16-2, Seismic Zone Map of the United States, was used solely to illustrate the distance between the subject fault zones and the subject site.

Table 9
Active Faults and Characteristics

Fault	Distance[13] (km)	ME[14]	Slip Rate	Fault Type
Monte Vista-Shannon	11.9	6.8	0.40	B
San Andreas (Peninsula)	21.3	7.1	17.00	A

Potential for surface rupture from displacement or fault movement directly beneath the proposed project is considered low. Depending on the magnitude of a seismic event, new buildings may experience shaking due to the site's proximity to the active Hayward and Calaveras Faults.

Liquefaction and Lateral Spreading

Liquefaction is a phenomenon in which granular material is transformed from a solid state to a liquefied state as a consequence of increased pore-water pressure and reduced effective stress. Increased pore-water pressure is induced by the tendency of granular materials to densify when subjected to cyclic shear stresses associated with earthquakes. This change of state occurs most readily in loose, saturated, cohesionless materials. A review of liquefaction maps from the Department of Conservation, California Geologic Survey the *State of the California, Seismic Hazard Zones, San Jose West Quadrangle*[11]*,* indicated that the subject site is within an area requiring a liquefaction investigation according to Special Publication 117, Guidelines for Evaluating

[13] CDMG, Maps of Known Active Fault, Near-Source Zones in California and Adjacent Portions of Nevada, 1997.
[14] CDMG, Probabilistic Seismic Hazard Assessment for the State of California, 1996.

and Mitigating Seismic Hazards in California of the California Division of Mines and Geology (CDMG). Based on review of hazard maps, the soil conditions encountered, and laboratory testing, that the site soils encountered have a potential of soil liquefaction and lateral spreading. A soils report must be submitted to and approved by the City prior to issuance of a grading permit.

Landslides (Seismic and Static)

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 project site is not located within an area susceptible to earthquake-induced landslides or Landslide Hazard Zone according to the Santa Clara County Geologic Hazard Zone Map. To avoid or minimize potential damage from seismic shaking, the project would be built using standard engineering and seismic safety design techniques.

Implementation of the following condition would reduce seismic hazards and impacts to a less than significant level.

Environmental 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

b. Would the project result in substantial soil erosion or the loss of topsoil? [Less than Significant Impact]

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. In addition, the existing gas station use and long history of development on the site without incidence of subsidence or other instability. The likelihood of soil expansion potential is low. 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. The City of San José Department of Public Works will also issue a Public Works Clearance prior to ground disturbance activities.

These standard practices, including the measures outlined below, would ensure that future development on the site would be designed properly to account for the presence of locally compressible and potentially expansive soils on the site.

Environmental 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.

c. Would the project 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? [Less than Significant Impact]

The site is completely covered with impervious surfaces except for the planting strips around the building and edges of the property. After construction, the amount of impervious surfaces will remain the approximately same and soil erosion will remain negligible. Erosion during construction will be controlled through the implementation of erosion control BMPs. Wind erosion will be controlled through the implementation of Air Quality BMPs, in the Air Quality section of the document. The project site is located on relatively flat topography and the possibility for landslides to occur at the site is negligible because there are no steep slopes in the area.

The project will conform to the current California Building Codes and the conditions as stated above. The preparation of a geotechnical investigation report will be prepared prior to building permit issuance that will discuss proposed measures, design criteria, and specifications to be incorporated into the project design. Further, the project will be subject to City structural review by the Building and Planning Department to ensure that construction of the Rotten Robbie will not cause instability of the project site or result in on or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse. Therefore, the impact is considered less than significant.

d. Would the project be located on expansive soil, as defined in Section 1802.3.2 of the California Building Code (2007), creating substantial risks to life or property? [Less than Significant Impact]

Refer to discussion in Section b above.

e. Would the project 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? [No Impact]

The project does not propose the use or construction of septic tanks or alternative wastewater disposal systems. The project will connect to the local sewer line. Therefore, no impacts related to installation of septic systems would result from the project.

4.6.4 Conclusion

The project, with the implementation of standard engineering practices and conditions, would result in a less than significant geology and soil impacts.

4.7 GREENHOUSE GAS EMISSIONS

Portions of the discussion within this section are based on a Rotten Robbie #67 Greenhouse Gas Technical Analysis in September 2014 and Appendix H.

4.7.1 Environmental Setting

4.7.1.1 *Regulatory Setting*

Federal and State

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_2) 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).

Assembly Bill 32 and Executive Order S-3-05

Assembly Bill 32 (AB 32), also known as the Global Warming Solutions Act, was passed in 2006 and established a goal to reduce GHG emissions to 1990 levels by 2020. Prior to the adoption of AB 32, the Governor of California also signed Executive Order S-3-05 into law, which set a long term objective to reduce GHG emissions to 90 percent below 1990 levels by 2050. The California Environmental Protection Agency (CalEPA) is the state agency in charge of coordinating the GHG emissions reduction effort and establishing targets along the way.

In December 2008, the California Air Resources Control Board (CARB) approved the *Climate Change Scoping Plan*, which proposes a comprehensive set of actions designed to reduce California's dependence on oil, diversify energy sources, save energy, and enhance public health, among other goals. Per AB 32, the *Climate Change Scoping Plan*, must be updated every five years to evaluate the mix of AB 32 policies to ensure that California is on track to achieve the 2020 GHG reduction goal. The First Update to the *Climate Change Scoping Plan*, was approved on May 22, 2014 and builds upon the previous plan with new strategies and recommendations. The First Update defines CARB's priorities over the next five years and lays the groundwork to reach long-term goals set forth in Executive Order S-3-05.12F.

Senate Bill 375

Senate Bill 375 (SB 375), known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. It builds on AB 32 by requiring CARB to develop regional GHG reduction targets to be achieved from the automobile and light truck sectors for 2020 and 2035 in comparison to 2005 emissions. The per capita reduction targets for passenger vehicles in the San Francisco Bay Area include a seven percent reduction by 2020

and a 15 percent reduction by 2035.13F. The four major requirements of SB 375 are:

- Metropolitan Planning Organizations (MPOs) must meet GHG emission reduction targets for automobiles and light trucks through land use and transportation strategies.
- MPOs must create a Sustainable Communities Strategy (SCS), to provide an integrated land use/transportation plan for meeting regional targets, consistent with the Regional Transportation Plan.
- Regional housing elements and transportation plans must be synchronized on eight-year schedules, with Regional Housing Needs Assessment allocation numbers conforming to the SCS.
- MPOs must use transportation and air emissions modeling techniques consistent with guidelines prepared by the California Transportation Commission.

The Metropolitan Transportation Commission (MTC) and Association of Bay Area Governments (ABAG) adopted *Plan Bay Area* in July 2013, which is currently being updated. The strategies in the plan are intended to promote compact, mixed-use development close to public transit, jobs, schools, shopping, parks, recreation, and other amenities, particularly within Priority Development Areas (PDAs) identified by local jurisdictions. The project site is not located within a PDA.

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.

Local

City of San José Municipal Code

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

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

Private Sector Green Building Policy

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. Future development under the proposed land use designation would be subject to this policy and would be required to achieve a GreenPoint Rated 50 Points or LEED Certification, at minimum.

Envisions San José General Plan and Greenhouse Gas Reduction Strategy

The City of San José has also adopted localized policies to regulate GHG emissions. The General Plan includes strategies, policies, and action items that are incorporated in the City's GHG Reduction Strategy to help reduce GHG emissions. The GHG Reduction Strategy identifies GHG reduction measures to be implemented by development projects in three categories: built environment and energy, land use and transportation, and recycling and waste reduction. Some measures are mandatory for all proposed development projects and others are voluntary. Compliance with the mandatory measures and voluntary measures required by the City would ensure an individual project's consistency with the GHG Reduction Strategy. Projects that are consistent with the General Plan land use assumptions and GHG Reduction Strategy would have a less than significant impact related to GHG emissions.

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

proposed project.

Policy	Description
Policy MS-2.3	Encourage consideration of solar orientation, including building placement, landscaping, design, and construction techniques for new construction to minimize energy consumption.
Policy MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g. design to maximize cross ventilation and interior daylight) and through site design techniques (e.g. orienting buildings on sites to maximize the effectiveness of passive solar design).
Policy MS-14.4	Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
Policy CD-2.10	Recognize that finite land area exists for development and that density supports retail vitality and transit ridership. Use land regulations to require compact, low-impact development that efficiently uses land planned for growth, particularly for residential development which tends to have a long life-span. Strongly discourage small-lot and single-family detached residential product types in growth areas.
Policy CD-3.2:	Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure that the design of new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity.
Policy CD-5.1	Design areas to promote pedestrian and bicycle movements and to facilitate interaction between community members and to strengthen the sense of community.
Policy LU-5.4	Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections; and including secure and convenient bike storage.
Policy TR-2.18	Provide bicycle storage facilities as identified in the Bicycle Master Plan.
Policy TR-7.1	Require large employers to develop and maintain Transportation Demand

	Management (TDM) programs to reduce the vehicle trips generated by their employees.
Policy TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

4.7.1.2 *Existing Conditions*

Currently, the project site is occupied by a variety of industrial tenants including an existing fuel station building of approximately 1,300 square feet with 4 fuel dispensers (Flyer), 9,700 square feet truck service building (Bay Area Truck Services), and 1,800 square feet glass and upholstery building (Blair Auto Glass and Upholstery). 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.

Unlike criteria air pollutant and TAC emissions, which are discussed in Air Quality section above, and have local or regional impacts, emissions of Greenhouse Gases (GHGs) have a broader, global impact. Global warming associated with the "greenhouse effect" is a process whereby GHGs accumulating in the atmosphere contribute to an increase in the temperate of the earth's atmosphere over time. The principal GHGs contributing to global warming and associated climate change are carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), and fluorinated compounds. Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the transportation, industrial/manufacturing, utility, residential, commercial, and agricultural sectors.

4.7.2 Greenhouse Gas Emissions Environmental Checklist

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐	1,2,3, 26

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☒	☐	1,2,3,26

4.7.3 Impacts Evaluation

a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? AND

b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases? [All Less Than Significant Impact]

The City of San José has an adopted GHG Reduction Strategy, which was reanalyzed in the Envision San José 2040 General Plan Supplemental Final Program Environmental Impact Report approved by the City Council in December 2015. 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.

The GHG Reduction Strategy identifies a series of GHG emissions reduction measures to be implemented by development projects that would allow the City to achieve its GHG reduction goals. The measures center around five strategies: energy, waste, water, transportation, and carbon sequestration. When the GHG Reduction Strategy was in effect, some measures were considered mandatory for all proposed development projects, while others were considered voluntary. Voluntary measures were incorporated as mitigation measures for proposed projects at the discretion of the City.

For the purposes of tracking the proposed project's consistency with the City's Strategy, the measures below are identified as mandatory or voluntary.

Mandatory Criteria

1. Consistency with the Land Use/Transportation Diagram (General Plan goals/Policies IP-1, LU-10)
2. Implementation of Green Building Measures (GP Goals: MS-1, MS-2, MS-14)
    - Solar Site Orientation
    - Site Design

- Architectural Design
- Construction Techniques
- Consistency with City Green Building Ordinance and Policies
- Consistency with GHGRS Policies: MS-1.1, MS-1.2, MS-2.3, MS-2.11, and MS-14.4

3. Pedestrian/Bicycle Site Design Measures
    - Consistency with the Zoning Ordinance
    - Consistency with GHGRS Policies: CD-2.1, CD-3.2, CD-3.3, CD-3.4, CD-3.6, CD-3.8, CD-3.10, CD-5.1, LU-5.4, LU-5.5, LU-9.1, TR-2.8, TR-2.11, TR-2.18, TR-3.3, TR-6.7
4. Salvage building materials and architectural elements from historic structures to be demolished to allow re-use (General Plan Policy LU-16.4), if applicable;
5. Complete an evaluation of operation energy efficiency and design measures for energy-intensive industries (e.g. data centers) (General Plan Policy MS-2.8), if applicable'
6. Preparation and implementation of the Transportation Demand Management (TDM) Program at large employers (General Plan Policy TR-7.1), if applicable; and
7. Limits on drive-through and vehicle serving uses; all new uses that serve the occupants of vehicles (e.g. drive-through windows, car washes, service stations) must not disrupt pedestrian flow. (General Plan Policy LU-3.6), if applicable.

The proposed project is proposing a General Plan Land Use Designation change from Heavy Industrial to Combined Industrial Commercial to allow for the construction of a new gas station and convenience store. As a fuel dispensing facility, generating greenhouse gases from customer vehicles is inevitable. However, preventative measures are taken to minimize gasoline vapor releasing into the atmosphere from fuel dispensing operations. As required by the Air Quality District, enhanced vapor recovery systems are put into place for the gasoline dispensing to capture the majority of gasoline vapor and return it back to the underground storage tanks. The gasoline vapor condenses back into gasoline or is removed from the site during underground storage tank filling operations. The vapor is then transported to an off-site facility to be processed.

While the proposed project would change the current General Plan Land Use/Transportation Diagram designation of the site to Combined Industrial Commercial, the proposed uses are substantially similar to the existing uses and are not anticipated to produce substantially more greenhouse gas emissions than uses allowed under the Heavy Industrial designation. In addition, according to Appendix E, the project greenhouse gas emission was projected based on the CalEEMod model and carbon dioxide emission is estimated to be below existing thresholds. Specifically, the construction greenhouse gas emission is estimated to be 68 metric ton of carbon

dioxide emission per year (MT CO_2E/yr)while the total operational emission would be approximately 608 MT CO_2E/yr. While there are no threshold for temporary construction, 608 MT CO_2E/yr is below BAAMD 2011 CEQA threshold of 1,100 metric ton of carbon dioxide emission per year. The project would also conform to Criteria 2, 3 and 7 as part of the municipal code regulations. Criteria 4, 5, and 6 are not applicable to the proposed project, because the project does not have historic structure and is not an energy-intensive use (i.e. data center), nor is the project a large employer.

