

Initial Study

Virginia Studios Project

File Numbers C17-012 and H17-019



Prepared by the



In Consultation with



September 2018

MITIGATED NEGATIVE DECLARATION

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

PROJECT NAME: Virginia Studios Project

PROJECT FILE NUMBER: C17-012 and H17-019

PROJECT DESCRIPTION: Rezone an approximately 1.8-acre site from A(PD) – Planned Development to R-M – Multiple Residence to allow the construction of 301 senior studio residential units. The project would require a Site Development Permit to allow the construction of the five-story below market-rate senior housing with 301 studio units and to allow three concessions (front and side setbacks and motorcycle parking) and two waivers (building height and private open space) on an approximately 1.8-acre site. The project would obtain a street vacation from the City for the northern segment of South 6th Street, between I-280 and East Virginia Street.

PROJECT LOCATION: Northwest corner of East Virginia Street and South 7th Street in San José

ASSESSORS PARCEL NO.: 472-25-092

COUNCIL DISTRICT: 3

APPLICANT: Alexis M. Gevorgian, AMG & Associates, LLC, 16633 Ventura Boulevard, Suite 1014, Encino, CA 91436-1859, (818) 380-2600

FINDING

The Director of Planning, Building and Code Enforcement finds the project described above will not have a significant effect on the environment if certain mitigation measures are incorporated into the project. The attached Initial Study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this Mitigated Negative Declaration (MND), has made or agrees to make project revisions that will clearly mitigate the potentially significant effects to a less than significant level.

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

- A. **AESTHETICS** – The project would not have a significant impact on aesthetics, therefore no mitigation is required.

B. AGRICULTURAL AND FORESTRY RESOURCES – The project would not have a significant impact on agricultural and forestry resources, therefore no mitigation is required.

C. AIR QUALITY

Impact AIR-1: Project construction activities would result in health risks above Bay Area Air Quality Management District (BAAQMD) thresholds at nearby sensitive receptors.

The project applicant shall implement the following mitigation measure to reduce construction-related health risks to nearby sensitive receptors to a less than significant level.

MM AIR-1.1: Prior to issuance of any grading permits, the project applicant shall develop a written plan demonstrating that mobile off-road equipment larger than 25 horsepower and operating at the site for more than two days continuously shall meet U.S. Environmental Protection Agency (USEPA) particulate matter emissions standards for Tier 4 engines or equivalent and all stationary pieces of construction equipment shall use best available control technology to reduce diesel particulate matter (DPM) or shall be gasoline- or alternative energy powered. Tier 2 engines that have exhaust systems equipped with California Air Resources Board (CARB) Level 3 verified diesel emission control system will also meet this requirement.

D. BIOLOGICAL RESOURCES

Impact BIO-1: Development of the project would impact nesting birds and raptors, if present onsite or in the immediate vicinity.

In conformance with the Fish and Game Code and the provisions of MBTA, the project applicant shall implement the following mitigation measures to reduce impacts to nesting birds (if present on or adjacent to the site) to a less than significant level.

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

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

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

If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist, in consultation with the California Department of Fish and Wildlife (CDFW), shall designate a construction-free buffer zone to be established around the nest to ensure that no nests of species protected by the federal Migratory Bird Treaty Act (MBTA) and California Fish and Game Code are disturbed during construction activities. The buffer shall remain in place until a qualified ornithologist has determined that the nest is no longer active.

MM BIO-1.3: Reporting. A final written report on nesting birds and raptors, including survey methodology, survey date(s), map of identified active nests (if any), and protection measures (if required), shall be submitted to the City's Supervising Environmental Planner and be completed to the satisfaction of the Director of Planning, Building, and Code Enforcement prior to the issuance of any grading permits.

E. CULTURAL RESOURCES – The project would not have a significant impact on cultural resources, therefore no mitigation is required.

F. GEOLOGY AND SOILS – The project would not have a significant impact on geology and soils, therefore no mitigation is required.

G. GREENHOUSE GAS EMISSIONS

Impact GHG-1: The project would result in significant operational GHG emissions. The following mitigation measures would ensure the impact would be less than significant.

MM GHG-1.1: The project applicant shall develop and successfully implement a written Transportation Demand Management (TDM) plan to reduce project generated vehicle trips and parking demand. Using the City's VMT Evaluation Tool, the TDM plan shall demonstrate the reduction of project generated vehicle trips by at least 25 percent, which would subsequently reduce operational GHG emissions from the project site by at least 14.5 percent. The TDM plan shall incorporate at least three or more TDM elements including, but not limited to, measures such as transit passes, on-site transit information (kiosk) and ticket sales, direct shuttle service to light rail train (LRT) and Caltrain stations, parking cash-out program, car sharing, carpool and vanpools, unbundled parking, or other reasonable measures. The TDM Plan shall be submitted to the City's Supervising Environmental Planner and be completed to the satisfaction of the Director of Planning, Building and Code Enforcement prior to issuance of a grading permit.

H. HAZARDS AND HAZARDOUS MATERIALS

Impact HAZ-1.1: Project implementation (e.g., excavation) could release as yet undetected residual hazardous waste which could expose construction workers, future residents, and/or the environment to a significant health risk during earthwork activities.

The project shall implement the following mitigation measure to ensure the site is appropriate for residential development:

MM HAZ-1.1: The project applicant shall submit the following completed hazardous materials investigations to the Santa Clara County Department of Environmental Health (SCCDEH) for review:

- Phase I Environmental Site Assessment (ESA) prepared by KCE Matrix on July 3, 2014.
- Subsurface ESA prepared by KCE Matrix on September 10, 2014.
- Technical Memorandum prepared by Environmental Partners, Inc. on June 4, 2015.
- Remedial Action Report prepared by Environmental Partners, Inc. on November 19, 2017).

The SCCDEH shall review the reports and determine if the site investigation is complete or if further remediation and/or investigation is required. The project applicant shall complete the necessary steps to obtain regulatory closure for the property, pursuant to SCCDEH direction.

Final approval that the site is suitable for residential development shall be issued by SCCDEH which shall be submitted to the City of San José Supervising Environmental Planner prior to issuance of any grading permits for project construction.

- I. HYDROLOGY AND WATER QUALITY** – The project would not have a significant impact on hydrology and water quality, therefore no mitigation is required.
- J. LAND USE AND PLANNING** – The project would not have a significant impact on land use and planning, therefore no mitigation is required.
- K. MINERAL RESOURCES** – The project would not have a significant impact on mineral resources, therefore no mitigation is required.
- L. NOISE AND VIBRATION** – The project would not have a significant noise and vibration impact, therefore no mitigation is required.
- M. POPULATION AND HOUSING** – The project would not have a significant impact on population and housing, therefore no mitigation is required.
- N. PUBLIC SERVICES** – The project would not have a significant impact on public services, therefore no mitigation is required.

- O. RECREATION** – The project would not have a significant impact on recreation, therefore no mitigation is required.
- P. TRANSPORTATION/TRAFFIC** – The project would not have a significant impact on transportation/traffic, therefore no mitigation is required.
- Q. UTILITIES AND SERVICE SYSTEMS** – The project would not have a significant impact on utilities and service systems, therefore no mitigation is required.
- R. MANDATORY FINDINGS OF SIGNIFICANCE**

With implementation of the mitigation measures identified above, and the standard permit conditions identified in the Initial Study, the project would not degrade the quality of the environment, substantially affect biological resources, or eliminate important examples of California history or prehistory. The mitigation measures and standard permit conditions would also ensure that the project's contribution to cumulative impacts would not be cumulatively considerable, and the project would not cause substantial adverse effects on human beings, either directly or indirectly.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **Tuesday, October 1, 2018** any person may:

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

Rosalynn Hughey, Director
Planning, Building and Code Enforcement

9/7/18
Date

SB Walsh
Deputy

Circulation period: September 11, 2018 through October 1, 2018

Environmental Project Manager: Reema Mahamood

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- Appendix D: Hazardous Materials Reports
- Appendix E: Noise and Vibration Assessment
- Appendix F: Transportation Impact Analysis

ACRONYMS AND ABBREVIATIONS

<u>Acronym/Abbreviation</u>	<u>Definition</u>
ABAG	Association of Bay Area Governments
AB	Assembly Bill
AIA	Airport Influence Area
ATI	Approved Trips Inventory
BAAQMD	Bay Area Air Quality Management District
BCDC	Bay Conservation and Development Commission
BTEX	xylenes
CAAQS	California Ambient Air Quality Standards
CalEPA	California Environmental Protection Agency
Caltrans	California Department of Transportation
Cal Fire	California Department of Forestry and Fire Protection
Cal/OSHA	California Occupational Safety and Health Administration
CARB	California Air Resources Board
CBC	California Building Code
C&D	construction and demolition
CDD	Construction & Demolition Diversion
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
General Plan FPEIR	Certified 2011 Envision San José 2040 General Plan Final Program EIR
CH ₄	methane
CLUP	Comprehensive Land Use Plan
CMP	Congestion Management Program
CO	carbon monoxide
CO ₂	carbon dioxide
CRHR	California Register of Historical Resources
CUPA	Certified Unified Program Agency
dBA	Decibel(s)
Diesel RRP	Diesel Risk Reduction Plan