Voluntary Criteria

The project currently does not propose implementation of the Voluntary Greenhouse Gas Reduction Strategy Criteria.

The proposed project, with the General Plan Amendment, would be operating below the significant threshold for greenhouse gas emission per year. Therefore, the proposed project GHG emissions impacts would be less than significant.

4.7.4 Conclusion

The project would result in a less than significant greenhouse gas emission impact.

4.8 HAZARDS AND HAZARDOUS MATERIALS

The discussion within this section is based, in part, on the technical report by Environmental Investigation Services, Inc. on February 27, 2017 completed for the proposed project, provided in Appendix D.

4.8.1 Environmental Setting

4.8.1.1 *Regulatory Framework*

Federal and State

Hazardous Materials

Hazardous materials encompass a wide range of substances, some of which are naturally-occurring and some of which are man-made. Examples include pesticides, herbicides, petroleum products, metals (e.g., lead, mercury, arsenic), asbestos, and chemical compounds used in manufacturing. Determining if such substances are present on or near project sites is important because, by definition, exposure to hazardous materials above regulatory thresholds can result in adverse health effects on humans, as well as harm to plant and wildlife ecology.

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and state laws. In California, the U.S. Environmental Protection Agency (EPA) has granted most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (CalEPA). Local agencies, including the Santa Clara County Department of Environmental Health (SCCDEH), have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program. Other regional agencies are responsible for programs regulating emissions to the air, surface water, and groundwater include the BAAQMD, which has oversight over air emissions, and the Regional Water Quality Control Board (RWQCB) which regulates discharges and releases to surface and groundwater.

Oversight of investigation and remediation of sites impacted by hazardous materials releases can be performed by state agencies, such as the Department of Toxic Substances Control (DTSC); regional agencies, such as the RWQCB; or local agencies, such as SCCDEH. Other agencies that regulate hazardous materials and their transport and handling include the California Department of Transportation and California Highway Patrol, and CalEPA Division of Occupational Safety and Health (CalOSHA).

Government Code §65962.5 (Cortese List)

Section 65962.5 of the Government Code requires California Environmental Protection Agency

(Cal EPA) to develop and update (at least annually) a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by the State, local agencies, and developers to comply with CEQA requirements. The Cortese List includes hazardous substance release sites identified by the Department of Toxic Substances Control (DTSC), State Water Resources Control Board (SWRCB), and the Department of Resources Recycling and Recovery (CalRecycle).[15]

Local

Envision San José General Plan

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

Policies	Description
Policy EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
Policy EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.
Policy EC-7.4	On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-based paint and asbestos containing materials, shall be implemented in accordance with State and Federal laws and regulations.
Action EC-7.8	Where an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazardous materials found in the soil, groundwater, soil vapor, or in existing structures.

[15] California Department Toxic Substances Control. Cortese List. Accessed October 2017. http://www.dtsc.ca.gov/SiteCleanup/Cortese_List.cfm.

Policies	Description
Action EC-7.9	Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.
Action EC-7.10	Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.
Action EC-7.11	Require sampling for residual agricultural chemicals, based on the history of land use, on sites to be used for any new 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.
Policy TR-14.2	Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.
Policy CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

4.8.1.2 *Existing Conditions*

Site History

The site was used for agricultural use from at least 1948 through 1956. After 1956, the full project site was utilized primarily with a mix of commercial and more of light-industrial uses such as storage and fuel stations. As presented in Table 8, this project site has historically been utilized for gasoline stations, auto repair shops, storages, or other low intensity industrial uses.

On-Site Sources of Contamination

The continued use of 1200 Oakland Road as a fuel service station with underground storage tanks (USTs) containing diesel and gasoline since the most recent regulatory case closure in 2012 represents a recognized environmental concern. The current and historical use of 757 Commercial Street as an auto repair shop for at least 22 years, with associated handling and storage of petroleum hydrocarbons, is also considered a recognized environmental concern.

The historical presence of five former USTs which were removed from the property and granted regulatory case closure after subsequent remedial action represents a controlled recognized environmental concern.

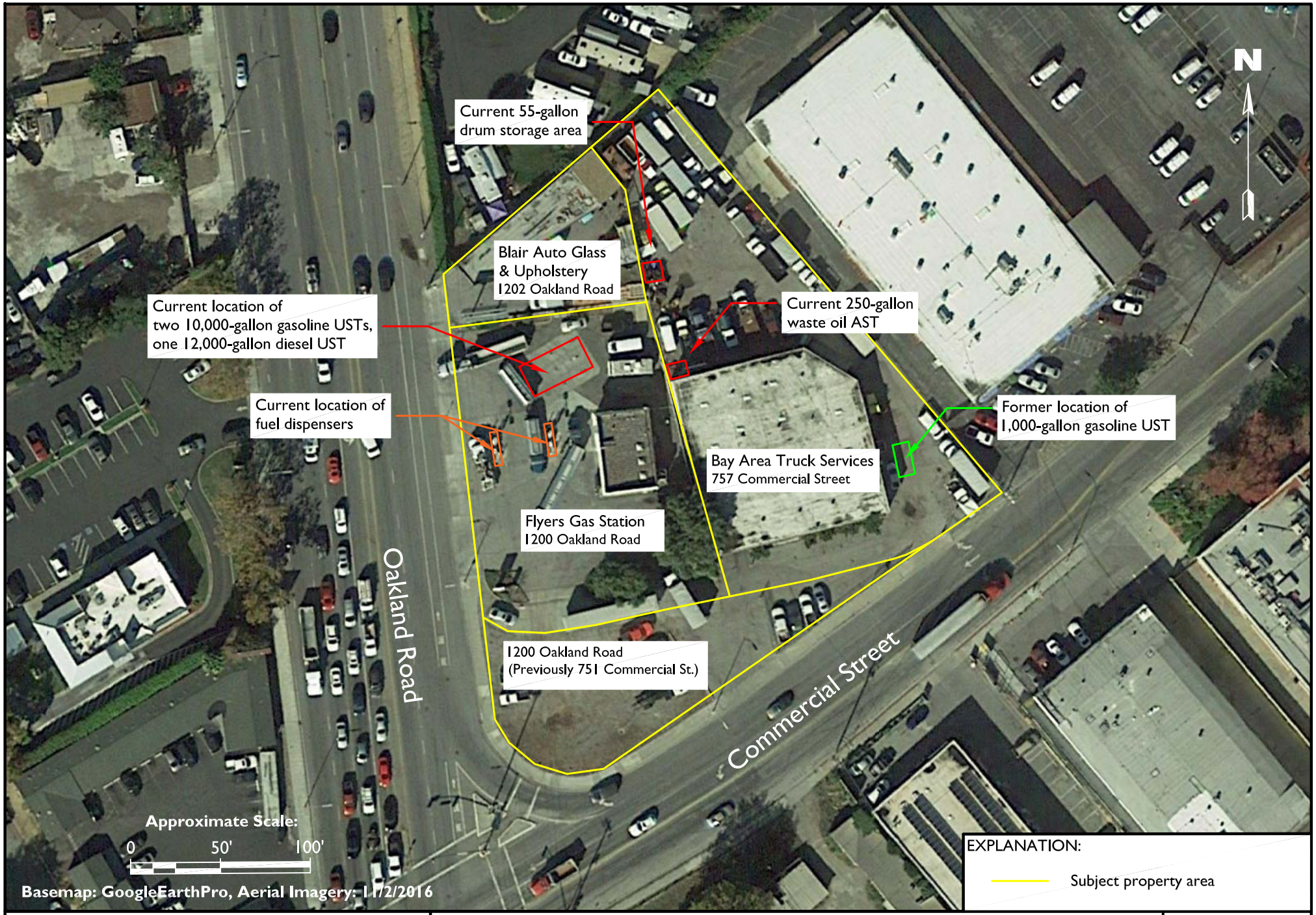
Hazardous materials and hazardous waste stored at 1200 Oakland Road and 757 Commercial Street. At 1200 Oakland Road (Flyers Gas Station), a concrete pad north of the dispenser islands indicates the area where two 10,000-gallon gasoline USTs and one 12,000-gallon diesel UST are installed. The USTs are connected to four dispensers. The USTs are constructed of steel with fiberglass secondary containment. Two 55-gallon waste oil drums were also observed in the gas station's fenced storage area. Within the garage of Bay Area Truck Services (757 Commercial Street) are: one 100-gallon antifreeze carboy, six 55-gallon motor oil drums, one 55-gallon drum filled with used oil filters, and several other containers holding small quantities of waste antifreeze, motor oil, gasoline, propane, and waste oil. In addition, eight 55-gallon waste oil drums, three 55-gallon drums filled with used oil filters, and one approximately 250-gallon waste oil drum were observed in the storage lot of Bay Area Truck Services. Spills and stains with an oily sheen were observed in the vicinity of the drums and ASTs.

Off-Site Sources of Contamination

All surrounding properties are currently commercial, with the exception of the neighboring RV park adjacent north of the Site. Historically, areas surrounding the subject property have been residential, commercial, light industrial, and agricultural. Figure 5 shows existing uses on site.

According to the findings in the Phase I Environmental Site Assessment, there are two Resource Conservation and Recovery Act (RCRA) Generator sites, two off-site Historical UST sites, and one off-site Hazardous Waste Information System (HWIS) listings at addresses adjacent to the subject property. There are 54 off-site Leaking Underground Storage Tank (LUST) sites, 19 off-site Spills, Leaks, Investigations, and Cleanup (SLIC) sites, three Solid Waste Information System-Solid Waste Landfill (SWIS) sites, five SWRCY (Recycling Facilities in California Database) sites, four CERCLIS-NFRAP (Comprehensive Environmental Response, Compensation, Liability Information System-No Further Remedial Action Planned) sites, and two Resource Conservation and Recovery Act (RCRA) non-CORRACTS TSD (Non-Corrective Action for Treatment, Storage, and/or Disposal) sites within a ½-mile radius of the subject property. In addition, there are two State/Tribal Equivalent National Priority (NPL) sites, four RCRA CORRACTS (Corrective Action) sites, seven Envirostor sites, and one Record of Decision Site (ROD) site within a one-mile radius of the subject property.

The nearest offsite LUST case is listed at 1181 Oakland Road, located west across the street from the subject property. The local hydraulic gradient is interpreted to be west and northwest. The property has been occupied a by Burger King Restaurant since 1990. Prior tenants of the property included freight service and trucking transportation businesses. One 12,000-gallon



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Detailed Site Map

1200/ 1202 Oakland Road & 757 Commercial Street, San Jose, California

Figure: 2
EIS Project: 1711-1
February 27, 2017

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Site Location Map

1200/ 1202 Oakland Road & 757 Commercial Street, San Jose, California

Figure: 1
EIS Project: 1711-1
February 27, 2017

gasoline UST and one 2,000-gallon diesel UST were removed from the site in July 1985. Based on the distance from the Site, downgradient location, and regulatory closure status, the closed LUST case at 1181 Oakland Road is considered unlikely to impact the subject property, and does not represent an offsite recognized environmental concern.

The adjacent property to east (775 Commercial Street), is currently used as a DirectTV office. The property had at least one waste oil UST in 1988 while occupied by IBG International, Inc., according to RWQCB Hazardous Substance Storage Container Information documents. No additional information was included in the listing. The possible historical presence of a UST directly up-gradient of the subject property at neighboring address 775 Commercial Street represents a potential offsite environmental concern.

Other Hazards

Airports and Wildfire Hazards

The San José Airport is located approximately 1.5 miles west of the project site and is not located within a wildland fire hazard area. Federal Aviation Regulations, Part 77, "Objects Affecting Navigable Airspace" (referred to as FAR Part 77), requires that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above ground. The San José Airport released a contour map which includes height restrictions for new developments that could be a hazard to aircraft safety and would require FAA notification under FAR Part 77.

4.8.2 Hazards and Hazardous Materials Environmental Checklist

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐	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?	☐	☒	☐	☐	1, 6, 16

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒	1,6,16
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?	☐	☐	☒	☐	1,16
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?	☐	☐	☒	☐	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?	☐	☐	☒	☐	1
g. Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☒	☐	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?	☐	☐	☒	☐	1

4.8.3 Impacts Evaluation

a. Would the project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? [Less Than Significant Impact]

The project proposes the demolition of an existing gas station and construction an approximately 3,750 square feet one-story convenience store, a 3,432 square feet auto

fueling dispenser canopy, and a 4,813 square feet card lock fueling dispensers canopy. The project proposes approximately 6 fuel position for auto dispenser (12 pumps) and 12 (24 pumps) fuel position for cardlock fueling dispenser. Hazardous substances such as fuels and oils 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.

b. Would the project 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? [Less Than Significant with Mitigation Incorporated]

The existing three (3) underground storage tanks (USTs) containing gasoline and diesel fuel products are proposed to be removed and disposed of in accordance with State and County standards. This will consist of the USTs being emptied, cleaned, and then appropriately disposed of in an acceptable location under the approval and oversight of the County Health Hazardous Materials Division. In addition, the site has been historically use as agricultural purposes and could contain residual pesticides and/or elevated concentrations of pesticide based metals in the shallow site samples.

Due to the history of past releases from the USTs at the project site, current USTs and auto repair uses, there is the potential that contaminated soil 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. Therefore, the proposed project would implement the following mitigation measures to ensure potential contaminations are properly handled.

Impact HAZ-1: Hazardous materials contamination on the site, if discovered in soil, could pose a risk to construction workers and others on or around the project site during excavation and grading, subsurface utility installation, maintenance, or landscaping.