DPM	diesel particulate matter
DTSC	Department of Toxic Substances Control
EIR	Environmental Impact Report
ESA	Environmental Site Assessment
ESL	environmental screening level
FAA	Federal Aviation Administration
FIRM	Flood Insurance Rate Map
FMMP	Farmland Mapping and Monitoring Program
FRAP	Fire and Resource Assessment Program
GHG	Greenhouse Gas(es)
gpd	Gallon(s) per day
HCM	Highway Capacity Manual
in/sec	Inch(es) per second
ITE	Institute of Transportation Engineers
IWMP	Integrated Waste Management Plan
LID	Low Impact Development
LUST	Leaking Underground Storage Tank
mm/sec	Millimeter(s) per second
MND	Mitigated Negative Declaration
mph	Mile(s) per hour
MTBE	methyl-tert-butyl-ether
MTC	Metropolitan Transportation Commission
NAAQS	National Ambient Air Quality Standards
NAHC	Native American Heritage Commission
NFIP	National Flood Insurance Program
NISL	Newby Island Sanitary Landfill
NPDES	National Pollutant Discharge Elimination System
NOI	Notice of Intent
NOD	Notice of Determination
NO ₂	nitrogen dioxide
NO _x	nitrogen oxides
N ₂ O	nitrous oxide
NRHP	National Register of Historic Places

O ₃	ozone
PDA	Priority Development Area
Ppm	parts per million
PPV	Peak Particle Velocity
PM _{2.5}	fine particulate matter
PM ₁₀	respirable particulate matter
RCRA	Resource Conservation and Recovery Act
REL	Reference Exposure Level
ROG	reactive organic gases
RTP	Regional Transportation Plan
RWF	San José/Santa Clara Regional Wastewater Facility
RWQCB	Regional Water Quality Control Board
SB 32	Senate Bill 32
SCCDEH	Santa Clara County Department of Environmental Health
SCVWD	Santa Clara Valley Water District
SFHA	Special Flood Hazard Areas
SHMA	Seismic Hazards Mapping Act
SHPO	State Historic Preservation Officer
SJWC	San José Water Company
SMARA	Surface Mining and Reclamation Act
SR 87	State Route 87
SWPPP	Storm Water Pollution Prevention Plan
SWRCB	State Water Resources Control Board
TAC	Toxic Air Contaminant
TIA	Transportation Impact Analysis
TDM	Transportation Demand Management
TPZ	Tree Protection Zone
USACE	US Army Corps of Engineers
USEPA	US Environmental Protection Agency
USFWS	United States Fish and Wildlife Service
US 101	U.S. Highway 101
V/C	volume-to-capacity ratio
vph	Vehicle(s) per hour

VTA	Santa Clara Valley Transportation Authority
$\mu\text{g}/\text{m}^3$	Microgram(s) per cubic meter
General Plan FSPEIR	2015 Envision San José 2040 General Plan Supplemental Final Program EIR
2017 CAP	Bay Area 2017 Clean Air Plan

SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE INITIAL STUDY

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

The project proposes to rezone an approximately 1.8-acre site for the development of 301 residential units. This Initial Study evaluates the environmental impacts that might reasonably be anticipated to result from implementation of the proposed project.

1.2 PUBLIC REVIEW PERIOD

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

Reema Mahamood, Environmental Project Manager
City of San José
Department of Planning, Building, and Code Enforcement
200 East Santa Clara Street, Third Floor
San José, CA 95113
(408) 535-6872
Reema.Mahamood@sanjoseca.gov

1.3 CONSIDERATION OF THE INITIAL STUDY AND PROJECT

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

1.4 NOTICE OF DETERMINATION

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

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

Virginia Studios Project

2.2 LEAD AGENCY CONTACT

Reema Mahamood, Environmental Project Manager
City of San José
Department of Planning, Building, and Code Enforcement
200 East Santa Clara Street, Third Floor
San José, CA 95113
(408) 535-6872
Reema.Mahamood@sanjoseca.gov

2.3 PROJECT APPLICANT

Alexis M. Gevorgian
AMG & Associates, LLC.
16633 Ventura Boulevard, Suite 1014
Encino, CA 91436
(818) 380-2600

2.4 PROJECT LOCATION

The approximately 1.8-acre project site is located at the northwest quadrant of East Virginia Street and South 7th Street in central San José, and consists of a triangular-shaped parcel (Assessor Parcel Number 472-25-092, approximately 1.2 acres) and a vacated segment of South 6th Street (approximately 0.5 acres). The project site is bound by Interstate 280 (I-280) to the north, South 7th Street to the east, East Virginia Street to the south, and an I-280 off-ramp to the west. Regional and vicinity maps are shown on Figures 2.4-1 and 2.4-2. An aerial photograph of the project site and surrounding land uses is shown in Figure 2.4-3.

2.5 ASSESSOR'S PARCEL NUMBER

472-25-092

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

The project site has a General Plan land use designation of *Transit Residential*, which is intended for high-density, mixed-use residential developments that are located in proximity to transit, jobs, amenities, and services. The project site is also located within the *Martha Gardens Specific Plan* where it is designated for high density residential development. The project is zoned (A)PD – *Planned Development* for a gas station.

General Plan Designation: *Transit Residential* (50–250 dwelling units per acre [du/ac])

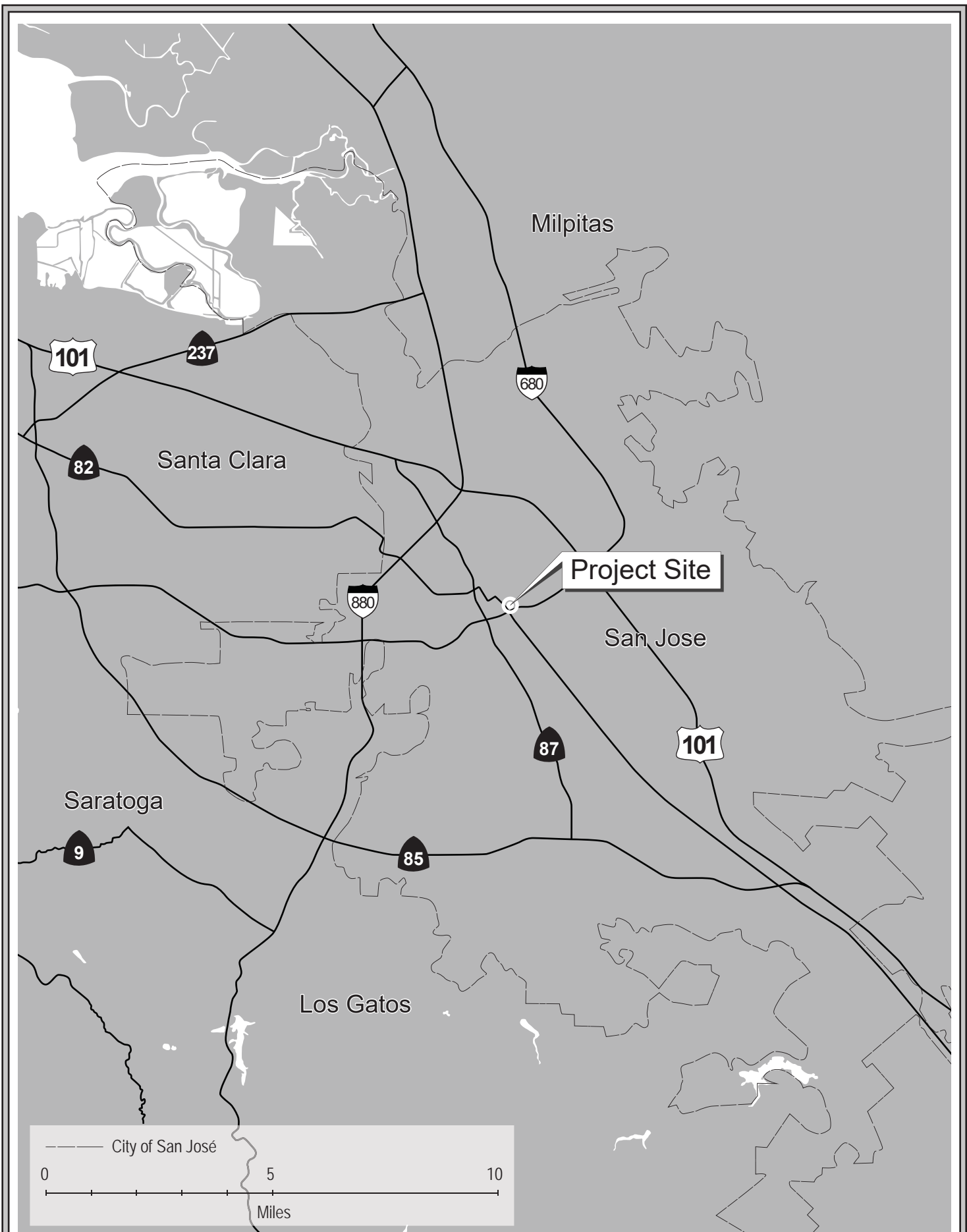
Zoning District: *A(PD) – Planned Development*

2.7 HABITAT PLAN DESIGNATION

Land Cover Designation: *Urban-Suburban*
Development Zone: *Area 4: Urban Development Equal to or Greater than Two Acres Covered*
Fee Zone: *Urban Areas (No Land Cover Fee)*
Owl Conservation Zone: *N/A*