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 any grading permits, the project applicant shall collect shallow soil samples to evaluate the past agricultural use of the property and potential for residual pesticides in the shallow soil. The samples shall be analyzed for organochlorine pesticides (OCPs) and pesticide based metals (arsenic and lead). The soil

sampling report indicating the results of the sampling shall be submitted to the City of San José Department of Planning, Building and Code Enforcement, and the Environmental Services Department (ESD) for approval. If results of the soil samples exceed regulatory environmental screening levels, the applicant shall include conditions and procedure for mitigation as part of HAZ-1.2.

MM HAZ-1.2: Separate from the results found in 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 that may be encountered during construction activities due to residual petroleum contamination from past underground fuel leaks and/or current historical hazardous materials storage and use. 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 Environmental Compliance Officer of the City of San José 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.
- Removal of underground storage tanks (USTs) requirements and guidelines.
- Installation of new underground storage tanks (USTs) requirements and guidelines.
- 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.

In addition, based on the age of the building it is possible that asbestos containing material (ACM) and lead based paint (LBP) are present in building materials. The following 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.

Environmental 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 and lead-based paint.

- 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.
- 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.

c. Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? [No Impact]

The project is approximately 0.5 mile away from an existing school, Challenger School. Therefore, the proposed project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within 0.25 mile of an existing or proposed school.

d. Would the project be located on a site which is included on a list of hazardous materials sites compiled pursuant to [Government Code Section 65962.5] and, as a result, would it create a significant hazard to the public or the environment? [Less Than Significant Impact]

The project site currently has two closed cases regarding LUST Cleanup Site. Though the project site has been impacted by two LUST cases that occurred on the site, the site has undergone follow-up testing and monitoring, and the cases have been closed due to regulatory findings that the residual contamination is not a public health threat based upon the current site use or an environmental impact. Further, the project would implement mitigation measures and comply with Cal/OSHA requirements to reduce the potential for exposure to contaminated groundwater or soils.

e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? AND

f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? AND

g. Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan? AND

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? [All Less Than Significant Impact]

The project site is located within 1.5 miles of Mineta San Jose airport, but would not result in a safety hazard to airport operations. None of the proposed buildings for this project site are at a height that would trigger the need for FAA airspace review. 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

4.8.4 Conclusion

With implementation of the 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.

4.9 HYDROLOGY AND WATER QUALITY

4.9.1 Existing Setting

4.9.1.1 *Regulatory Framework*

Federal and State

Federal Emergency Management Agency

In 1968, Congress created the National Flood Insurance Program (NFIP) in response to the rising cost of taxpayer funded disaster relief for flood victims and the increasing amount of damage caused by floods. The NFIP makes federally-backed flood insurance available for communities that agree to adopt and enforce floodplain management ordinances to reduce future flood damage.

The Federal Emergency Management Agency (FEMA) managed the NFIP and creates Flood Insurance Rate Maps (FIRMs) that designated 100-year floodplain zones and delineate other flood hazard areas. A 100-year floodplain zone is the area that has a one in one hundred (one percent) chance of being flooded in any one year based on historical data. The project site is located in flood hazard zone D, an undefined area for flood hazards.

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

The Federal Clean Water Act (CWA) and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality. The CWA governs discharges to the "Waters of the United States" which includes oceans, bays, rivers, streams, lakes, ponds, and wetlands. The Porter-Cologne Act established the State Water Resources Control Board (SWRCB).

Regulations set forth by the EPA and the 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 Waters of the United States. These regulations are implemented at the regional level by water quality control boards. For the City of San José, the water board is the San Francisco Bay RWQCB. Regional Boards are responsible for developing and enforcing water quality objectives and implementation plans, known as Basin Plans.

CWA Section 303(d) lists polluted water bodies which require further attention to support future beneficial uses. The San Francisco Bay and Guadalupe River are on the Section 303(d) list as an impaired water body for urban runoff/storm sewer and unpermitted discharges.

State Water Quality Control Board Nonpoint Source Pollution Program

In 1988, the SWRCB adopted the Nonpoint Source Management Program in an effort to control

nonpoint source pollution in California. The Nonpoint Source Management Program requires individual permits to control discharge associated with construction activities. The Nonpoint Source Program is administered by RWQCB under the National Pollutant Discharge Elimination System (NPDES) General Permit for Construction Activities. Projects must comply with requirements of the Nonpoint Source Program if:

- They disturb one acre or more of soil; or
- They disturb less than one acre of soil but are part of a larger development that, in total, disturbs one acre or more of soil.

The NPDES General Permit for Construction Activities requires the developer to submit a Notice of Intent (NOI) to the RWQCB and to develop a Stormwater Pollution Prevention Plan (SWPPP) to control discharge associated with construction activities.

Regional

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

The San Francisco Bay RWQCB has also issued a Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008) (MRP). Under provisions of the NPDES Municipal Permit, redevelopment projects that add and/or replace more than 10,000 square feet of impervious surface, or 5,000 square feet of uncovered parking area, are required to design and construct stormwater treatment controls to treat post-construction stormwater runoff. Amendments to the MRP require all of the post-construction runoff to be treated by using Low Impact Development (LID) treatment controls, such as biotreatment facilities, unless the project qualifies for Special Project credit reduction, which would allow the project to implement non-LID measures for all or a portion of the site depending on the project characteristics. This would also require a narrative discussion as to why the implementation of 100 percent LID measures is not feasible per the MRP.

Local

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

The City of San José's Policy No. 6-29 establishes the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. The City of San José's Policy No. 6-29 requires all new development and redevelopment projects to implement post-construction Best Management Practices (BMP) and Treatment Control Measures (TCM). This policy also established specific design standards for post-construction TCM for projects that create, add, or replace 10,000 sf or more of impervious surfaces.

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.

Hydromodification Management (Policy 8-14)

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

The project is located in a non- Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).

Envision San José 2040 General Plan

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

Policy	Description
Policy IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.
Policy 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.
Policy ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
Policy ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
Policy 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.
Policy EC-5.7	Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.
Policy EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

4.9.1.2 *Existing Conditions*

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 approximately 0.5 mile east. Guadalupe Creek is located approximately 1.3 miles west and the project is located within 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 14-23 feet.[8] The project site is mostly composed of impervious surfaces and does not contribute to the recharging of the groundwater aquifer.

Storm 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 main in Commercial Street.

Flooding

According to the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Map, the site is located within Zone D. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.

Other Inundation Hazards

Dam Failure

Dams whose failure could impact San José include Almaden, Anderson, Calero, Guadalupe, Cherry Flat, Lexington, and Elsman dams. Failure at two percolation facilities, Coyote Creek and Rinconada, could also affect local areas. Based on the Association of Bay Area Governments (ABAG) Dam Failure Inundation Maps, much of San José has the potential to be inundated if an upstream reservoir fails. The site is within the Anderson Dam Failture Inundation area.16

Earthquake-Induced Waves and Mudflow Hazards

A seiche is the oscillation of a body of water which most frequently occurs in enclosed or semi-enclosed basins such as bays, lakes, or harbor. Sieches may be triggered by strong winds, changes in atmospheric pressure, earthquakes, tsunami, or tides. A tsunami is a large tidal wave caused by an underwater earthquake, volcanic eruption or undersea landslides. Tsunamis affecting the San Francisco Bay Area would originate west of the San Francisco Bay in the Pacific Ocean. A mudflow is a large rapid mass of mud (which can accelerate up to 50 miles per hour) formed by loose earth and water. Hillsides and slopes of unconsolidated material could be at risk to mudflows if these areas become saturated.

Based on the Association of Bay Area Government's (ABAG) Tsunami Inundation Map for Coastal Evacuation, the tsunami inundation areas are over one mile from the City's Urban Growth Boundary (UGB).[16,17] In addition, the project site is not susceptible to mudflows.[18]

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[16] City of San Jose, September 2011, General Plan 2040 Environmental Impact Report, Accessed October 2017.
[17] California Emergency Management Agency, Tsunami Inundation Map for Emergency Planning San Francisco Bay Area, Site accessed October 2017, http://www.consrv.ca.gov/cgs/geologic_hazards/Tsunami/Inundation_Maps/Documents/Tsunami_Inundation_SanFranciscoBayArea300.pdf .
[18] County of Santa Clara, Santa Clara County Geologic Hazard Zones, Map 12, Accessed October 2017, https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf.

4.9.2 Hydrology and Water Quality Environmental Checklist

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
a. Violate any water quality standards or waste discharge requirements?	☐	☐	☒	☐	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)?	☐	☐	☒	☐	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?	☐	☐	☒	☐	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?	☐	☐	☒	☐	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?	☐	☐	☒	☐	1,
f. Otherwise substantially degrade water quality?	☐	☐	☒	☐	1

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
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?	☐	☐	☒	☐	1,21
h. Place within a 100-year flood hazard area structures which will impede or redirect flood flows?	☐	☐	☒	☐	1,21
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?	☐	☐	☒	☐	1,21,22,23
j. Inundation by seiche, tsunami, or mudflow?	☐	☐	☒	☐	1,21,22,23

4.9.3 Impacts Evaluation

a. Would the project violate any water quality standards or waste discharge requirements? [Less Than Significant Impact]

The proposed project would not violate any water quality standards or waste discharge requirements as described in e) and f) below.

b. Would the project substantially deplete groundwater supplies or interfere substantially with groundwater recharge? [Less Than Significant Impact]

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. Therefore, the proposed project would not deplete or otherwise affect groundwater supplies.

c. Would the project 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? [Less Than Significant Impact]

Construction of the project would require grading activities that could result in a temporary increase in erosion affecting the quality of storm water runoff. The project would include in additional landscaping that could reduce the impervious surface on site. However, it is not anticipated to be reduced substantially. Even so, the project would conform of all applicable standards and regulations regarding stormwater runoff and the additional pervious surface proposed on site will not substantially alter the existing drainage pattern on site or in the area that would result in significant erosion or flooding (on or off site).

d. Would the project 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? [Less Than Significant Impact]

Refer to discussion C above.

e. Would the project 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? [Less Than Significant Impact]

Construction-Related Water Quality Impacts

The project site would disturb more than 1.0 acre and would be required to comply 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).

Construction of the proposed project, including grading and excavation activities, may result in temporary impacts to surface water quality. When disturbance to underlying soils occurs, the surface runoff that flows across the site may contain sediments that are ultimately discharged into the storm drainage system. Construction of the project would/would not disturb more than one acre of soil and, therefore, compliance with the NPDES General Permit for Construction Activities is required.

All development projects in San José shall comply with the City's Grading Ordinance whether or not the projects are subject to the NPDES General Permit for Construction Activities. The City of San José Grading Ordinance requires the use of erosion and sediment controls to protect water quality while a site is under construction. Prior to issuance of a permit for grading activity occurring during the rainy season (October 15 to April 15), the applicant is required to submit an Erosion Control Plan to the Director of Public Works for review and approval. The Plan must detail the Best Management

Practices (BMPs) that would be implemented to prevent the discard of stormwater pollutants.

Environmental Conditions: Consistent with the General Plan, conditions that shall be implemented to prevent stormwater pollution and minimize potential sedimentation during construction include, but are not limited to the following:

- 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.

The project, with the implementation of the SWPPP and environmental conditions, would not result in significant construction-related water quality impacts.

Post-Construction Water Quality Impacts

The project will create or replace approximately 59,000 square feet of impervious surface. 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.

f. Otherwise substantially degrade water quality? [Less Than Significant Impact]

Since approximately 11,000 square feet of landscaping will replace a portion of the removed impervious surface, stormwater water quality will be improved due to infiltration and through the use of bio-retention facilities. The project would comply with construction and post construction standards to ensure stormwater runoff is properly handled based on the current adoped policies and regulations. Refer to question e above for more discussion.

g. Would the project 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? (Less Than Significant Impact) AND

h. Would the project place within a 100-year flood hazard area structures which will impede or redirect flood flows? (Less Than Significant Impact) AND

i. Would the project 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? [All Less Than Significant Impact]

The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for zone D. The site does not appear to be located within the 100-year flood zone according to FEMA National Flood Insurance Rate Map (Map Number 06085C0232H).

j. Would the project expose people or structures to inundation by seiche, tsunami, or

mudflow? (Less Than Significant Impact)

The project site is not located in an area subject to significant seiche, tsunami, or mudflow risk.

4.9.4 Conclusion

The proposed project would have a less than significant impact on hydrology and water quality with incorporation of environmental conditions and compliance with Construction General Permit requirements.

4.10 LAND USE

4.10.1.1 *Regulatory Framework*

Local

Envision San José 2040 General Plan

The project site is designated Heavy Industrial (HI) in the General Plan. This designation intends for industrial uses with nuisance or hazardous characteristics, which for the reason of health, is separated from other uses. Very limited scale retail sales are service establishments serving nearby businesses and their employees may be considered appropriate in the Heavy Industrial designation. Heavy Industrial allows a floor area ratio (FAR) of 1.5.

The project proposes to change the General Plan Land Use designation from Heavy Industrial I to Combined Industrial/Commercial (CIC). Combined Industrial/Commercial allows for a mixture of commercial and industrial uses, including hospitals and private community gathering facilities. Combined Industrial/ Commercial allows a floor area ratio (FAR) of 12.0 for commercial and industrial development.

General Plan Growth Area: East Gish Employment Area

The proposed site is located within the East Gish Employment Area, which encompasses approximately 495 acres directly southeast of the North San José Growth Area. The East Gish Employment Area was created as part of the General Plan update process in 2011, and was designated to include a large majority of the City's heavy industrial lands. This area is historically industrial in nature, and is maintained as such in order to preserve existing heavy and light industrial properties. The East Gish Employment Area has a job capacity of 2,300 jobs and a housing capacity of 0 dwelling units.

The General Plan includes the following policies, which are specific to land use and are applicable to the proposed project.

Policies	Description
CD-4.9	For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
ER-2.1	Ensure that new public and private development adjacent to riparian corridors in San José are consistent with the provisions of the City's Riparian Corridor Policy Study and any adopted Habitat Conservation Plan/Natural Communities Conservation Plan.
ER-2.2	Ensure that a 100-foot setback from riparian habitat is the standard to be

	achieved in all but a limited number of instances, only where no significant environmental impacts would occur.
ER-2.3	Design new development to protect adjacent riparian corridors from encroachment of lighting, exotic landscaping, noise and toxic substances into the riparian zone.
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 is zoned Heavy Industrial (HI). Consistent with the proposed General Plan Amendment, the project proposes to rezone the site to the Combined Industrial/ Commercial (CIC) zoning district. The proposed project also includes a Conditional Use Permit to remove all existing buildings and fueling dispensers and to construct a convenience store, auto-retail fueling dispensers, and cardlock fueling dispensers with the off-sale of alcohol and a 24 hour operation.

Santa Clara Habitat Conservation Plan/Natural Community Conservation Plan

As described in *Biological Resources* section, the Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (Habitat Plan), which encompasses a study area of 519,506 acres (or approximately 62 percent of Santa Clara County), was adopted by six local entities in Santa Clara County and went into effect in October 2013. The entire project site is within the Habitat Conservation Plan area. The full project site is designated as Urban-Suburban land cover under the Santa Clara Valley Habitat Conservation Plan (HCP) and is not located in any plant or animal survey areas and is not in an area identified for sensitive habitat.

4.10.1.2 *Existing Conditions*

The project is located on the corner of Oakland Road and Commercial Street. Adjacent corners of the intersection contain a lumber yard, motel, Chevron gas station, and other commercial uses. There are also residential uses to the North (RV park) and a motel to the West.

The general plan land use designation and zoning district for the project site are Heavy Industrial. The project proposes to change both the general plan and zoning to Combined Industrial/Commercial to allow for the convenience store to be located at the rear of the site and fueling.

Surrounding Land Uses

Properties surrounding the project site are designated Heavy Industrial in the General Plan, and are primarily zoned HI with the exception of the R-MH Mobilehome Park zoning district to the north. Below is a summary of existing land uses, zoning districts, and existing uses surrounding the project site:

Table 10
Surrounding Land Uses and Designations

Direction	General Plan Land Use Designation	Zoning	Existing Use
North	Heavy Industrial (HI)	Mobilehome Park (R-MH)	Trailer Tel RV Park
East	Heavy Industrial (HI)	Heavy Industrial (HI)	Direct TV warehouse
South	Heavy Industrial (HI)	Heavy Industrial (HI)	Lumber yard
West	Heavy Industrial (HI)	Heavy Industrial (HI)	Motel and Burger King

4.10.2 Land Use Environmental Checklist

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
a. Physically divide an established community?	☐	☐	☒	☐	1,2,3
b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☒	☐	

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
c. Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☒	☐	1,2,3

4.10.2.1 Impacts Evaluation

a. Would the project physically divide an established community? [Less Than Significant Impact]

The project site is currently developed with an existing fuel station, a truck service building, and a glass and upholstery building. The project site is located in an area that contains industrial, commercial, and residential uses. The surrounding properties contains other industrial uses, an existing RV park to the north, and commercial uses. The project would replace existing commercial uses with commercial uses and that is not substantially different than the existing uses on the site. The proposed Combined Industrial/ Commercial land use designation and zoning district would allow the project to utilize custom development and performance standards consistent with the Municipal Code. The project would not therefore divide an established community and would have a less than significant impact on surrounding land uses.

b. Would the project conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect? [Less Than Significant Impact]

The proposed project is not consistent with the site's Municipal Code or the current General Plan land use designation of Heavy Industrial. The proposed General Plan Amendment and subsequent Rezoning would make the proposed development of a gas station and convenience store consistent with the land use designation and zoning district. The site is not close to a riparian corridor, does not propose additional drive-thru uses other than the gas station, concentrates new commercial development in identified growth areas, and would apply all applicable mitigation measures and conditions identified as part of the development permit. Therefore, the project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect.

While the project does not conflict with policies, plans, or regulations adopted for the

purpose of avoiding or mitigating an environmental effect, the project may be inconsistent with policies adopted to preserve industrial uses, land, and development adopted for economic purposes.

c. Would the project conflict with any applicable habitat conservation plan or natural community conservation plan? [Less Than Significant Impact]

The project would not conflict with any habitat conservation plan or natural community conservation plan, as described in the Biological Resources section. Please refer to. Biological Resources section for a discussion of the project's consistency with the Santa Clara Valley HCP. The project will not conflict with any habitat conservation or natural community conservation plans.

4.10.4 Conclusion

The proposed project would have a less than significant land use impacts.

4.11 MINERAL RESOURCES

4.11.1 Existing Setting

Pursuant to the mandate of the Surface Mining and Reclamation Act of 1975 (SMARA), the State Mining and Geology Board has designated: the Communications Hill Area (Sector EE), bounded generally by the Southern Pacific Railroad, Curtner Avenue, State Route 87, and Hillsdale Avenue, as containing mineral deposits which are of regional significance as a source of construction aggregate materials. Neither the State Geologist nor the State Mining and Geology Board has classified any other areas in San Jose as containing mineral deposits which are either of statewide significance or the significance of which requires further evaluation. Therefore, other than the Communications Hill area cited above, San Jose does not have mineral deposits subject to SMARA.

4.11.2 Mineral Resources Environmental Checklist

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
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?	☐	☐	☐	☒	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?	☐	☐	☐	☒	1,2

4.11.2.1 Impacts Evaluation

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? AND

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? [All Less Than Significant Impact]

The project site is outside of the Communications Hill area, and will therefore not result in a significant impact from the loss of availability of a known mineral resource.

4.11.3 Conclusion

The project would not result in impacts to known mineral resources.

4.12 NOISE AND VIBRATION

The discussion within this section is based, in part, on the technical report by J.C. Brennan & Associates on September 3, 2017 completed for the proposed project, provided in Appendix E.

4.12.1 Environmental Setting

4.12.1.1 *Regulatory Framework*

Local

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects with the City. The following policies are specific to noise and vibration and are applicable to the proposed project. In addition, the noise and land use compatibility guidelines set forth in the General Plan are shown below.

Policies	Description
Policy EC-1.1	Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include: Exterior Noise Levels • The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses.
Policy EC-1.2	Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6 in Table 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would: • Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable;" or • Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.
Policy EC-1.3	Mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.

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

Policy EC-1.7 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.

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

Table 11
Proposed General Plan Land Use Compatibility Guidelines
(General Plan Table EC-1)

Land Use Category	Exterior DNL Value in Decibels					
	55	60	65	70	75	80
1. Residential, Hotels and Motels, Hospitals and Residential Care						
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
3. Schools, Libraries, Museums, Meeting Halls, and Churches						

Table 11
Proposed General Plan Land Use Compatibility Guidelines
(General Plan Table EC-1)

Land Use Category	Exterior DNL Value in Decibels					
	55	60	65	70	75	80
4. Office Buildings, Business Commercial, and Professional Offices						
5. Sports Arena, Outdoor Spectator Sports						
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters						

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.

Municipal Code

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

The Municipal Code also limits noise levels at adjacent properties. Chapter 20.30.700 states that sound pressure levels generated by any use or combination of uses on a property shall not exceed 55 dBA at any property line shared with land zoned for residential use, except upon issuance and in compliance with a Conditional Use Permit.

4.12.1.2 *Existing Conditions*

Existing Noise Conditions

Sources of ambient noise in the project vicinity include roadway traffic on Oakland Road and Commercial Street, some light industrial uses adjacent to the site, and to a lesser extent, distant aircraft noise from the San Jose Airport. Continuous (24-hour) and short-term ambient noise measurements were conducted at various locations around the project site. Short-term measurements were taken at the residential RV park to the north and at the corner of Oakland

Road and Commercial Street. Long term ambient noise measurement was taken further in the middle of the RV park to the north.

The results of the measurements are below in Table 12:

Table 12
Summary of Existing Background Noise Measurement Data

Site	Date	DNL	Daytime (7am – 10pm)			Nighttime (10pm – 7am)		
			L_{eq}	L_{max}	L_{50}	L_{eq}	L_{max}	L_{50}
A	02/14/17 to 02/15/17	61 dB	58	70	58	54	65	53
St-1	02/14/17	NA	57	63	49	@ 10:00 a.m.		
	02/15/17		60	66	54	@ 1:00 p.m.		
ST-2	02/14/17	NA	65	76	56	@ 10:30 a.m.		
	02/15/17		65	76	56	@1:30 p.m.		

Source: Appendix E, Noise Report for Rotten Robbie # 67 Project Initial Study, September 2017.

A traffic report was not available at the time that the noise analysis was prepared. ADT Traffic Volume Nodes data was utilized to estimate the traffic volumes.[19] The traffic volumes are used as direct inputs to the Federal Highway Administration (FHWA RD77-108) Traffic Noise Prediction Model. The model is based upon the Calveno reference noise factors for automobiles, medium trucks, and heavy trucks, with consideration given to vehicle volume, speed, roadway configuration, distance to the receiver, and the acoustical characteristics of the site. The results based on the estimated and models are presented in Table 13.

Table 13
Traffic Noise Levels and Distances to Contours

Roadway	Segment	DNL at 50-feet	Distance to Contours		
			70 dBA	65 dBA	60 dBA
Oakland Road	Adjacent to Project Site	73 dBA	75-feet	161-feet	347-feet
Commercial Street	Adjacent to Project Site	67 dBA	33-feet	70-feet	151-feet

Source: Appendix E, Noise Report for Rotten Robbie # 67 Project Initial Study, September 2017.

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:

[19] City of San Jose, ADT Traffic Volume Nodes, Accessed February 2017, http://data.sanjoseca.gov/datasets/167135/adt-traffic-volume-nodes/.

- 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:
  - the noise level increase is 5 dBA DNL or greater where the noise levels would remain "Normally Acceptable" or
  - 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.

4.12.2 Noise and Vibration Environmental Checklist

Would the project result in:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
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?	☐	☐	☒	☐	1,2,24
b. Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	☐	☒	☐	☐	1,2,24
c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☒	☐	1,2,24
d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☒	☐	☐	1,2,24
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?	☐	☐	☒	☐	1,2,24

Would the project result in:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
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?	☐	☐	☒	☐	1,2,24

4.12.3 Impacts Evaluation

a. Would the project result in 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? [Less Than Significant Impact]

Noise Sources and Regulatory Conformance

The primary noise sources associated with the proposed gas station, convenience store. 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.

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. The project is adjacent to residential use to the north.

The proposed project would add a convenience store and additional pumps to an existing gas station use. The operation of the project would not increase based on the uses that is currently on site. The proposed project is located on Oakland Road, a major arterial street. The road noise presents a major source of ambient noise in the project area. Generally, traffic would have to double to create a perceptible noise impact. The noise report utilize existing roadway data to estimate that the Oakland Road are approximately 39,381 vehicles per day and ITE trip generation for the proposed uses.[19] The ITE trip generation rate for a service station with a convenience store is 164 daily trips /fueling pump. Using this trip generation rate, there would be 5,904 daily trips, based upon the 36 pumps associated with the proposed Rotten Robbie project. Assuming a conservative 10% peak hour factor, there would be 590 peak hour trips. Five-hundred ninety peak hour trips is a conservative estimate compared to the

estimate in the Traffic Impact Report (Appendix E), as discussed below.[20]

Based on this assumption, the result show that the exterior noise would be approximately 63 dB DNL at the distance of 50 feet from the center of the gas pump area. Based upon the distance to the nearest residential use (Trailer Tel RV Park) from the center of the gas pump area (approximately 97 feet), the predicted noise level associated with the gas station operations and parking lot is approximately 57 dBA DNL/Leq. In addition, as part of the project, a 7-foot tall masonry sound wall would be constructed to the northern property line, separating the proposed project and the RV park. This would further reduce the operation noise from the proposed project. Therefore, the project would comply with noise thresholds in Policy EC-1.2 and would not conflict with Policy EC-1.3.

Refer to question D before for discussion on construction noise.

b. Would the project result in exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels? [Less Than Significant with Mitigation Measures]

The proposed uses are not anticipated to be a vibration generating source. However, construction activities may result in temporary vibration impacts.

The primary construction activities associated with the project would occur when the infrastructure such as buildings and utilities are constructed. Typical construction equipment include bulldozers, loaded trucks, auger/drill rigs, jackhammers, and other vibratory hammers. These equipment at 25 feet would result in a less than 0.20 in/second ppv. However, due to the proximity of the closest residents (RV park that is immediately to the north) to the project site, construction activities, if utilized too close to the residential uses to the north may generate substantial vibration in the immediate vicinity.

Modification, placement, and operation of construction equipment are possible means for minimizing the vibration impact on the existing nearby structures, particularly the residences and commercial buildings adjoining the northern and southern boundaries. Therefore, the project shall implement the following mitigation measure. Refer to question D below for further discussion on temporarily noise impact associated with construction.

[20] There was no traffic analysis when the noise report was completed. Therefore, a conservative estimate was used. Since the completion of the noise report, a full Transportation Impact Analysis was completed for the project and is attached to this Initial Study as Appendix F. The estimated peak hour trips and daily trips are under the estimate in the noise report, and therefore, the noise trip generation for noise is represent a conservative scenario.

Impact NOI-1: Construction noise and vibration generated by the proposed project could impact nearby sensitive receptors (residential development) to the north.