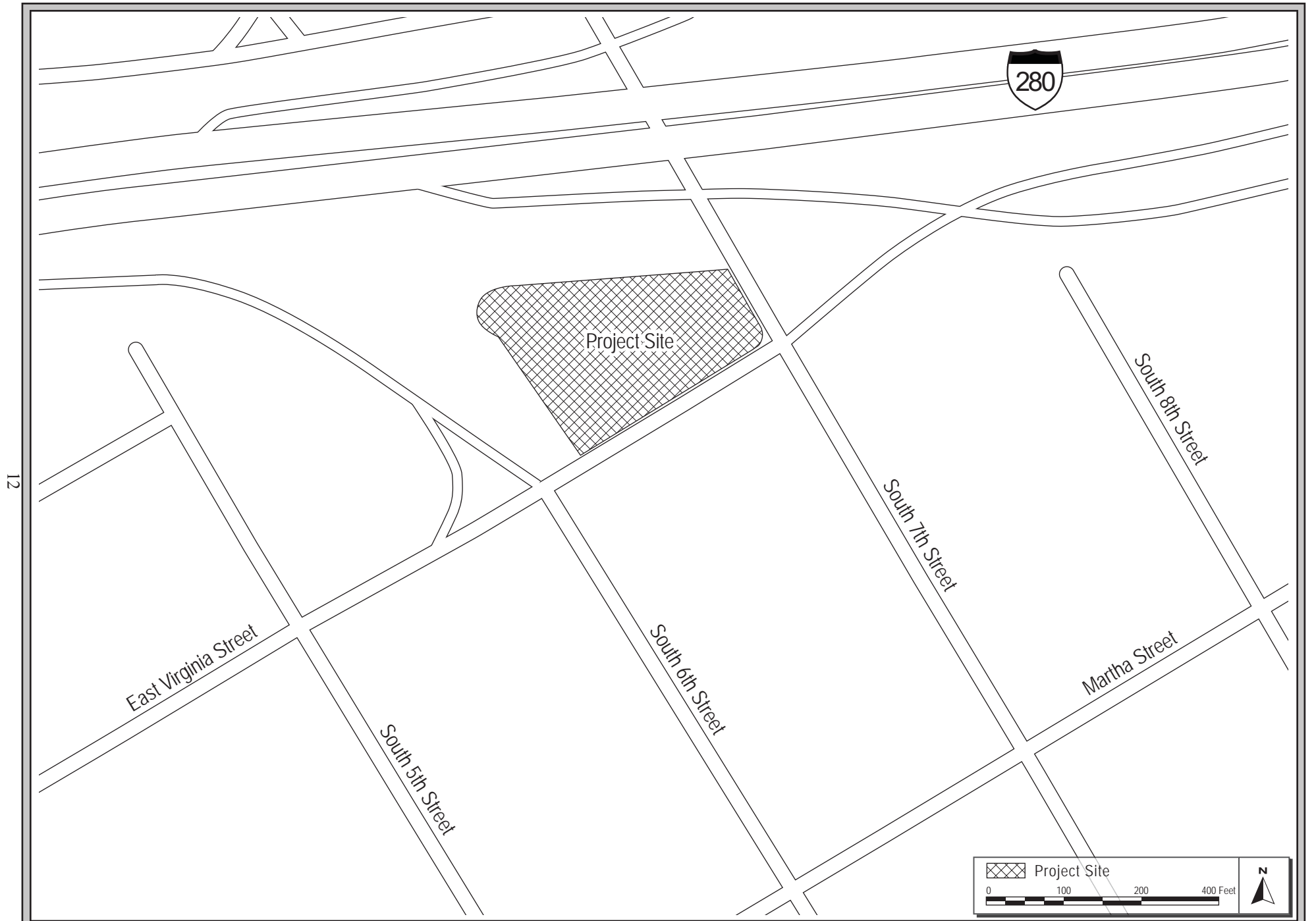
2.8 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

- State Density Bonus
- Rezoning of the project site to *R-M – Multiple Residence*
- Site Development Permit
- Street Vacation
- Grading Permit



REGIONAL MAP

FIGURE 2.4-1



VICINITY MAP

FIGURE 2.4-2



AERIAL PHOTOGRAPH AND SURROUNDING LAND USES

FIGURE 2.4-3

SECTION 3.0 PROJECT DESCRIPTION

The project proposes to rezone the approximately 1.8-acre site from *A(PD) – Planned Development* to *R-M – Multiple Residence* to allow for the construction of 301 senior studio residential units. The project proposes to obtain a street vacation from the City for the northern segment of South 6th Street, between I-280 and East Virginia Street, for project parking, as described below.

The project proposes to develop a five-story (up to 87 feet tall) residential building constructed on a podium above ground level parking. The proposed residences would wrap around a central courtyard area (refer to Figure 3.0-1). Each studio residential unit would be outfitted with new kitchen appliances, individual heating/cooling systems, and built-in Murphy beds¹ to maximize living space. The units would be age-restricted to individuals who are 62 years of age or older.

The ground level floor would have a 2,319-square foot community room and fitness room. Residential floors three through six would each have an approximately 465-square foot community room functioning as a gathering space for residents. Each community room would provide a different recreational activity, such as a fitness studio, crafts room, or reading room. The podium-level courtyard would be approximately 14,565 square feet and include amenities such as landscaping, seating areas, and a barbecue area. An approximately 9,651-square foot rooftop deck is proposed on the northeast corner of the building. The common open space proposed onsite, including the indoor amenity space, podium floor, and rooftop deck would total approximately 30,109 square feet.

Underneath the podium, a total of 151 vehicle parking spaces (including four accessible stalls), 20 motorcycle parking spaces, 76 bicycle parking spaces, a bicycle workshop, additional storage space for tenants, a community room, and a fitness room would be provided at grade (refer to Figure 3.0-2). Vehicle and cyclists would have access to the project via a driveway along East Virginia Street.

The footprint of the parking area would encompass the entire project site, and the podium structure and residential units would be set back approximately seven feet from the northern property line and approximately 67 feet from the western property line, adjacent to the off-ramp. Setbacks of approximately two feet are proposed from the eastern and southern property lines. Stairways and elevators would provide access from the parking area to the podium and residential units.

All of the units proposed would be affordable and available to seniors earning up to 60 percent of the area median income (AMI) for Santa Clara County. Because this project proposes 100 percent affordable units, the project is entitled to concessions and waivers in accordance with the State's Density Bonus Law (Government Code Section 65915). The project has requested the following concessions and waivers as listed under Section 5.08.450 "On-Site Inclusionary Housing Incentives" of the San José Municipal Code:

Concessions:

1. Front Setback on South 7th Street (10'-0" required, 2'-2" provided)
2. Side Corner Setback on East Virginia Street (7'-6" required, 2'-1" provided)
3. Motorcycle Parking (minimum of 75 spaces required, 20 spaces proposed)

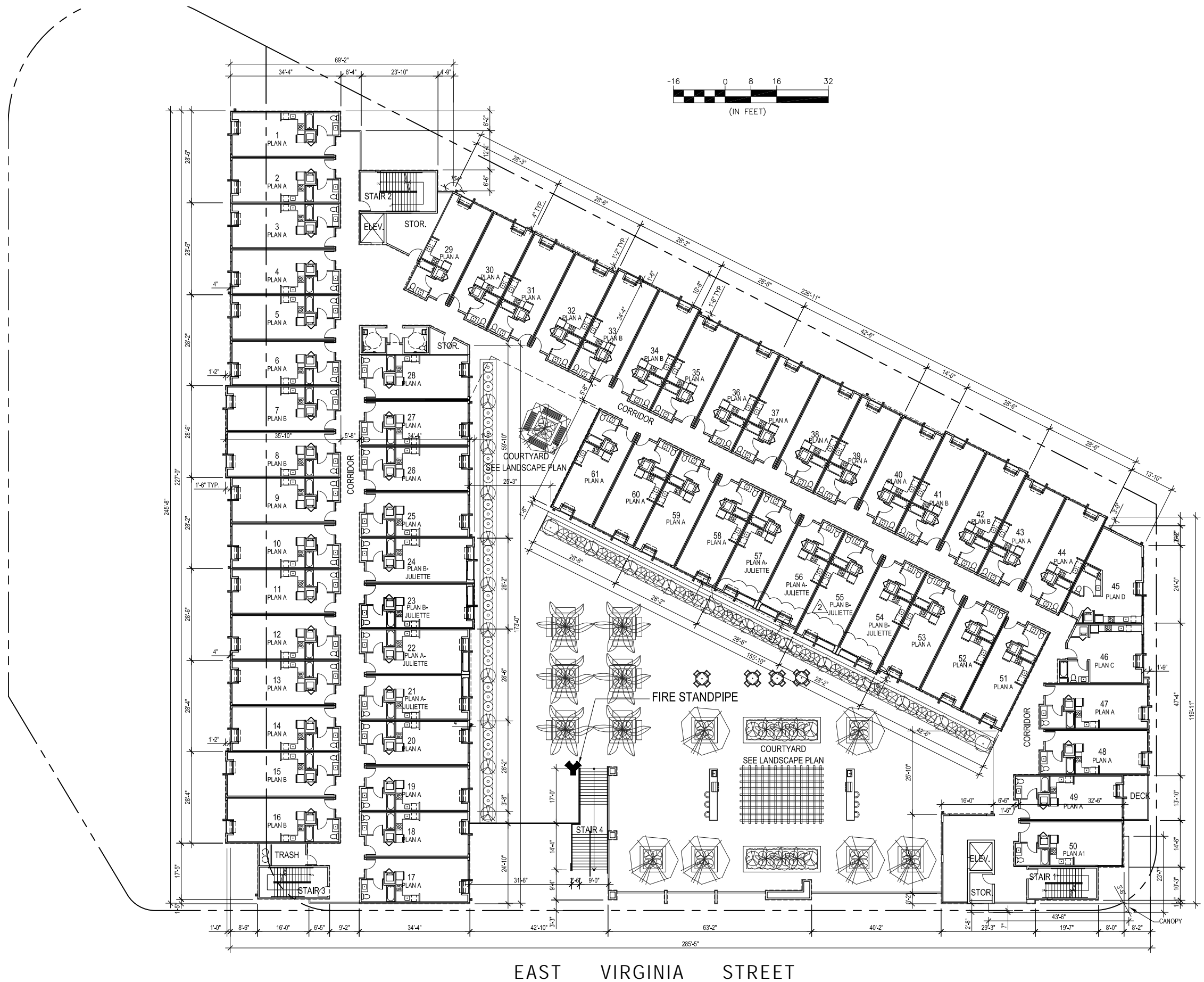
¹ A Murphy bed is a bed constructed so that it can be folded or swung into a closet

Waivers:

1. Building Height (65 feet maximum, 87 feet proposed)
2. Private Open Space (minimum of 9,030 square feet total required, 546 square feet total proposed)

State Density Bonus Law prevents local jurisdiction from imposing vehicular parking requirements higher than those established by the legislation. The State Density Bonus Law allows a parking ratio of 0.5 spaces per bedroom if the project is located within one-half mile of a major transit stop, or if it is housing restricted to seniors aged 62 years or older. The project site is located approximately 0.3 mile from two bus stop locations. The 1st and Virginia Streets intersection has a bus stop serving four bus routes with a frequency of service every 15 minutes or less. The Keyes and 7th Street intersection has a bus stop serving one bus route with a frequency of 20 minutes or less. The project's proximity to these intersections and the frequency of bus service grants the development a reduced parking ratio. Thus, the project provides 151 parking stalls for 301 units or a ratio of 0.5 and meets the requirements for the State's Density Bonus Law's 0.5 parking ratio.²

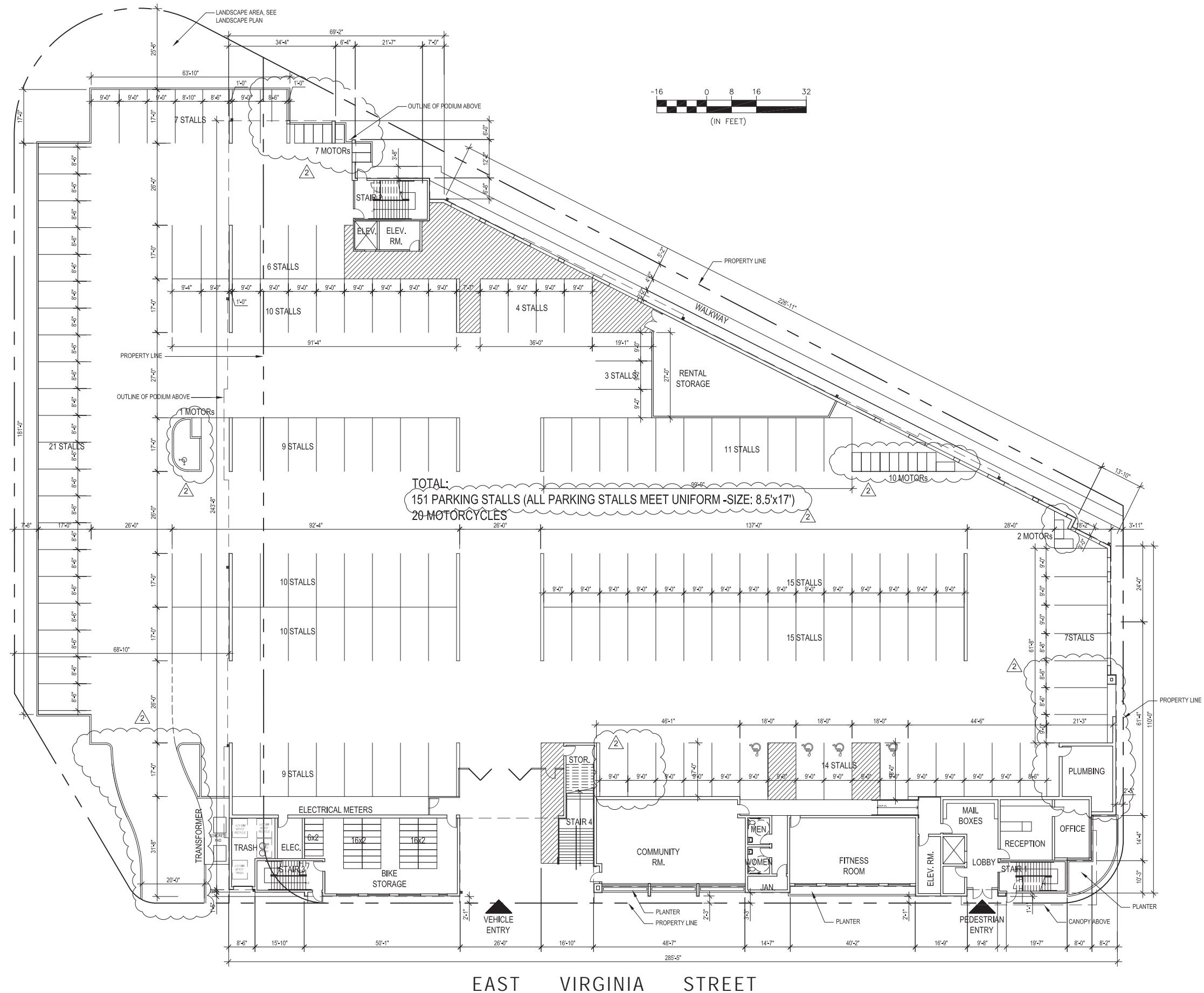
² Typically, senior housing developments have a lower vehicle parking demand than non-age restricted housing developments. As discussed in more detail in Appendix F, if the proposed 301 studio apartments were non-age restricted, the project would not meet the City's Zoning Code vehicle parking requirement of 377 vehicle parking spaces because the project proposes 151 parking spaces. Residents of a non-age restricted development project onsite would need to find available parking on the street, which could create parking tension in the neighborhood and extra traffic as vehicles circulate looking for parking spaces. Despite the extra travel looking for parking spaces, it is unlikely that any traffic level of service impacts would occur because existing service levels are acceptable (LOS B or better during both the AM and PM peak hours) in this area of the City.



Source: Anderson Architects, Inc., 11/20/17.

CONCEPTUAL PODIUM LEVEL PLAN

FIGURE 3.0-1



Source: Anderson Architects, Inc., 11/20/17.

CONCEPTUAL GROUND/PARKING LEVEL PLAN

FIGURE 3.0-2

SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND IMPACT DISCUSSION

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

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

The discussion for each environmental subject includes the following subsections:

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

Important Note to the Reader

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

The court ruling provided for several exceptions to the general rule where an analysis of the project on the environment is warranted: 1) if the project would exacerbate existing environmental hazards (such as exposing hazardous waste that is currently buried); 2) if the project qualifies for certain specific specified exemptions (certain housing projects and transportation priority projects PRC 21159.21 (f),(h); 21159.22 (a),(b),(3); 21159.23 (a)(2)(A); 21159.24 (a)(1),(3); or 21155.1(a)(4),(6); 3) if the project is exposed to potential noise and safety impacts on the project occupants due to proximity to an airport (PRC 21096); and 4) school projects requiring specific assessment of certain environmental hazards (per PRC 21151.8).

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

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

4.1 AESTHETICS

4.1.1 Environmental Setting

4.1.1.1 *Regulatory Framework*

Scenic Highways Program

The California Scenic Highway Program is managed by the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. State laws governing the Scenic Highway Program are found in the Streets and Highway Code, Sections 260 through 263. There are no State-designated scenic highways in San José. I-280 from the San Mateo County line to State Route 17 (SR 17), which includes segments in San José, is an eligible, but not officially designated, State Scenic Highway. The project site is 3.5 miles east of that segment.

Envision San José 2040 General Plan

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

Policies	Description
CD-1.1	Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
CD-1.2	Install and maintain attractive, durable and fiscally- and environmentally- sustainable urban infrastructure to promote the enjoyment of space developed for public use. Include attractive landscaping, public art, lighting, civic landmarks, sidewalk cafes, gateways, water features, interpretive/way-finding signage, farmers markets, festivals, outdoor entertainment, pocket parks, street furniture, plazas, squares, or other amenities in spaces for public use. When resources are available, seek to enliven the public right-of-way with attractive street furniture, art, landscaping and other amenities.
CD-1.24	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.
CD-1.25	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible, include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.
CD-1.28	Locate utilities to be as visually unobtrusive as possible, by placing them underground or within buildings. When above-ground or outside placement is necessary, screen utilities with art or landscaping.
CD-1.29	When approving new construction, require the undergrounding of distribution utility lines serving the development. Encourage programs for undergrounding existing overhead distribution lines.

Policies	Description
	Overhead lines providing electrical power to light rail transit vehicles and high tension electrical transmission lines are exempt from this policy.
CD-4.9	For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).

Martha Gardens Specific Plan

In 2003, the City adopted the *Martha Gardens Specific Plan*. The *Martha Gardens Specific Plan* establishes the framework for the redevelopment of the Martha Gardens area (which is located south of Downtown San José on the south edge of I-280). The project site is located in the *Infill East Sub Area* of the *Martha Gardens Specific Plan*. The *Martha Gardens Specific Plan* includes aesthetics policies including, but not limited to, the following which are applicable to the proposed project.