Mitigation Measures: The project would implement the following measures to minimize the impacts of construction-generated groundborne vibration.

MM NOI-1.1: Construction Noise and Vibration Plan: The project applicant shall develop and implement a construction noise and vibration logistics plan (Plan) that will be in effect during all phases of construction on the project site. The Plan shall be included as part of the contractors for construction workers and applicable supervisors. All measures shall be printed on all approved construction documents, contracts, and/or project plans. The applicant shall submit a copy of all approved plans, construction documents, contracts, and/or project plans to the Supervising Environmental Planner prior to the issuance of any demolition, grading, or building permits. The Plan shall include, but is not limited to, the following:

- A list of all potential equipment (including specs) that will be used during all earthmoving activities.
- A schedule of all earthmoving activities.
- Responsibilities of personnel on the site.
- Outreach strategies to inform nearby residences of construction hours and phase.
- Best management practices to reduce construction noise such as, but is not limited to, the following:
    - Construct solid plywood fences around construction sites adjacent to operational businesses, residences, or noise-sensitive land uses.
    - Utilize “quiet” models of air compressors and other stationary noise sources where technology exists.
    - Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
    - Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from adjoining noise-sensitive land uses.
    - Prohibit all unnecessary idling of internal combustion engines.
    - 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.
- The name and contact information (i.e. telephone number and email address) of the disturbance coordinator, who would be responsible for responding to

complaints about construction noise, shall be posted at the construction site and included in the notice sent to neighboring noise-sensitive land uses regarding the construction schedule.

MM NOI-1.2 Construction Equipment: The project applicant shall ensure that the following measures are printed on all approved construction documents, contracts, and/or project plans prior to the issuance of any demolition, grading, or building permits:

- The contractor shall alert heavy equipment operators to the proximity of the adjacent structures so they can exercise care.
- The contractor shall retain a qualified firm to complete a pre- and post-construction cosmetic crack survey of the buildings adjacent to the southern boundary and shall repair any cosmetic cracking.
- Limit the use of heavy vibration-generating construction equipment within 30 feet of the northern and southern site boundaries.

c. Would the project result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

Refer to discussion in A above.

d. Would the project result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? [Less Than Significant with Mitigation Measures]

Noise would also be generated during the construction phase by increased truck traffic on area roadways. A significant project-generated noise source would be truck traffic associated with transport of heavy materials and equipment to and from construction sites. This noise increase would be of short duration, and would likely occur primarily during daytime hours. In addition to MM NOI-1.1 and 1.2, construction noise impact would further be minimized with the following conditions.

Environmental 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 conditions above and mitigation measure NOI-1.1 to NOI-1.2 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.

e. For a project located within an airport land use plan or, where such a plan has not yet been adopted, within 2 miles of a public use airport, would the project expose people residing or working in the project area to excessive noise levels? [No Impact] AND

f. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? [No Impact]

The project area is 1.5 miles away from a public or private airport or airstrip. The proposed project would not expose people to noise from airport activities.

4.12.4 Conclusion

Construction of the project as proposed along with the implementation of the Environmental Conditions and mitigation measures would not result in significant noise impacts

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 3.2 persons per household.[21] 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.[22]

In 2014, there were approximately 382,200 jobs in San José.[23] 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. San José currently has a higher number of employed residents than jobs but this trend is projected to reverse with full build-out under the current General Plan.

4.13.2 Population and Housing Environmental Checklist

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
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)?	☐	☐	☒	☐	1

[21] State of California Department of Finance, January 2016, *Table 2: E-5 City/County Population and Housing Estimates*, accessed October 2017. http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/.
[22] City of San José, November 2016, 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, Text amendments approved by the City Council on December 13, 2016.
[23] Strategic Economics, February 24, 2017, San José Market Overview and Employment Lands Analysis, accessed October 2017, https://www.sanJoséca.gov/DocumentCenter/View/53472.

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☒	☐	1
c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☒	☐	1

4.13.3 Impacts Evaluation

a. Would the project 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)? AND

b. Would the project displace substantial numbers of existing housing or people, necessitating the construction of replacement housing elsewhere? AND

c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? [All Less Than Significant]

The proposed project would not directly induce substantial population growth through the provision of new housing or substantial job growth. The project entails the construction of a new gas station and a convenience store. It is anticipated that there would be new employees at the site on a daily basis, but would not substantially exceed the numbers that is currently operating on the site. The project would have no impact on population and housing as the project does not propose the addition of housing.

4.13.4 Conclusion

The proposed project would not induce substantial population growth and would have a less than significant impact on population and housing.

4.14 PUBLIC SERVICES

4.14.1 Environmental Setting

4.14.1.1 *Regulatory Framework*

State

Government Code Section 65996

State law (Government Code Section 65996) specifies an acceptable method of offsetting a project's effect on the adequacy of school facilities as the payment of a school impact fee prior to issuance of a building permit. California Government Code Sections 65996-65998, sets forth provisions for the payment of school impact fees by new development as exclusive means of "considering and mitigating impacts on school facilities that occur or might occur as a result of any legislative or adjudicative act, or both, by any state or local agency involving, but not limited to, the planning, use, or development of real property" [§65996(a)]. The legislation goes on to say that the payment of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA [§65996(b)]. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code. The school impact fees and the school districts' methods of implementing measures specified by Government Code 65996 would mitigate project-related increases in student enrollment.

Local

Envision San José 2040 General Plan

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

Policies	Description
Policy ES-1.9	Provide all pertinent information on General Plan amendments, rezonings and other development proposals to all affected school districts in a timely manner.

Policy ES-3.1	Provide rapid and timely Level of Service response time to all emergencies: 1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents. 3. Enhance service delivery through the adoption and effective use of innovative, emerging techniques, technologies and operating models. 4. Measure service delivery to identify the degree to which services are meeting the needs of San José's community. 5. Ensure that development of police and fire service facilities and delivery of services keeps pace with development and growth in the city.
Policy ES-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.
Policy ES-3.11	Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.

4.14.1.2 *Existing Conditions*

Public Services

Fire Protection Services

Fire protection services for the project site are provided by the San José Fire Department (SJFD). The SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the City. For fire protection services, the City has a total response time goal of eight minutes and a total travel time goal of four minutes for 80 percent of emergency incidents (per General Plan Policy ES-3.1). Fire protection services are provided to the project site by the San José Fire Department (SJFD). The closest fire station to the project site is Station 5, located less than a mile west of the site at 1380 North 10th Street.

Police Protection Services

Police protection services for the project site are provided by the San José Police Department (SJPD), which is headquartered at 201 West Mission Street, approximately six miles southeast of the project site. SJPD is divided into four geographic divisions: Central, Western, Foothill, and Southern. The project site is directly served by the SJPD Central Division, which includes three lieutenants, four patrol officers and two crime prevention specialists. For the last several years,

the most frequent calls for service in the City have dealt with larceny, burglary, vehicle theft, and assault.

For police protection services, SJPD has a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent of all Priority 2 (non-emergency) calls (per General Plan Policy ES-3.1) .

Schools

The project area is served by the San José Unified School District. The site is approximately 1.0 mile to Burnett Academy Middle School and 0.5 mile from Challenger School.

Parks

The nearest park to the project site is Luna Park, located approximately 0.3 mile south.

4.14.2 Public Services Environmental Checklist

	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?	☐	☐	☒	☐	1
- Police Protection?	☐	☐	☒	☐	1
- Schools?	☐	☐	☐	☒	1
- Parks?	☐	☐	☐	☒	1
- Other Public Facilities?	☐	☐	☐	☒	1

4.14.3 Impacts Evaluation

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 public services? [Less Than Significant Impact and No Impact]

Fire and Police Protection

The project entails the construction of fuel dispensers, fueling canopies, and convenience store. 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. 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.

Schools, Parks, 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.

4.14.4 Conclusion

The proposed project would have a less than significant impact on public services in the City of San José.

4.15 RECREATION

4.15.1 Existing Setting

4.15.1.1 *Regulatory Framework*

State

Quimby Act

The Quimby Act (California Government Code Section 66477) was established by the California Legislature in 1965 to preserve open space and parkland in rapidly urbanizing areas of the state. The Quimby Act allows cities and counties to establish requirements for new development to dedicate land for parks, pay an in-lieu fee, or provide a combination of the two.

The Quimby Act provides two standards for the dedication of land for use as parkland. If the existing area of parkland in a community is greater than 3 acres per 1,000 residents, then the community may require dedication based on a standard of up to 5 acres per 1,000 persons residing in the subdivision based on the current ratio of parkland per 1,000 residents. If the existing amount of parkland in a community is less than 3 acres per 1,000 residents, then the community may require dedication based on a standard of only 3 acres per 1,000 persons residing in the subdivision. The Quimby Act applies only to the acquisition of new parkland; it does not apply to the physical development of new park facilities or associated operations and maintenance costs

The Quimby Act requires a city or county to adopt standards for recreational facilities in its general plan if it is to adopt a parkland dedication or fee ordinance. The City of San José has adopted a Parkland Dedication Ordinance and a Park Impact Ordinance, consistent with the Quimby Act.

Local

Parkland Dedication Ordinance and the Park Impact Ordinance

The City of San Jose has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25) requiring new residential development to either dedicate sufficient land to serve new residents, or pay fees to offset the increased costs of providing new park facilities for new development. These ordinances are intended to reduce the extent to which new development would exacerbate the existing shortfall of park and recreational facilities.

In order to fulfill the requirements of the PDO or the PIO, the project must provide the equivalent of 3.0 acres of parkland per 1,000 residents anticipated to live in the proposed development. This is accomplished in one or more of the following ways: dedicate land,

construct a “turnkey” park, construct qualifying private recreational facilities, or pay an in-lieu fee as established by the terms and conditions of an approved parkland agreement. Under the PDO and PIO, a project can satisfy up to half of its total parkland obligation by providing private recreational facilities on-site. For projects over 50 units, it is the City’s decision as to whether the project will dedicate land for a new public park site or accept a fee in-lieu of land dedication. Affordable housing including low, very-low, and extremely-low income units are subject to the PDO and PIO at a 50 percent rate of a unit obligation.

Envision San José 2040 General Plan

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

Policies	Description
Policy PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
Policy PR-1.2	Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
Policy PR-1.3	Provide 500 square feet per 1,000 population of community center space.
Policy PR-1.12	Regularly update and utilize San José’s Parkland Dedication Ordinance / Parkland Impact Ordinance (PDO/PIO) to implement quality facilities
Policy PR-2.4	To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a 3/4 mile radius of the project site that generates the funds.
Policy PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, dog parks, sport fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.
Policy PR-2.6	Locate all new residential developments over 200 units in size within 1/3 of a mile walking distance of an existing or new park, trail, open space or

recreational school grounds open to the public after normal school hours or shall include one or more of these elements in its project design.

4.15.1.2 *Existing Conditions*

The City of San José owns and maintains approximately 3,435 acres of parkland, including neighborhood parks, community parks, and regional parks. The City also has 54 community centers and neighborhood centers. Other recreational facilities include five public pools, six public skate parks and over 55 miles of trails. The City's Department of Parks, Recreation, and Neighborhood Services is responsible for development, operation, and maintenance of all City park facilities.

Parks and Recreational Facilities

The nearest park to the project site is Luna Park, located approximately 0.3 mile south.

4.15.2 Recreation Environmental Checklist

	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?	☐	☐	☐	☐	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?	☐	☐	☐	☐	1

4.15.2.1 Impacts Evaluation

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? AND

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? [All No Impact]

The proposed gas station will not increase the use of existing neighborhood and regional

parks or other recreational facilities.

4.15.4 Conclusion

The proposed project would not adversely affect recreational facilities in the project area.

4.16 TRANSPORTATION

The discussion within this section is based, in part, on the technical report by Fehr & Peers on October 2017 completed for the proposed project, provided in Appendix F and the City of San José 2017 General Plan Amendments Long-Range Traffic Impact Analysis prepared by Hexagon Transportation Consultants on August 18, 2017 and amended on September 19, 2017, provided in Appendix G.

4.16.1 Existing Setting

4.16.1.1 *Regulatory Framework*

Regional

Metropolitan Transportation Commission

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

Congestion Management Program

In accordance with California Statute, Government Code Section 65088, Santa Clara County has established a Congestion Management Program (CMP). The intent of the CMP legislation is to develop a comprehensive transportation improvement program among local jurisdictions that will reduce traffic congestion and improve land use decision-making and air quality. Valley Transportation Authority (VTA) serves as the Congestion Management Agency (CMA) for Santa Clara County and maintains the county's CMP.

CMAs are required by California State statute to monitor roadway traffic congestion and the impact of land use and transportation decisions on a countywide level, at least every two years. VTA conducts CMP monitoring and produces the CMP Monitoring & Conformance Report on an annual basis for freeways, rural highways and CMP-designated intersections. VTA also prepares and adopts guidelines for preparing Transportation Impact Analyses (TIAs) as well as Traffic Level of Service (LOS) Analysis Guidelines, and Local Model Consistency Guidelines.

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.

Local

San José Bike Plan 2020

The City of San José *Bike Plan 2020* (adopted in 2009) contains policies for guiding the development and maintenance of bicycle and trail facilities within San José, as well as the following goals for improving bicycle access and connectivity: 1) Complete 500 miles of bikeways, 2) Achieve a five percent bike mode share, 3) Reduce bike collision rates by 50 percent, 4) Add 5,000 bicycle parking spaces, and 5) Achieve Gold-Level Bicycle Friendly Community status. The Bike Plan defines a 500 mile network of bikeways that focuses on connecting off-street bikeways with on-street bikeways.

Level of Service Standards and City Council Policy 5-3

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

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 environmental impact reports.

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.