Policies	Description
4.6	New residential development should be designed with a strong street orientation.
4.9	Public streetscape improvements should be provided to facilitate the transformation of the area from a service-oriented industrial area to a pedestrian-friendly neighborhood.

The *Martha Gardens Specific Plan* also includes the following urban design guidelines for the *Infill East Sub Area*:

- Encroachments: The setback area along residential street frontages should be developed with turf and planting to enhance the landscape quality of the streetscape.
- New Construction: New buildings should avoid the appearance of monolithic projects through massing, roofing, and architectural treatments.
- Building Materials: Facade materials, articulation and colors should be respectful of adjacent buildings and reflect the industrial and historic character of the immediate neighborhood.
- Residential Street Frontages: Off-street parking within the Sub Area should be below grade and/or encapsulated and hidden from views from all public streets.

Residential Design Guidelines

The *Residential Design Guidelines* establish a framework for private residential units in San José and reinforce guidelines established in the General Plan. The *Residential Design Guidelines* address a variety of areas, including street frontage, perimeter setbacks, parking, landscaped areas, building design, and street design, that ultimately influence how developers and residents view and interact with one another in the City of San José.

City Council's Private Outdoor Lighting Policy 4-3

The Private Outdoor Lighting Policy passed by the San José City Council in 1983 and revised in 2000 requires all new developments to implement low-pressure sodium illumination be used in all

outdoor areas of new private developments. The policy is intended to promote energy efficient and cost efficient lighting, and minimize light pollution into the night sky.

City of San José Interim Lighting Policy Broad Spectrum Lighting (LED) for Private Development

The City has adopted an Interim Lighting Policy to encourage the use of broad spectrum lighting such as LED for private streets, parking areas, and pedestrian areas as an alternative to low pressure sodium. Projects that met specific standards outlined in the Interim Policy regarding outdoor lighting plans, illumination levels, backlight, uplight, glare, correlated color temperature, and dimming qualify for a permit adjustment and an exception to the required use of low pressure sodium lighting on private development.

4.1.1.2 *Existing Conditions*

On-Site Conditions

The 1.8-acre, triangular-shaped project site is located at the northwest quadrant of the East Virginia Street and South 7th Street in an urbanized area of central San José. The western portion of the project site includes the northern extension of South 6th Street, a segment owned by the City. The remainder of the project site was previously a gas station, which was demolished in 2015. The project site is currently undeveloped and partially covered in paving. The project site is surrounded by six-foot chain-link fencing. The project site contains overgrown landscaping and mature trees in the northern, western (between the northern extension of South 6th Street and previous gas station), and part of the southern boundary. The overgrown landscaping along the fence screens views of the site from East Virginia Street and South 6th Street. Refer to Photos 1 and 2 for views of the project site. The trees onsite are discussed in more detail in *Section 4.4 Biological Resources*.

Surrounding Area

The project site is bounded by I-280 to the north, I-280 freeway off-ramp to the west, East Virginia Street to the south, and South 7th Street to the east (refer to Figure 2.4-3). There is an approximately 40 degree embankment slope north of the site that separates the site from I-280 and a small triangular strip of unpaved land covered in vegetation to the west between the site and the off-ramp, which is a Caltrans right-of-way. Surrounding development includes another triangular piece of land covered in vegetation to the east, one- to two-story single-family residences to the southeast and west, and a gas station and single story, brick warehouse with rollup garages to the south. A two- to four-story multi-family residential development (Foundry Commons) is located southwest of the project site. One- to two-story single family residences are located west of the project site across from the freeway off-ramp. Refer to Photos 3 and 4 for views of the surrounding area.



PHOTO 1: View of the western portion of the project site containing South 6th Street and the slope north of the project boundary, looking north from south of the project site.



PHOTO 2: View of the project site looking north from East Virginia Street.



PHOTO 3: View of the gas station south of the project site, looking south on East Virginia Street.



PHOTO 4: View of the multi-family residential development (Foundry Commons) southwest of the project site.

Scenic Vistas and Resources

The project site is in an urban and developed area. Thus, views from the project site include views of the immediate, surrounding development. The project site is not located in a designated scenic vista.

4.1.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-3
d) Create a new source of substantial light or glare which will adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,4

Aesthetic values are inherently subjective and will differ among individuals. Opinions as to what constitutes a degradation of the visual character are also open to interpretation and will, therefore, vary among individuals as well. One of the best available means for assessing what constitutes a visually acceptable standard for new buildings are the City's design standards and implementation of those standards through the City's design review process. The following discussion addresses the proposed changes to the visual setting of the project area.

4.1.2.1 *Impacts to Scenic Vistas (Checklist Question a)*

The project site is not located along a designated scenic highway or scenic gateway. Due to its location on the valley floor and surrounding development, views of the project site are limited to the immediate area. The project would be similar in size to other development in the area. Views of the foothills and Santa Cruz Mountains are not available from the project area. The project would not impact views of the foothills and Santa Cruz Mountains. For these reasons, the project would not have a substantial, adverse impact on scenic vistas. **(Less Than Significant Impact)**

4.1.2.2 *Impacts to Scenic Resources (Checklist Question b)*

Development of the project would result in the removal of all 49 existing trees, 37 of which are on-site and 12 are off-site trees. In general, trees are considered visual resources in urban environments because they contribute to aesthetic interest and character. The planting of replacement trees in accordance with City policies would offset the aesthetic effects of tree removal at the site (refer to the tree impact discussion in *Section 4.4 Biological Resources*). There are no rock outcroppings or historic buildings present on the project site and the site is not visible from a State scenic highway.

Based on the above discussion, the project would not substantially damage scenic resources. **(Less Than Significant Impact)**

4.1.2.3 *Change in Visual Character (Checklist Question c)*

The proposed project would result in the removal of the existing vegetation (including trees) and the development of a five-story (up to 87 feet tall) residential building on top of a podium parking. The project would change the underutilized, undeveloped character of the site to an active, residential one. While the proposed project would be of greater mass and height compared to the existing development onsite, it would be similar in nature to the Foundry Commons multi-family residential development located southwest of the project site, across East Virginia Street, and be consistent with the vision of the site in the City's General Plan and *Martha Gardens Specific Plan* of high density residential.

The project site is surrounded by roadways and is approximately 125 feet or more from existing single-family residences. The project, therefore, would not encroach upon or affect the visual character of nearby single-family residential neighborhoods.

While the project would change the visual character of the project site, it would not adversely affect the visual character of the surrounding neighborhood. In addition, the proposed project would be complimentary to the Foundry Commons high density residential development located to the southwest of the site and consistent with the vision for high-density residential use on the site identified in the City's General Plan and *Martha Gardens Specific Plan*. The project would be subject to the City's design review process to ensure visual compatibility with the neighborhood and consistency with City policies, including those from the General Plan and *Martha Gardens Specific Plan*. For these reasons, the project would not substantially degrade the visual character of the site or the area. **(Less Than Significant Impact)**

4.1.2.4 *Light and Glare Impacts (Checklist Question d)*

The project would include security lighting on the proposed residential building that would incrementally increase the level of nighttime lighting in the area compared to existing conditions. The security lighting would be similar in nature to the nighttime lighting of the existing (and currently under construction) development in the area. The project does not propose to use highly reflective construction material (e.g., mirrored glass); therefore, the project would not create substantial glare.

The certified 2011 Envision San José 2040 General Plan Final Program EIR (General Plan FPEIR) (SCH# 2009072096) and the 2015 Envision San José 2040 General Plan Supplemental Final Program EIR (General Plan FSPEIR) (SCH#2009072096) concluded that while new development and redevelopment under the General Plan could create additional sources of nighttime light and daytime glare, implementation of adopted plans, conformance with adopted policies and regulations and with General Plan policies would avoid substantial light and glare impacts. The project applicant shall comply with the City's Private Outdoor Lighting Policy 4-3 and Interim Lighting Policy Broad Spectrum Lighting (LED) for Private Development.

Based on the above discussion, the project would not create a new source of substantial light or glare that would adversely affect day or nighttime views in the area. **(Less Than Significant Impact)**

4.1.3 Conclusion

The project would not result in significant aesthetic impacts.

4.2 AGRICULTURAL AND FORESTRY RESOURCES

4.2.1 Environmental Setting

4.2.1.1 *Regulatory Framework*

Farmland Mapping and Monitoring Program

The California Resources Agency's Farmland Mapping and Monitoring Program (FMMP) assesses the location, quality, and quantity of agricultural land and conversion of these lands over time. Agricultural land is rated according to soil quality and irrigation status; the best quality land is called *Prime Farmland*. In CEQA analyses, the FMMP classifications and published County maps are used, in part, to identify whether agricultural resources that could be affected are present onsite or in the project area.

California Land Conservation Act (Williamson Act)

The California Land Conservation Act (commonly referred to as the Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space use. In return, landowners receive lower property tax assessments. In CEQA analyses, identification of properties that are under Williamson Act contract is used, in part, to identify sites that may include agricultural resources or are zoned for agricultural uses.

Forest Land, Timberland, and Timberland Production

The California Department of Forestry and Fire Protection (Cal Fire) identifies forest land, timberland, and lands zoned for timberland production that can (or do) support forestry resources.³ In CEQA analyses, programs such as Cal Fire's Fire and Resource Assessment Program (FRAP) and are used to identify whether forest land, timberland, or timberland production areas that could be effected are located on or adjacent to a project site.

4.2.1.2 *Existing Conditions*

The project site is not designated as farmland. According to the Santa Clara Important Farmland 2014 map, the project site is designated as *Urban and Built-Up Land*, meaning that the land contains a building density of at least six units per 10-acre parcel or is used for industrial or commercial

³ *Forest land* is land that can support 10-percent native tree cover under natural conditions and that allows for management of one or more forest resources (including timber, fish and wildlife, and biodiversity) (California Public Resources Code Section 12220(g)); *Timberland* is land (not owned by the federal government or designated by the board as experimental forest land) that is available for, and capable of, growing a crop of trees of any commercial species used to produce lumber and other forest products, including Christmas trees (California Public Resources Code Section 4526); and land zoned as *Timberland Production* is land devoted to and used for growing and harvesting timber, or for growing and harvesting timber and compatible uses (Government Code Section 51104(g)).

purposes, golf courses, landfills, airports, or other utilities.⁴ The project site and adjacent properties are not used for agricultural purposes. The project site is not subject to a Williamson Act contract.^{5,6}

The project site does not contain any forest land and no forest or timberland is located in the vicinity of the project site.

4.2.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5
b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	6,7
c. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	6
d. Result in a loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
e. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1

4.2.2.1 *Impacts to Agricultural Resources (Checklist Questions a, b, and e)*

The project site is not designated, used, or zoned for agricultural purposes. The project site is not part of a Williamson Act contract. The project site is surrounded by urban development and therefore, its development would not result in the conversion of agricultural land to non-agricultural uses. For these reasons, the proposed project would not result in significant impacts to agricultural resources. **(No Impact)**

⁴ California Department of Conservation. *Santa Clara County Important Farmland 2014*. October 2016.

⁵ Agricultural lands in California can be protected from development and reserved for agricultural purposes or open-space conservation under the California Land Conservation Act, commonly known as the Williamson Act. Local governments may enter into contracts with land owners to protect certain lands in exchange for a lowered property tax assessment.

⁶ Santa Clara County. "Williamson Act and Open Space Easements." Accessed: August 2, 2017. Available at: <https://www.sccgov.org/sites/dpd/programs/wa/pages/wa.aspx>.

4.2.2.2 *Impacts to Forestry Resources (Checklist Questions c to e)*

The project and surrounding area are not used or zoned for timberland or forestland. Therefore, the project would not impact timberland or forest land. **(No Impact)**

4.2.3 Conclusion

The proposed project would not impact on agricultural or forestry resources.

4.3 AIR QUALITY

The following discussion is based in part on a community health risk assessment completed for the project by *Illingworth & Rodkin, Inc.* in November 2017. A copy of the assessment is included in Appendix A of this Initial Study.

4.3.1 Environmental Setting

4.3.1.1 *Background Information*

Ambient air quality standards have been established at both the State and federal level. The ambient air quality in a given area depends on the quantities of pollutants emitted within the area, transport of pollutants to and from surrounding areas, local and regional meteorological conditions, as well as the surrounding topography of the air basin. Air quality is described by the concentration of various pollutants in the atmosphere. Units of concentration are generally expressed in parts per million (ppm) or micrograms per cubic meter ($\mu\text{g}/\text{m}^3$).

As required by the federal Clean Air Act, National Ambient Air Quality Standards (NAAQS) have been established for six major air pollutants: carbon monoxide (CO), nitrogen dioxide (NO₂), ozone (O₃), particulate matter, sulfur oxides, and lead. Pursuant to the California Clean Air Act, the State has established the California Ambient Air Quality Standards (CAAQS). Both State and federal standards are summarized in Table 4.3-1. The “primary” standards have been established to protect the public health. The “secondary” standards are intended to protect the nation’s welfare and account for air pollutant effects on soil, water, visibility, materials, vegetation and other aspects of the general welfare. CAAQS are generally the same or more stringent than NAAQS. The Bay Area meets all ambient air quality standards with the exception of ground-level ozone, respirable particulate matter (PM₁₀), and fine particulate matter (PM_{2.5}).

Air Pollutants of Concern

High ozone levels are caused by the cumulative emissions of reactive organic gases (ROG) and nitrogen oxides (NO_x). These precursor pollutants react under certain meteorological conditions to form high O₃ levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area’s attempts to reduce O₃ levels. High O₃ levels aggravate respiratory and cardiovascular diseases, reduced lung function, and increase coughing and chest discomfort.

Particulate matter is another problematic air pollutant of the Bay Area. Particulate matter is assessed and measured in terms of respirable particulate matter or particles that have a diameter of 10 micrometers or less (PM₁₀) and fine particulate matter where particles have a diameter of 2.5 micrometers or less (PM_{2.5}). Elevated concentrations of PM₁₀ and PM_{2.5} are the result of both region-wide (or cumulative) emissions and localized emissions. High particulate matter levels aggravate respiratory and cardiovascular diseases, reduce lung function, increase mortality (e.g., lung cancer), and result in reduced lung function growth in children.

Table 4.3-1: Ambient Air Quality Standards				
Pollutant	Averaging Time	California Standards	National Standards^a	
			Primary^{b,c}	Secondary^{b,d}
Ozone (O ₃)	8-hour	0.07 ppm	0.07 ppm	Same as primary
	1-hour	0.09 ppm	---	Same as primary
Carbon Monoxide (CO)	8-hour	9.0 ppm	9 ppm	---
	1-hour	20 ppm	35 ppm	---
Nitrogen Dioxide (NO ₂)	Annual	0.030 ppm	0.053 ppm	Same as primary
	1-hour	0.18 ppm	0.100 ppm ^e	---
Sulfur Dioxide (SO ₂)	Annual	---	---	---
	24-hour	0.04 ppm	---	---
	3-hour	---	---	0.5 ppm
	1-hour	0.25 ppm	0.075 ppm	---
Respirable Particulate Matter (PM ₁₀)	Annual	20 µg/m ³	---	Same as primary
	24-hour	50 µg/m ³	150 µg/m ³	Same as primary
Fine Particulate Matter (PM _{2.5})	Annual	12 µg/m ³	12 µg/m ³	15 µg/m ³
	24-hour	---	35 µg/m ³	---
Lead	Calendar quarter	---	1.5 µg/m ³	Same as primary
	30-day average	1.5 µg/m ³	---	---
<p>Notes: ppm = parts per million, µg/m³ = micrograms per cubic meter.</p> <p>^a California standards for ozone, carbon monoxide, sulfur dioxide, nitrogen dioxide, and particulate matter (PM₁₀, PM_{2.5}, and visibility reducing particles), are not to be exceeded. National standards (other than ozone, particulate matter, and those based on annual arithmetic mean) are not to be exceeded more than once a year.</p> <p>^b Concentrations are expressed first in units in which they were promulgated.</p> <p>^c Primary Standards: the levels of air quality necessary, with an adequate margin of safety to protect the public health. Each state must attain the primary standards no later than three years after that state's implementation plan is approved by the USEPA.</p> <p>^d Secondary Standards: the levels of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant.</p> <p>^e The form of the 1-hour NO₂ standard is the three year average of the 98th percentile of the daily maximum 1-hour average concentration.</p>				

Toxic Air Contaminants

Toxic Air Contaminants (TACs) are a broad class of compounds known to cause morbidity or mortality (usually because they cause cancer) and include, but are not limited to, the criteria air pollutants. 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 (based on the Bay Area average). According to the California Air Resources Board (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.

4.3.1.2 *Regulatory Framework*

Below is a summary of the federal, State, regional, and local regulations. Refer to Appendix A for additional details about the regulatory framework for air quality.

Federal

The US Environmental Protection Agency (USEPA) sets nationwide emission standards for mobile sources, which include on-road (highway) motor vehicles such trucks, buses, and automobiles, and non-road (off-road) vehicles and equipment used in construction, agricultural, industrial, and mining activities (such as bulldozers and loaders). The USEPA also sets nationwide fuel standards, including diesel engine emission standards and diesel fuel requirements. The federal diesel engine and diesel fuel requirements have been adopted by California, in some cases with modifications making the requirements more stringent or the implementation dates sooner.

State

To address the issue of diesel emissions in the State, CARB developed the Diesel Risk Reduction Plan (Diesel RRP) to reduce diesel particulate matter emissions. In addition to requiring more stringent emission standards for new on- and off-road mobile sources and stationary diesel-fueled engines to reduce particulate matter emissions by 90 percent, a significant component of the Diesel RRP involves application of emission control strategies to existing diesel vehicles and equipment. Many of the measures of the Diesel RRP have been approved and adopted, including the federal on- and non-road diesel engine emission standards for new engines, as well as adoption of regulations for low sulfur fuel in California.

CARB has adopted and implemented a number of regulations for stationary and mobile sources to reduce emissions of DPM. Several of these regulatory programs affect medium and heavy duty diesel trucks that represent the bulk of DPM emissions from California highways. CARB has also adopted and implemented regulations to reduce DPM and NO_x emissions from in-use (existing) and new off-road heavy-duty diesel vehicles (e.g., loaders, tractors, bulldozers, backhoes, off-highway trucks, etc.).

Regional

Bay Area Air Quality Management District

The Bay Area Air Quality Management District (BAAQMD) is the agency primarily responsible for assuring that the federal and State ambient air quality standards are maintained in the San Francisco Bay Area. BAAQMD has permit authority over stationary sources, acts as the primary reviewing

agency for environmental documents, and develops regulations that must be consistent with or more stringent than, federal and State air quality laws and regulations.