Envision San José 2040 General Plan

The Circulation Element of the General Plan contains various long-range goals and policies that are intended to:

- provide a transportation network that is safe, efficient, and sustainable (minimizes environmental, financial, and neighborhood impacts);
- improve multimodal accessibility to employment, housing, shopping, entertainment, schools, and parks;
- create a city where people are less reliant on driving to meet their daily needs; and
- increase bicycle, pedestrian, and transit travel, while reducing motor vehicle trips.

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

Policy	Description
Policy TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and VMT.
Policy TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
Policy TR-1.4	Through the entitlement process for new development, fund needed

Policy	Description
	transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.
Policy TR-1.6	Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.
Policy TR-15	Design, construct, operate, and maintain public streets to enable safe, comfortable, and attractive access and travel for motorists and for pedestrians, bicyclists, and transit users of all ages, abilities, and preferences.
Policy TR-1.6	Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.
Policy TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
Policy TR-5.3	The minimum overall roadway performance during peak travel periods should be level of service “D” except for designated areas and specified exceptions identified in the General Plan for Area Development Policies, small projects, the Downtown Core Area, Special Strategy Areas, and Protected Intersections. Mitigation measures for vehicular traffic should not compromise or minimize community livability by removing mature street trees, significantly reducing front or side yards, or creating other adverse neighborhood impacts
Policy TR-8.1	Promote transit-oriented development with reduced parking requirements and promote amenities around appropriate transit hubs and station to facilitate the use of available transit services.
Policy TR-8.3	Support using parking supply limitations and pricing as strategies to encourage use of non-automobile modes.
Policy TR-8.4	Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.
Policy TR-9.1	Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.
Policy CD-2.3	Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Corridors, Main Streets, and other locations where appropriate.

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

4.16.1.2 *Existing Conditions*

Existing Roadway Network

Regional and Local 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. US-101 is a north-south freeway that runs through the states of California, Oregon, and Washington along the west coast of the United States. In the Bay Area, it serves as a north-south connector north through San Francisco and south through San Jose to Morgan Hill, Gilroy, and the Monterey Bay.

Local access to the site is provided on Oakland Road, Commercial Street, North 10th Street, North 11th Street, East Hedding Street, and East Gish Road. The project site is currently accessed via driveways on Commercial Street and on Oakland Road. Oakland Road is a north-south arterial roadway that runs from the US 101/13th Street interchange in the south to Montague Expressway/South Main Street in the north. Commercial Street is two-lane local roadway with a two-way left-turn lane that runs from North 13th Street in the west to Berryessa Road in the east. The roadway serves light industrial land uses on the east and west side of Oakland Road near the project site.

Existing Pedestrian and Bicycle Facilities

Pedestrian connectivity in the vicinity of the project site is provided by a mostly complete network of sidewalks and crosswalks that serve the Oakland Road corridor between Charles Street and the US 101 South Ramps. Sidewalks are provided on both sides of Oakland Road in the vicinity of the project site. Along Commercial Street, sidewalks are provided on both sides

of street east of the intersection of Oakland Road/Commercial Street, but only limited/intermittent sidewalk coverage is provided west of the intersection with sidewalks appearing on only one side of the street intermittently.

Class II bike lanes are provided along Oakland Road between Commercial Street and Gish Road. North of Gish Road, buffered Class II bike lanes are provided along Oakland Road between Gish Road and Montague Expressway. Buffered Class II bike lanes are provided on Oakland Road between Horning Street and East Hedding Street. Along East Hedding Street, south of the US 101 Interchange, green buffered Class II bike lanes extend from Sprint Street to North 15th Street.

Existing Transit Service

Santa Clara Valley Transportation Authority (VTA) provides light rail, bus and paratransit service to Santa Clara County, including the City of San Jose. The project site is located adjacent to the VTA Route 66 transit stop at Charles Street/Oakland Road. This stop includes benches for transit riders to sit on while they wait, a trash can so riders can dispose of waste items, but bus shelters and other related amenities are not provided. VTA Route 66 provides a connection to the Great Mall/Main Street transit center, with connections to the Alum Rock – Santa Teresa Light Rail Route (Line 901), other VTA bus lines, and the future Milpitas BART station. Table 14 looks shows operation hours and headways for the existing transit services in the area.

Table 14
Existing Transit Services

Route	From	To	Weekdays			Weekends	
			Operating Hours[a]	Headway (Minutes)[b]		Operating Hours[a]	Headway (Minutes)[b]
				Peak	Midday		
VTA 66	Kaiser San Jose	Milpitas Blvd/Dixon Road	5:30 AM to 12:10 AM	15	15	5:45 AM to 12:10 AM	20
VTA 901 (LRT)	Santa Teresa	Alum rock	4:20 AM to 2:10 AM	15	15	5:05 AM to 2:10 AM	15

Notes:
a. Operating hours rounded to the nearest five minutes.
b. Headways are defined as the time between transit vehicles on the same route (e.g., time between two VTA route 66 buses stopping at Oakland Road & Charles).

Source: Appendix F, Transportation Impact Analysis for Appendix A of Rotten Robbie # 67 Project Initial Study, October 2017.

Existing Intersection Level of Service

Table 15 Existing, Background, and Background Plus Project Conditions										
Intersection		Peak Hour	Existing		Background		Background + Project			
			Ave. Delay (sec.)	LOS	Ave. Delay (sec.)	LOS	Ave. Delay (sec.)	LOS	Incr. Crit. V/C	Incr. Crit. Delay (sec.)
1	**Oakland Road/ Commercial Street[b]**	AM	38.2	D+	**85.1**	**F**	**96.4**	**F**	**+0.047**	**+21.0**
		PM	49.8	D	**57.1**	**E+**	**58.3**	**E+**	0.032	+2.7
2	**Oakland Road/US 101 North [a,b]**	AM	66.3	**E**	**171.7**	**F**	**174.9**	**F**	**0.018**	**+8.1**
		PM	22.5	C+	50.9	D	53.7	D-	0.014	+4.6
3	**Oakland Road/US 101 South (CMP intersection)[a,b]**	AM	25.2	C	29.2	C	29.7	C	0.011	+0.6
		PM	30.2	C	**72.1**	**E**	**73.7**	**E**	0.006	+2.3
4	**Oakland Road/Hedding Street[c]**	AM	44.1	D	**61.3**	**E**	**61.7**	**E**	0.003	+0.7
		PM	36.4	D+	49.3	D	49.5	D	0.001	+0.2

Notes:

a. Denotes a CMP Intersection.
b. Denotes a US 101/Oakland/Mabury TDP Intersection.
c. Denotes a City of San José Protected Intersection.

Source: Appendix E, Transportation Impact Analysis for Appendix A of Rotten Robbie # 67 Project Initial Study, October 2017.

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. The results of the LOS calculations indicate that three of the four study intersections operate at acceptable levels under Existing Conditions. The only intersection that operates unacceptably (with respect to the City's LOS standard of LOS D) is Oakland Road/US 101 North, which operates at LOS E during the AM peak hour. The remaining studied intersections currently operate at an acceptable LOS D or better during both the AM and PM peak hours (Table 15).

Background Conditions Intersection Operations

As seen in Table 15, the results of the LOS calculations indicate that the majority of the study intersections would not operate at acceptable levels of service. As shown, compared to the background conditions, the following intersections would continue to operate at an

unacceptable level (AM and/or PM peak hour) under Background Conditions and Background with Project Conditions.

- Intersection #1 – Oakland Road/Commercial Street (AM and PM peak hours)
- Intersection #2 – Oakland Road/US 101 North (AM peak hour)
- Intersection #3 – Oakland Road/US 101 South (PM peak hour)
- Intersection #4 – Oakland Road/Hedding Street (AM peak hour)

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:

- An intersection to deteriorate from an acceptable level of service (LOS D or better) to an unacceptable level (LOS E or below); or,
- An intersection already operating at an unacceptable level:
    - To exacerbate its unacceptable operations by increasing the critical delay more than four seconds and increasing the volume-to-capacity (V/C) ratio by 0.01 (1%) or more; or
    - To increase the V/C ratio of 0.01 (1%) or more when the change in critical delay is negative (i.e., decreases). This can occur if the critical movements change.
    - 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.

Specifically, the CEQA thresholds applies the criteria, stated above, under background plus project conditions. Traffic volumes for Background Conditions comprise of existing volumes plus traffic generated by “approved but not yet built” and “not occupied” development in the area to account for local growth in the study area. Staff from the City of San Jose provided information regarding these background development projects. In particular, the “approved but not yet built” and “not occupied” developments that will add traffic to the study intersections were obtained from the City’s Approved Trips Inventory (ATI) database. Background plus project conditions are evaluated relative to background conditions in order to determine potential project impacts.

4.16.2 Transportation Environmental Checklist

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
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?	☐	☐	☒	☐	1,2,25
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?	☐	☐	☒	☐	1,2,25
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?	☐	☐	☒	☐	1,2,25
d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	☐	☐	☒	☐	1,2,25
e. Result in inadequate emergency access?	☐	☐	☒	☐	1,2,25
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?	☐	☐	☒	☐	1,2,25

4.16.3 *Impacts Evaluation*

a. Would the project 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? AND

b. Would the project 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? [All Less Than Significant Impact]

Project Trip Generation

Vehicle trip rates for the proposed uses, passby reductions, and trip credits for the existing uses were used to estimate the number of trips to and from the proposed project site. Based on the trip generation estimates, the project will generate an additional 4,024 daily trips, including a total of 117 trips during the AM peak hour (54 inbound/63 outbound) and a total of 86 trips during the PM peak hour (47 inbound/39 outbound). The full project trip generation estimates is summarized in **Error! Reference ource not found.**.

LOS Intersection Analysis

As shown in Table 15 above, compared to the background conditions, the following intersections would continue to operate at an unacceptable level (AM and/or PM peak hour) under Background Conditions and Background with Project Conditions.

- Intersection #1 – Oakland Road/Commercial Street (AM and PM peak hours)
- Intersection #2 – Oakland Road/US 101 North (AM peak hour)
- Intersection #3 – Oakland Road/US 101 South (PM peak hour)
- Intersection #4 – Oakland Road/Hedding Street (AM peak hour)

When measured against the City of San Jose's impact criteria, the additional project trips would result in both a critical-movement delay at the intersection to increase by four (4) or more seconds and the volume-to-capacity ratio (V/C) would increase be one percent or more at two intersections (Oakland Road/Commercial Street and Oakland Road/US 101 North). While this exceeds the thresholds (Council Policy 5-3), compliance with the existing US 101/Oakland/Mabury Transportation Development Policy, as stated in the condition below, would result in a less than significant impact.

US 101/Oakland/Mabury Transportation Development Policy and Proposed Project

The US-101/Oakland/Mabury Transportation Development Plan (TDP) outlines a

number of intersection and other roadway improvements with the goal of reducing delay at the US-101/Oakland/Mabury interchange area in San Jose. The policy recognizes that future impacts would occur at the interchange and projects that would impact the interchange would be required to pay an impact fee per new net trip generated for the improvement at this interchange. Consistent with the policy, the project shall implement the following environmental condition below.

Table 16
Project Trip Generation Estimates

Land Use	Trip Generations			Trip Generation Estimates						
	Daily	AM	PM	Daily	AM Peak Hour Trips			PM Peak Hour Trips		
					In	Out	Total	In	Out	Total
Personal Vehicle Pumps	542.6	16.6	19.1	6,511	100	99	199	115	114	229
Commercial Vehicle Pumps	573.7	18.5	7.5	4,590	74	74	148	30	30	60
Gross Trips Generation				**11,101**	**174**	**173**	**347**	**145**	**144**	**289**
Pass-by trip Reduction (63% AM/ 66% PM)				-6,993	-110	-109	-219	-96	-95	-191
New Trips Generated				**4108**	**64**	**64**	**128**	**49**	**49**	**98**
Existing Industrial Land Uses	6.97	0.88	0.97	-84	-10	-1	-11	-2	-10	-12
Net New Trip Generation				**4,024**	**54**	**63**	**117**	**47**	**39**	**86**

Source: Appendix F, Transportation Impact Analysis for Rotten Robbie #67 Project Initial Study, October 2017

Environmental Condition: The project shall conform to the US-101/Oakland/Mabury TDP and pay the impact fee for the additional 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 Protected Intersections

One of the intersections that was analyzed in this study, Oakland Road/Hedding Street, is a protected intersections. As further described in Appendix F, 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 and Driveway Operations – Queueing

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).

Based on the analysis in Appendix F, the existing 365-foot westbound left turn pocket at Oakland Road/Commercial Street would not be adequate to accommodate these queues. Some additional westbound left turn capacity (approximately 750 feet) may be available by narrowing the through lanes upstream of the traffic flow to where vehicles have a clear line of sight to the intersection, but this would not mitigate the entire deficiency. The City of San José plans to install dual-left turn lanes as part of their pavement maintenance program at the end of 2017. This would add approximately 145 feet of left turn storage.

Queues at the project driveway entrances are anticipated to be short. For the Commercial Street driveways, queues are anticipated to be short as Commercial Street widens from one westbound lane to three westbound lanes upstream near the driveway. For the right-in/right-out Oakland Road driveways, queues are anticipated to be short as long gaps in traffic are plentiful along Oakland Road, and generally low bicycle and pedestrian volumes result in low incidence of queues forming when turning vehicles yield to bicyclists and pedestrians.

Vehicle Site Access and Vehicle Circulation

The project proposes two full-access driveways on Commercial Street and two right-in/right-out driveways on Oakland Road. Oakland Road is a straight horizontal alignment with little-to-no vertical curvature. Drivers can generally see upstream along Oakland Road at least 800 feet, through the Oakland Road/Commercial Street intersection (signalized) to the US 101 North/Oakland Road intersection, which is a signalized intersection. In addition, the proposed position of the Commercial Street driveway appears to allow for vehicles exiting the site to see at to the Oakland Road/Commercial Street intersection and at least 1,000 feet away from the intersection along Commercial Street. This sight distance would be adequate for vehicles exiting the site.