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

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

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 air quality and are applicable to the proposed project.

Policies	Description
MS-10.1	Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to State and federal standards. Identify and implement air emissions reduction measures.
MS-11.2	For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level.
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.

In addition, goals and policies throughout the General Plan encourage a reduction in vehicle miles traveled through land use, pedestrian and bicycle improvements, and parking strategies. A reduction in vehicle miles traveled reduces air pollutant emissions.

4.3.1.3 Existing Conditions

The project is located in Santa Clara County, which is in the San Francisco Bay Area Air Basin. The Bay Area is considered a non-attainment area for ground-level O₃ and PM_{2.5} under both the federal Clean Air Act and the California Clean Air Act. The area is also considered non-attainment for PM₁₀ under the California Clean Air Act, but not the federal act. The area has attained both State and federal ambient air quality standards for carbon monoxide.

There are groups of people more affected by air pollution than others. BAAQMD defines sensitive receptors as facilities where sensitive receptor population groups (children, the elderly, the acutely ill and the chronically ill) are likely to be located. These land uses include residences, school playgrounds, child-care centers, retirement homes, convalescent homes, hospitals, and medical clinics. Nearby sensitive receptors include residences to the east, south, and west of the project site.

4.3.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,8
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,9,10
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,9,10
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,9,10
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1

BAAQMD adopted threshold of significance to assist the review of projects under CEQA. These thresholds were designed to establish the level at which BAAQMD reports air pollution emissions would cause significant environmental impacts. The significance thresholds identified by BAAQMD and used in this analysis are summarized in Table 4.3-2.

As previously discussed in *Section 4.0*, in December 2015, the California Supreme Court issued an opinion in “CBIA vs. BAAQMD” holding that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of existing conditions on a project’s future users or residents unless the project risks exacerbate those environmental hazards or risks that already exist. Nevertheless, the City has General Plan policies (refer to *Section 4.3.1.2*) that address existing conditions affecting a proposed project, which are

discussed below. The criteria used by the City of San José for determining whether new receptors would be effected are the same as those listed for Project Health Risk and Cumulative Health Risk in Table 4.3-2, below.

Table 4.3-2: BAAQMD Air Quality Significance Thresholds			
Pollutant	Construction Thresholds	Operational Thresholds	
	Average Daily Emissions (pounds/day)	Average Daily Emissions (pounds/day)	Annual Average Emissions (tons/year)
Criteria Air Pollutants			
ROG	54	54	10
NO _x	54	54	10
PM ₁₀	82 (Exhaust)	82	15
PM _{2.5}	54 (Exhaust)	54	10
CO	Not Applicable	9.0 ppm (8-hour average) or 20.0 ppm (1-hour average)	
Fugitive Dust	Construction Dust Ordinance or other Best Management Practices	Not Applicable	
Health Risks and Hazards for Single Sources			
Excess Cancer Risk	>10 per one million		
Hazard Index	>1.0		
Incremental annual PM _{2.5}	>0.3 µg/m ³		
Health Risks and Hazards for Combined Sources (Cumulative from all sources within 1,000 foot zone of influence)			
Excess Cancer Risk	>100 per one million		
Hazard Index	>10.0		
Annual Average PM _{2.5}	>0.8 µg/m ³		
Notes: ROG = reactive organic gases, NO _x = nitrogen oxides, PM ₁₀ = coarse particulate matter or particulates with an aerodynamic diameter of 10 micrometers (µm) or less, PM _{2.5} = fine particulate matter or particulates with an aerodynamic diameter of 2.5µm or less, µm/m ³ = micrograms per cubic meter.			

4.3.2.1 2017 Clean Air Plan Consistency (Checklist Question a)

The proposed project would not conflict with the 2017 CAP because it would have emissions below BAAQMD screening criteria for operational criteria pollutant (451 units),⁷ is considered urban infill, and would be located near bike paths and transit with regional connections. Because the project would not exceed the BAAQMD screening criteria for operational criteria air pollutant, it is not required to incorporate project-specific control measures listed in the 2017 CAP. Further, implementation of the project would not inhibit BAAQMD or partner agencies from continuing progress toward attaining State and federal air quality standards and eliminating health-risk disparities from exposure to air pollution among Bay Area communities, as described within the 2017 CAP. **(Less Than Significant Impact)**

4.3.2.2 Impacts to Air Quality Standards (Checklist Questions b and c)

Construction Emissions

Construction activities would temporarily affect local air quality. Construction activities, particularly during site preparation and grading, would temporarily generate fugitive dust in the form of PM₁₀ and PM_{2.5}. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying uncovered loads of soils. Unless properly controlled, vehicles leaving the site would deposit mud on local streets, which could be an additional source of airborne dust after it dries. Fugitive dust emissions would vary from day to day, depending on the nature and magnitude of construction activity and local weather conditions. Fugitive dust emissions would also depend on soil moisture, silt content of soil, wind speed, and the amount of equipment operating. Larger dust particles would settle near the source, while fine particles would be dispersed over greater distances from the construction site. Nearby land uses, particularly sensitive receptors to the east, south, and west of the project site, could be affected by dust generated during construction activities. BAAQMD considers impacts from construction dust to be less than significant if best management practices are employed.

Standard Permit Condition

- The project contractor shall implement the following standard BAAQMD dust control measures during all phases of project construction to reduce dustfall emissions:
 - All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - 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.

⁷ Bay Area Air Quality Management District. *California Environmental Quality Act Air Quality Guidelines*. May 2017.

- 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. BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.

The project, with the implementation of the above Standard Permit Condition to control dust, minimize erosion, and control exhaust, would not result in significant fugitive dust.

Operational Emissions

The BAAQMD screening threshold for significant operational criteria air pollutants is 494 multi-family residential units. Projects that are smaller than the screening size are assumed to have a less than significant operational air quality impact. The proposed project (301 multi-family units) is below the screening threshold of 494 multi-family residential units; therefore, the project is considered to have a less than significant operational air quality impact. **(Less Than Significant Impact)**

4.3.2.3 *Exposure of Sensitive Receptors to Substantial Pollutant Concentrations (Checklist Question d)*

Impacts Related to Nearby Sensitive Receptors

A health risk assessment of the project construction activities was completed to evaluate the potential health effects at nearby sensitive receptors from construction emissions of DPM, and cumulative construction emissions of DPM combined with existing sources of TAC emission sources. The closest existing sensitive receptor to the project site is a residence on South 7th Street, south of East Virginia Street and southeast of the project site.

A summary of the health risks and PM_{2.5} concentrations is provided in Table 4.3-4 below. Refer to Appendix A for more detail about the data inputs and modeling assumptions. As shown in Table 4.3-4, the maximum increased cancer risk at the nearest receptor is 37.8 in one million, which is above the BAAQMD's threshold of 10 in one million excess cases per million. The maximum annual PM_{2.5} concentration was 0.25 µ/m³, which is below BAAQMD's threshold of 0.3 µ/m³. The potential non-cancer health effects due to DPM exposure were also evaluated. The maximum predicted inhalation Reference Exposure Level (REL) is 0.23 µ/m³, which is below the BAAQMD significance threshold of five µ/m³. The Hazard Index, which is the ratio of annual DPM concentration to the REL, is 0.05, which is below the BAAQMD significance threshold of a Hazard Index greater than 1.0. Cumulative construction emissions do not exceed BAAQMD thresholds for health risks.

Table 4.3-2: Community Risk Impacts from Project Construction and Cumulative Sources			
Source	Maximum Cancer Risk (per million)	Maximum Hazard Index	Maximum Annual PM_{2.5} Concentration (μ/m³)
Single Source			
Proposed Project Construction (Unmitigated)	37.8	0.05	0.25
<i>BAAQMD Single Source Significance Threshold</i>	<i>>10</i>	<i>>1.0</i>	<i>>0.3</i>
Exceeds Threshold?	Yes	No	No
Cumulative Sources			
I-280 traffic at over 400 feet	31.8	0.03	0.31
7 th Street at 35 feet	5.2	<0.01	0.15
Virginia Street at 200 feet	1.8	<0.01	0.07
Calgas, Facility G5313 at 50 feet	18.4	0.02	0.00
Total	95.0	<0.11	0.78
<i>BAAQMD Cumulative Significance Threshold</i>	<i>>100</i>	<i>>10.0</i>	<i>>0.8</i>
Exceeds Threshold?	No	No	No

Impact AIR-1: Project construction activities would result in health risks above BAAQMD thresholds at nearby sensitive receptors. **(Significant Impact)**

Mitigation Measure: The project proposes to implement the following mitigation measure to reduce construction-related health risks to nearby sensitive receptors to a less than significant level:

MM AIR-1.1: Prior to issuance of any grading permits, the project applicant shall develop a written plan demonstrating that mobile off-road equipment larger than 25 horsepower and operating at the site for more than two days continuously shall meet U.S. Environmental Protection Agency (USEPA) particulate matter emissions standards for Tier 4 engines or equivalent and all stationary pieces of construction equipment shall use best available control technology to reduce diesel particulate matter (DPM) or shall be gasoline- or alternative energy powered. Tier 2 engines that have exhaust systems equipped with California Air Resources Board (CARB) Level 3 verified diesel emission control system will also meet this requirement.