Consistent with the requirements for parking aisles presented in the City of San Jose Ordinance Code, the on-site ring circulator roadway will be at least 26 feet in width. Parking stalls are only included along tangent sections of the circulator roadway. Sight distance along the circulator around the northwest corner of the building should provide sufficient sight distance for drivers to avoid conflicts between vehicles entering/exiting parking stalls and vehicles traveling along the circulator roadway.

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. Consistent with City's policies and regulations, in the event that temporarily closure or rerouting of any public right of way is needed, the project would be required to submit a construction management plan for City approval that addresses schedule, closures/detours, staging, parking, and truck routes prior to actions taken place.

Cumulative Long-Range Traffic Impacts

In addition to the General Plan level long-range traffic analysis required for individual projects along with project specific traffic analysis for the proposed project, short-term traffic generated by the project, the cumulative long-range traffic impacts of all of the proposed 2017 General Plan Amendments were evaluated in a Long-Range Traffic Impact Analysis model forecast prepared by Hexagon Transportation Consultants (Appendix G). This analysis evaluated the cumulative impacts of ten proposed General Plan Amendments, listed in Table 17. Each of the proposed General Plan Amendments would result in changes to the assumed number of households and/or jobs on each site when compared to the Envision San Jose 2040 General Plan assumptions for each site. However, the total number of jobs and households citywide would not change as a result of these Amendments. Table 17 (below) summarizes the existing (adopted 2040 General Plan) and proposed land uses and density for each of the ten sites under each General Plan Amendment.

Table 17
2017 General Plan Land Use Amendments – Existing and Proposed Land Use

Site No.	Project Name	Location	APN	Size (acres)	Existing General Plan		Proposed General Plan Amendment	
					Land Use	Max. Density	Land Use	Max. Density
1	GP16-011 (Oakland Rd.)	1202 Oakland Rd.	241-11-014, 020, 021, 022	1.54	Heavy Industrial	FAR up to 1.5	Combined Industrial/ Commercial	FAR up to 12.0
2	GP16-012 (Booksin Ave.)	2720 Booksin Ave.	446-33-040	1.65	Public/Quasi-Public	N/A	Residential Neighborhood	8 DU per AC; FAR up to 0.7
3	GP16-013 (N. 4th St.)	120 N. 4th St.	467-20-019, 020, 021, 022, 040	0.91	Residential Neighborhood & Transit Residential	8 DU/ AC; FAR up to 0.7; 50-250 DU/AC; FAR 2.0	Downtown	50-800 DU/AC; FAR 2.0 to 12.0

						to 12.0		
4	GP17-001 (Capitol Ave.)	100 S. Capitol Avenue	484-23-039	0.35	Neighborhood/ Community Commercial	FAR up to 3.5	Residential Neighborhood	8 DU/ AC; FAR up to 0.7
5	GP17-002 (Moorpark Ave.)	2323 Moorpark Avenue	282-01-014, 015, 016, 020, 021, 022	1.07	Residential Neighborhood	8 DU/ AC; FAR up to 0.7	Mixed-Use Neighborhood	up to 30 DU/AC; FAR 0.25 to 2.0
6	GP17-003 (Branham LR Park & Ride)	4746 Narvaez Road	462-02-022, 024, 026, 027, 028, 021, 023, 025	3.14	Mixed-Use Neighborhood	up to 30 DU/AC; FAR 0.25 to 2.0	Transit Residential	50-250 DU/AC; FAR 2.0 to 12.0
7	GP17-004 (Cottle LR Park & Ride)	272 International Circle	706-05-038	4.48	Neighborhood/ Community Commercial Public/Quasi-Public	FAR up to 3.5; N/A	Transit Residential	50-250 DU/AC; FAR 2.0 to 12.0
8	GP17-005 (Lincoln Ave.)	2119 Lincoln Avenue	439-08-059	0.28	Neighborhood/ Community Commercial	FAR up to 3.5	Urban Residential	30-95 DU/AC; FAR 1.0 to 4.0
9	GP17-006 (W. Julian St.)	715 W. Julian Street	261-01-030, 094	1.22	Mixed-Use Commercial	up to 50 DU/AC FAR 0.5 to 4.5	Urban Village	up to 250 DU/AC; FAR up 10.0
10	GP17-007 (Trimble Road)	370 W. Trimble Road	101-02-013, 014	19.4	Industrial Park	FAR up to 10.0	Combined Industrial/ Commercial	FAR up to 12.0

Notes: FAR = floor-to-area ratio; DU = dwelling units; AC = acre; APN = assessor's parcel number; N/A = not applicable.
Source: City of San Jose Planning Department (June 2017); Appendix G for Rotten Robbie # 67 Project Initial Study, August 2017.

The City of San Jose has adopted policy goals in the Envision San Jose 2040 General Plan to reduce the drive alone mode share to no more than 40 percent of all daily commute trips, and to reduce the Vehicle Miles Traveled (VMT) per service population by 40 percent from 2008 conditions. To meet these goals by the General Plan horizon year of 2040, and to satisfy CEQA requirements, three Measures of Effectiveness (MOE) thresholds are used to evaluate long-range transportation impacts resulting from implementation of the General Plan Amendments. The General Plan Amendments would be considered to have a significant cumulative long-range traffic impact if one or more of the following occurs: i) the amendments result in an increase in daily VMT per service population, ii) the amendments result in an increase in the percentage of journey-to-work drive alone trips; and/or iii) the amendments result in a 7.5 percent decrease in average vehicle speeds on designated transit priority corridors (summarized

in Table 18). In addition to the three MOEs, the cumulative traffic analysis evaluated potential cumulative effects on adjacent jurisdictions.

Table 18
Measure of Effectiveness (MOE) Significant Thresholds

Measure of Effectiveness (MOE)	Citywide Threshold
Daily VMT/Service Population	Any increase over current 2040 General Plan conditions
Journey-to-Work Mode Share (Drive Alone %)	Any increase in journey-to-work drive alone mode share over current 2040 General Plan conditions
Transit Corridor Travel Speeds	Decrease in average travel speed on a transit corridor below current 2040 General Plan conditions in the AM peak one-hour period when: 1. The average speed drops below 15 mph or decreases by 25% or more, or 2. The average speed drops by one mph or more for a transit corridor with average speed below 15 mph under current 2040 General Plan conditions.
Adjacent Jurisdiction	When 25% or more of total deficient lane miles on streets in an adjacent jurisdiction are attributable to the City of San Jose during the AM peak-4-hour period. 1. Total deficient lane miles are total lane miles of street segments with V/C ratios of 1.0 or greater. 2. A deficient roadway segment is attributed to San Jose when trips from the City are 10% or more on the deficient segment.

Source: Envision San Jose 2040 General Plan TIA, October 2010; Appendix G for Rotten Robbie # 67 Project Initial Study, August 2017.

The results of the cumulative Long-Range traffic analysis for all of the 2017 General Plan Amendments are discussed below and summarized in Table 19 to Table 22

Daily Vehicle Miles Traveled per Service Population

Compared to the current General Plan, the proposed General Plan Amendments would not result in an increase in VMT per service population. Therefore, cumulatively, the 2017 GPAs would result in a less than significant impact on citywide daily VMT per service population. It is important to note that the VMT per service population is based on raw model output and does not reflect the implementation of adopted GP policies and goals that would further reduce VMT by increased use of non-auto modes of travel.

Table 19
Daily Vehicle Miles Traveled per Service Population

	Base Year (2015)	Existing General Plan	Existing General Plan plus GPAs
Citywide Daily VMT	20,588,249	31,251,446	31,290,755
Citywide Service Population	1,385,030	2,065,461	2,065,461
Daily VMT Per Service Population	14.9	15.1	15.1
Increase in VMT/Service	--	--	0.0

Population over General Plan			
Significant Impact?			**No**
Note: Service Population = Residents + Jobs Source: Appendix G, City of San Jose 2017 General Plan Amendments: Long-Range Traffic Impact Analysis; Hexagon Transportation Consultants, Inc.; dated August 2017.			

Journey-to-Work Mode Share

The proposed General Plan Amendments will not result in an increase of drive alone journey-to-work mode share when compared to the current General Plan. Therefore, cumulatively, the 2017 GPAs would result in a less than significant impact on citywide journey-to-work mode share.

Table 20
Journey-to-Work Mode Share Percentages

	Base Year (2015)		Existing General Plan		Existing General Plan plus GPAs	
Mode	**Trips**	**%**	**Trips**	**%**	**Trips**	**%**
Drive Alone	724,530	78.3	1,061,730	72.5	1,062,180	72.4
Carpool 2	112,030	12.1	178,190	12.2	178,670	12.2
Carpool 3+	42,310	4.6	79,220	5.4	79,660	5.4
Transit	26,820	2.9	99,570	6.8	100,580	6.9
Bicycle	7,060	0.8	19,610	1.3	19,770	1.3
Walk	12,130	1.3	26,260	1.8	26,470	1.8
Increase in Drive Alone Percentage over General Plan Conditions						-0.1
Significant Impact?					**No**	

Source: Appendix G, City of San Jose 2017 General Plan Amendments: Long-Range Traffic Impact Analysis; Hexagon Transportation Consultants, Inc.; dated August 2017.

Average Vehicle Speeds in Transit Priority Corridors

The proposed General Plan Amendments will not result in a decrease in travel speeds of greater than one mph or 25 percent on any of the 14 transit priority corridors when compared to current General Plan conditions. Therefore, cumulatively, the 2017 GPAs would result in a less than significant impact on the AM peak-hour average vehicle speeds on the transit priority corridors.

Table 21
AM Peak-Hour Vehicle Speeds (m.p.h.) in Transit Priority Corridors

Transit Priority Corridor	Base Year (2015)	Existing General Plan	Existing General Plan plus GPAs	% Change (Existing General Plan plus GPAs – Existing GP)	Absolute Change (Existing General Plan plus GPAs – Existing GP

2nd St from San Carlos St to St. James St	11.4	11.4	11.4	0	0.0
Alum Rock Av from Capitol Av to US 101	21.2	15.3	15.1	-2	-0.3
Camden Av from SR 17 to Meridian Av	22.2	14.6	15.2	4	0.6
Capitol Av from S. Milpitas Bl to Capitol Expwy	23.9	20.8	20.5	-1	-0.2
Capitol Expwy from Capitol Av to Meridian Av	25.8	24.5	25.0	2	0.5
E. Santa Clara St from US 101 to Delmas Av	20.3	16.9	16.7	-1	-0.2
Meridian Av from Park Av to Blossom Hill Rd	22.7	19.1	18.7	-3	-0.5
Monterey Rd from Keyes St to Metcalf Rd	24.2	17.2	17.3	1	0.1
N. 1st St from SR 237 to Keyes St	19.8	12.7	13.4	5	0.7
San Carlos St from Bascom Av to SR 87	22.1	21.0	20.7	-2	-0.3
Stevens Creek Bl from Bascom Av to Tantau Av	21.3	17.2	17.2	0	0.0
Tasman Dr from Lick Mill Bl to McCarthy Bl	24.0	13.5	13.5	0	0.0
The Alameda from Alameda Wy to Delmas Av	19.7	14.1	13.7	-3	-0.5
W. San Carlos St from SR 87 to 2nd St	19.3	18.3	18.2	0	0.0
Source: Appendix G, City of San Jose 2017 General Plan Amendments: Long-Range Traffic Impact Analysis; Hexagon Transportation Consultants, Inc.; dated August 2017.					

Adjacent Jurisdictions

The current General Plan land use designations and proposed General Plan Amendment land use adjustments result in the same impacts to roadway segments within the same 14 adjacent jurisdictions identified in the Envision San Jose 2040 General Plan. Therefore, the proposed General Plan Amendment land use adjustments would not result in further impact on roadways in adjacent jurisdictions than that identified for the current General Plan land uses in the adopted Envision San Jose 2040 General Plan EIR.

Table 22 AM 4-Hour Traffic Impacts in Adjacent Jurisdictions									
	Base Year (2015)			Existing General Plan			Existing General Plan plus GPAs		
City	**Total Deficient Lane Miles (1)**	**Total Deficient Lane Miles Attributed to San Jose (2)**	**% of Deficient Lane Miles Attributed to San Jose**	**Total Deficient Lane Miles (1)**	**Total Deficient Lane Miles Attributed to San Jose (2)**	**% of Deficient Lane Miles Attributed to San Jose**	**Total Deficient Lane Miles (1)**	**Total Deficient Lane Miles Attributed to San Jose (2)**	**% of Deficient Lane Miles Attributed to San Jose**
Campbell	0.14	0.14	100	0.86	0.86	**100**	0.86	0.86	**100**
Cupertino	3.76	2.96	79	1.01	0.79	**78**	1.01	0.79	**78**
Gilroy	0.00	0.00	0	1.13	1.13	**100**	1.13	1.13	**100**
Los Altos	1.21	0.25	21	1.63	0.25	**15**	1.24	0.25	**20**
Los Altos Hills	0.65	0.00	0	1.71	0.93	**54**	1.71	0.93	**54**
Los Gatos	0.70	0.70	100	1.02	1.02	**100**	0.82	0.82	**100**
Milpitas	1.08	0.87	81	10.56	10.56	**100**	10.8	10.8	**100**
Monte Sereno	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0
Morgan Hill	0.46	0.46	100	0.56	0.56	**100**	0.24	0.24	**100**
Mountain View	1.69	1.51	89	1.91	1.63	**85**	1.96	1.67	**85**
Palo Alto	0.64	0.16	25	2.81	0.16	6	2.81	0.16	6
Santa Clara	0.04	0.04	100	1.06	0.99	**93**	1.06	0.99	**93**
Saratoga	1.86	1.57	85	3.22	3.22	**100**	3.22	3.22	**100**
Sunnyvale	0.95	0.46	49	1.01	1.01	**100**	1.01	1.01	**100**
Caltrans Facilities	5,311	4,131	78	5,234	4,402	**84**	5,236	4,402	**84**
SC Co. Expressways	2.75	2.75	100	13.03	12.83	**98**	11.84	11.64	**98**

Notes:

(1) Total deficient lane miles are total lane miles of street segments with V/C ratios of 1.0 or greater.

(2) A deficient roadway segment is attributed to San Jose when trips from the City are 10% or more on the deficient segment.

Bold: Indicates Significant Impacts

Source: Appendix G, City of San Jose 2017 General Plan Amendments: Long-Range Traffic Impact Analysis; Hexagon Transportation Consultants, Inc.; dated August 2017.

Conclusion

Compared to the Envision San Jose 2040 General Plan, the 2017 General Plan Amendments Long-Range Traffic Analysis found that the General Plan Amendments would i) not result in an increase citywide daily VMT per service population; ii) reduce the percentage of journey-to-work drive alone trips; or iii) increase average vehicle speeds on the transit priority corridors. Future development on each of the General Plan

Amendment project sites will be required to evaluate near-term traffic for project-level CEQA clearance for each planning permit.

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? [Less Than Significant Impact]

The project site is located as the project is approximately 1.5 miles east of the Norman Y. Mineta San José International Airport. None of the proposed buildings for this project site are at a height that would trigger the need for FAA airspace review. The project would not result in changes in air traffic patterns.

d. Would the project substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)? [Less Than Significant Impact]

Refer to question A, B, and C above.

e. Would the project result in inadequate emergency access?

The proposed project includes four driveways, two on Oakland Road and two on Commercial Street. Parking or truck loading/unloading zones encircle the building and a parking access ring aisle is provided. Therefore, the project would not interfere with emergency response access on adjacent public roads and would not result in inadequate emergency access or response

f. Would the project conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities? [Less Than Significant Impact]

Construction

Pedestrian volumes along Oakland Road and Commercial Street are relatively low. Class II bike lanes are provided along Oakland Road north of Commercial Street and south of Horning Street past the intersection of US 101 South/Oakland Road. Any necessary sidewalk closures/pedestrian detours does not anticipate to significantly affect the overall pedestrian circulation in the area. In addition, as stated in question A and B above, the project would be required to submit a construction management plan for City approval that addresses schedule, closures/detours, staging, parking, and truck routes prior to temporarily closure or detours of any public right of way for construction purposes of this project.

Operations - Pedestrian, Public Transit, and Bicycle

Full sidewalks are provided along Oakland Road and Commercial Street. North, east, and west crosswalks are provided at the intersection of Oakland Road/Commercial Street. Class II bike lanes are provided along Oakland Road north of Commercial Street and south of Horning Street past the intersection of US 101 South/Oakland Road.

Transit access to the site is provided by bus stops adjacent to the site. VTA Route 66 serves these stops with connections to the Milpitas Great Mall/Main Street transit center and potential future connection to the BART Milpitas station.

4.16.4 Conclusion

The proposed project would have a less than significant transportation impact with payment of the TDP impact fee.

4.17 UTILITIES AND SERVICE SYSTEMS

4.17.1 Existing Setting

4.17.1.1 *Water Services*

Water service to the project is provided by the San José Water Company. The project site is served by existing water lines along Commercial Street running eastward toward Coyote Creek.

4.17.1.2 *Wastewater Services*

Wastewater from the project area is treated at the San José/Santa Clara Regional Wastewater Facility (wastewater Facility), formerly known as the San José/Santa Clara Water Pollution Control Plant (WPCP), in Alvsio. The City of San José generates approximately 69.8 million gallons per day (mgd) of dry weather sewage flow. The City's share of the Wastewater Facility's treatment capacity is 108.6 mgd, which leaves the City with approximately 38.8 mgd of excess treatment capacity.[16]

4.17.1.3 *Storm Drainage*

The City of San José owns and maintains storm drainage facilities throughout the City. Storm drain lines are inspected and maintained by the Department of Transportation, and are installed, rehabilitated and replaced by the Department of Public Works. Stormwater from the site currently has mains on Commercial Street, ultimately discharging into Coyote Creek. The proposed project would connect to the existing storm main on site.

4.17.1.4 *Solid Waste*

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California Integrated Waste Management Board in 1996 and was reviewed in 2004, 2007, and 2011. Each jurisdiction in the County has a landfill diversion requirement of 50 percent per year. According to the IWMP, the County has adequate disposal capacity beyond 2026. Solid waste generated within the County is landfilled at Guadalupe Mines, Kirby Canyon, Newby Island, Zanker Road Materials Processing Facility, and Zanker Road landfills.

The California Integrated Waste Management Act (AB 939) passed in 1989 required jurisdictions to divert 50 percent of solid waste from landfills by the year 2000. The City of San José has exceeded this requirement, diverting over 60 percent of solid waste from landfills in recent years. Recently, the state has tasked the California Department of Resources Recycling and Recovery (CalRecycle) with developing strategies to reach a 75 percent waste diversion rate statewide by the year 2020. Similarly, the City of San José adopted a Zero Waste Resolution in October 2007 which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022.

The City currently sends 700,000 tons per year of solid waste to landfills.

4.17.1.6 *Applicable Plans, Policies, and Regulations*

Envision San José 2040 General Plan

The following 2040 General Plan policies are specific to utilities and service systems and are applicable to the proposed projects.

Envision San José 2040 Transportation Policies

Policies	Description
Policy 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.
Policy MS-3.3	Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
Policy IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
Policy IN-3.10	Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES) permit.

4.17.1 Utilities and Service Systems Environmental Checklist

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☒	☐	1,2,3

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
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?	☐	☐	☒	☐	1,2,3
c. Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☒	☐	1,2,3
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☒	☐	1,2,3
e. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☒	☐	1,2,3
f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☒	☐	1,2,3
g. Comply with federal, state and local statutes and regulations related to solid waste?	☐	☐	☒	☐	

4.17.3 Impacts Evaluation

a. Would the project exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? [Less Than Significant Impact]

It is assumed that the new convenience store and gasoline station would have different water demands than the existing light-industrial uses at the site. It is estimated that the gas station and the convenience store would not the treatment capacity of the area. Therefore, 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.

b. Would the project 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? [Less Than Significant Impact]

The proposed gas station may incrementally increase water demands and wastewater generation. However, this increase is not expected to require or result in the construction of new water or wastewater treatment facilities or any expansion of existing facilities.

c. Would the project 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? [Less Than Significant Impact]

As discussed in *Hydrology and Water Quality* section of this Initial Study, the proposed project would maintain a comparable amount of pervious surfaces on the site, thereby maintaining overall stormwater flows. New on-site drainage facilities would be designed to meet the City of San José standards.

Based on the inclusion of stormwater collection and treatment facilities on site, and the implementation of C.3 post-construction measures, runoff on the site would not exceed the capacity of the City' existing storm water drainage system.

d. Would the project have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? [Less Than Significant Impact]

The project would require minimal water for landscaping and turf maintenance. The project would, therefore, have sufficient water supplies available to serve the project and would not require new or expanded entitlements.

e. Would the project 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? AND

f. Would the project be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? [All Less Than Significant Impact)

The project site currently occupied by an existing fuel station with 4 fuel dispensers (Flyer), a truck service business (Bay Area Truck Services), and a glass and upholstery

business (Blair Auto Glass and Upholstery). The proposed project would demolish all existing buildings to construct a new fuel station () with a convenience store. While the fuel station is expanding to add in more stations, the project site would host similar uses than what is currently existing on site. The proposed project anticipate to generate minimal additional waste water and solid waste.

g. Would the project comply with federal, state and local statues and regulations related to solid waste? (Less Than Significant Impact)

As discussed in the Hazards and Hazardous Materials section of this Initial Study, solid waste during construction activities will comply with applicable Federal's, State's and City's regulations for disposal. Development within the City is required to comply with all applicable regulations regarding disposal of solid waste. Therefore, as part of the allowable operation, the project will comply with all Federal, state and local statutes and regulations related to solid waste.

4.17.4 Conclusion

The project would not result in any utility or service facility exceeding its current capacity or require the construction of new infrastructure or service facilities.

4.18 MANDATORY FINDINGS OF SIGNIFICANCE

4.18.1 Mandatory Findings Environmental Checklist

		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?	☐	☒	☐	☐	1-25
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)?	☐	☐	☒	☐	1-25
c.	Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?	☐	☐	☒	☐	1-25
d.	Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☒	☐	1-25

4.18.2 Impacts Evaluation

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? [Less Than Significant with Mitigation Measures]

As described in the specific sections of this Initial Study (specifically Biological Resources and Land Use), with implementation of environmental conditions and identified mitigation measures, the proposed project would not result in significant environmental impacts. The project would not 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 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.

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)? [Less Than Significant Impact]

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."

Several of the environmental issues addressed in the previous sections of this Initial Study, such as air quality and greenhouse gas emissions, are assessments of a project's contribution to cumulative effects on either a regional or global basis. These effects were found to be less than significant. Additional impacts, such as those related to geology and soils and hazardous materials, are limited to the project site. The project would comply with the existing TDP in this area to reduce any potential impact generated by the net new trips that would be generated from this project, and would not make a considerable contribution toward any identified cumulative traffic impacts. There are no other projects planned in the area that would include substantial sources of light and glare, and the light levels generated by the proposed project are within the range of existing ambient light levels in the project area. The project, therefore, would not result in significant cumulative impacts.

c. Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?

The proposed project will provide a mix of commercial uses and intensify the level of development at an existing, infill site. The impervious surface will be reduced and new

vegetation will be planted. 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 and environmental conditions included in the project would not achieve short-term environmental goals to the disadvantage of long-term environmental goals.

d. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

The project's air quality impacts from construction to the surrounding residential area were analyzed in this Initial Study and found to be less than significant. 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.

Checklist Sources and References:

1. CEQA Guidelines – Environmental Thresholds (professional judgement and expertise and review of project plans).
2. City of San José. *Envision San José 2040 General Plan.* September 2011.
3. City of San José. *Envision San José 2040 General Plan FEIR*. September 2011.
4. California Department of Conservation. California Farmland Mapping and Monitoring Program. Accessed August 2017. https://www.arcgis.com/home/webmap/viewer.html?useExisting=1&layers=6586b7d276d84581adf921de7452f765
5. California Department of Conservation. Division of Land Resource Protection, Conservation Program Support. Santa Clara County Williamson Act FY 2013/2014. 2013.
6. City of San José. *Municipal Code*.
7. Bay Area Air Quality Management District. *Bay Area 2010 Clean Air Plan*. Adopted September 2010.
8. Bay Area Air Quality Management District. *CEQA Air Quality Guidelines*. Updated May 2011.
9. Michael Baker. *Rotten Robbie #67 Project Air Quality Report*. March 2017.
10. ECORP Consulting, Inc. *Rotten Robbie 367 Health Risk Assessment*. September 2017.
11. Timothy c. Ghirardelli Consulting Arborist Services. *Tree Survey for Robinson Oil at 1202 Oakland Road, San Jose*. February 2017.
12. United States Fish & Wildlife Service. Migratory Bird Treaty Act Protect Species, Accessed August 2017. https://www.fws.gov/birds/management/managed-species/migratory-bird-treaty-act-protected-species.php .
13. California Fish & Wildlife. Threatened and Endangered Species. Accessed August 2017. http://www.dfg.ca.gov/wildlife/nongame/t_e_spp/
14. City of San Jose Council Policy, Riparian Corridor Protection and Bird-Safe Design, Accessed August 2017, http://www.sanjoseca.gov/DocumentCenter/View/60393
15. Cartier, Robert of Archaeological Resource Management. March 2017. Cultural Resource Evaluation of the Project at 1202 Oakland Road in the City of San Jose. (confidential, on filed at the City).
16. Environmental Investigation Services, Inc., February 2017, Phase I Environmental Site Assessment.
17. United States Geological Survey. Soil Type and Shaking Hazards in the San Francisco Bay Area. Accessed October 2017. https://earthquake.usgs.gov/hazards/urban/sfbay/soiltype/ .
18. 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.
19. Department of Conversation. 2015 CGS Information Warehouse. Accessed October 2017. http://maps.conservation.ca.gov/cgs/informationwarehouse/.
20. Department of Conservation. 2002. Seismic Hazard Zone Report for San Jose West. Accessed October 2017. http://gmw.conservation.ca.gov/SHP/EZRIM/Reports/SHZR/SHZR_058_San_Jose_West.pdf.

21. Federal Emergency Management Agency. Community Panel Number: 06085C0234H. May 17, 2009.
22. California Emergency Management Agency. Tsunami Inundation Map for Emergency Planning San Francisco Bay Area. Site accessed October 2017. http://www.consrv.ca.gov/cgs/geologic_hazards/Tsunami/Inundation_Maps/Documents/Tsunami_Inundation_SanFranciscoBayArea300.pdf.
23. County of Santa Clara. Santa Clara County Geologic Hazard Zones. Map 12. Accessed October 2017. https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf.
24. Brennan, Jim of j.c. Brennan & associates, Inc. September 2017. Oakland Road Rotten Robbie Noise Report.
25. Fehr & Peers. October 2017.Transportation Impact Analysis (TIA) Report.
26. Ramboll Environ. September 2016. Rotten Robbie #67 Greenhouse Gas Technical Analysis.

SECTION 6.0 LEAD AGENCY AND CONSULTANTS

LEAD AGENCY

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