Implementation of MM AIR-1.1, in combination with the above Standard Permit Condition to control construction dust, would reduce DPM emissions by over 80 percent. The resulting cancer risk would be less than seven excess cases per million. For these reasons, the project, with the implementation of MM AIR-1.1 and the Standard Permit Condition to control construction dust, would have less than significant construction-related health risks. **(Less Than Significant Impact with Mitigation Incorporated)**

Existing Air Quality Conditions Affecting the Project

The BAAQMD *CEQA 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 TACs.

TAC emission sources within 1,000 feet of the project site are I-280, South 7th Street, and a gasoline station approximately 100 feet south of the site. The potential health risks and PM_{2.5} exposure from I-280, South 7th Street, and the nearby gasoline station to future residents onsite was computed. A summary of the health risks and PM_{2.5} concentrations is provided in Table 4.3-3 below. As shown in Table 4.3-3, the project would be exposed to community risk above BAAQMD thresholds from existing single and cumulative sources of TACs. Refer to Appendix A for more detail about the data inputs and modeling assumptions.

Table 4.3-3: Community Risk Impacts from Single and Cumulative Sources on the Project			
Source	Maximum Cancer Risk (per million)	Maximum Hazard Index	Maximum Annual PM_{2.5} Concentration (μ/m³)
Single Source			
I-280 traffic*	25.8-9.0	<0.01	1.2-0.5
7 th Street at 20 feet above ground level	8.0	<0.01	0.24
Virginia Street at 20 feet	4.6	<0.01	0.14
Calgas, Facility G5313	7.5	0.01	---
Maximum Single Source	25.8	<0.01	1.2
<i>BAAQMD Single Source Significance Threshold</i>	<i>>10</i>	<i>>1.0</i>	<i>>0.3</i>
Exceeds Threshold?	Yes from I-280	No	Yes from I-280
Cumulative Sources			
Cumulative Sources (I-280 + South 7 th Street + Cal gas emissions)	45.9	<0.04	1.6
<i>BAAQMD Cumulative Significance Threshold</i>	<i>>100</i>	<i>>10.0</i>	<i>>0.8</i>
Exceeds Threshold?	No	No	Yes
Note: * Range of emissions from I-280 reflects exposure differences between the different floors of the project. For example, the maximum cancer risk at the podium floor (2 nd floor) residence closest to I-280 is estimated to be 25.8 excess cancer cases per million. For 3 rd , 4 th , and 5 th floor residential receptors, the maximum increased cancer risk is estimated to be 19.5, 13.6, and 9.0 in one million, respectively. The minimum cancer risk would be on the 5 th floor at 7.5 chances per million.			

A maintained ventilation system with high-efficiency air filtration of the fresh air supply would reduce overall concentrations of DPM and PM_{2.5} concentrations, substantially lowering cancer risk and annual PM_{2.5} concentrations. These systems should be installed on either an individual unit-by-unit basis, with individual air intake and exhaust ducts ventilating each unit separately, or through a centralized building ventilation system. Reducing annual PM_{2.5} concentrations to the BAAQMD threshold level would also result in cancer risks below the significant threshold level. As conditions of approval, the project applicant shall implement the following measures to reduce health risks to future residents from existing TAC sources in the vicinity:

- Design the project to limit exposure from I-280 traffic emissions of TAC and PM_{2.5}. The site layout shall locate operable windows and air intakes as far as possible from I-280 traffic lanes. Where possible, modifications to the site design shall incorporate buffers between residences and the freeway.
- Install air filtration at all residential units. Air filtration devices shall be rated MERV13 or higher. To ensure adequate health protection to sensitive receptors, a ventilation system shall meet the following minimal design standards:
 - A MERV13 or higher rating;
 - A MERV16 or higher rating for units with facing I-280, where annual PM_{2.5} concentrations exceed 1.1 µg/m³ (unless air intakes are located where levels are at or below 1.1;
 - Air exchanges per local building requirements
 - Alternatively, at the approval of the City, equivalent control technology may be used if it is shown by a qualified air quality consultant or heating, ventilation, and air conditioning (HVAC) engineer that it would reduce risk below significance thresholds.
- Prepare and implement an ongoing maintenance plan for the building's HVAC air filtration system. Recognizing that emissions from air pollution sources are decreasing, the maintenance period shall last as long as significant excess cancer risk or annual PM_{2.5} exposures are predicted. Subsequent studies could be conducted by an air quality expert approved by the City to identify the ongoing need for the filtered ventilation systems as future information becomes available.
- Ensure that the property owner/management implement lease agreement and other property documents that includes the following:
 - Require cleaning, maintenance, and monitoring of the affected units for air flow leaks;
 - Include assurance that new owners and tenants are provided information on the ventilation system; and
 - Include provisions that fees associated with owning or leasing a unit(s) in the building include funds for cleaning, maintenance, monitoring, and replacements of the filters, as needed.
- Require that, prior to building occupancy, an authorized air pollutant consultant or HVAC engineer verify the installation of all necessary measures to reduce TAC exposure.

- To the greatest degree possible, plant vegetation along the project site boundaries and around outdoor use areas. This barrier would include trees and shrubs that provide a dense vegetative barrier.

A properly installed and operated ventilation system with MERV13 air filters may reduce PM_{2.5} concentrations from DPM mobile and stationary sources by approximately 80 percent indoors when compared to outdoors. A ventilation system with MERV16 filters could achieve reductions of 90 percent. The overall effectiveness calculations take into consideration time spent outside and the outdoor exposure of each affected unit. The USEPA reports that people, on average, spend 90 percent of their time indoors. The overall effectiveness calculations should take into effect time spent outdoors. Assuming two hours of outdoor exposure plus one hour of open windows (calculated as outdoor exposure) per day, the overall effectiveness of filtration systems would be approximately 70 percent for MERV13 systems and approximately 70 to 75 percent for MERV16 systems.

With use of the indicated level of filtration in Appendix A (i.e., MERV13 or MERV16, depending on exposure level),⁸ all project residential locations would have PM_{2.5} exposure below BAAQMD's threshold. For this reasons, the community health risk impact to the project from existing sources would be reduced to below the BAAQMD thresholds with the implementation of the necessary filtration.

4.3.2.4 *Odors (Checklist Question e)*

No new stationary odor sources are proposed as part of the project and there are no odor sources near the site that would emit substantial odors with the potential to impact the proposed project. **(No Impact)**

4.3.3 Conclusion

The proposed project, with the implementation of the Standard Permit Condition and mitigation measure MM AIR-1.1 above, would not result in significant air quality impacts.

⁸ In Appendix A, figures 2 and 3 delineate the type of filtration systems needed at each residential unit on the second floor (podium level) to reduce the health risks from DPM and PM_{2.5}, respectively. The same information on the type of filtration needed on each unit is shown in Appendix A figures 4 and 5 for the third floor, figures 6 and 7 for the fourth floor, and figures 8 and 9 for the fifth floor.

4.4 BIOLOGICAL RESOURCES

The following section is based in part on an arborist tree report by *Fujiitrees Consulting* in July 2014 and an updated tree assessment by *HortScience, Inc.* in August 2018 completed for the project. A copy of these assessments are included in Appendix B of this Initial Study.

4.4.1 Environmental Setting

4.4.1.1 *Regulatory Framework*

Federal and State

Special-Status Species

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

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

Migratory Bird and Birds of Prey Protections

Federal and State laws also protect most bird species. The federal Migratory Bird Treaty Act (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.

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

Sensitive Habitats

Wetland and riparian habitats are considered sensitive habitats under CEQA. They are also afforded protection under applicable federal, State, and local regulations, and are generally subject to regulation, protection, or consideration by the US Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), CDFW, and/or the USFWS under provisions of the federal Clean Water Act (e.g., Sections 303, 304, 404) and State of California Porter-Cologne Water Quality Control Act. USEPA regulations, called for under Section 402 of the Clean Water Act, also include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge into waters of the United States (e.g., streams, lakes, bays, etc.).

Regional

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

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

The project site is located within the Habitat Plan study area and is designated as *Urban-Suburban*. *Urban-Suburban* land comprises of areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures, and is defined as one or more structures per 2.5 acres. Vegetation found in the *Urban-Suburban* land cover type is usually in the form of landscaped residences, planted street trees, and parklands. Most of the vegetation is composed of nonnative or cultivated plant species. The Habitat Plan designations and information pertinent to this project are provided in *Section 2.7*.

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 biological resources and are applicable to the proposed project.

Policies	Description
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.

Policies	Description
MS-21.4	Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.
MS-21.5	As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.
MS-21.6	As a condition of new development, require 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.
CD-1.25	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Any adverse effect on the health and longevity of such trees should be avoided through design measures, construction, and best maintenance practices. When tree preservation is not feasible include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.

Martha Gardens Specific Plan

The *Martha Gardens Specific Plan* includes policies regarding biological resources including, but not limited to, the following which is applicable to the proposed project.

Policy	Description
4.13	Existing ordinance size trees in the Sub-Area should be preserved.

City of San José Tree Ordinance

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 having a trunk that measures 38 inches or more in circumference (12.1 inches in diameter) at the height of 4.5 feet above the natural grade. The ordinance protects both native and non-native species. 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. There are 12 ordinance trees onsite (see discussion in *Section 4.4.1.2* below).

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 onsite.

4.4.1.2 *Existing Conditions*

The project site is located in an urban area surrounded by existing development. The project site consists of 40 landscape trees and overgrown bushes.

Habitats in developed, urban areas are low in species diversity. Species that use this habitat are predominately urban adapted birds, such as the rock dove, mourning dove, house sparrow, and European starling.

There are no sensitive habitats or wetlands on or adjacent to the project site.⁹ Due to the lack of sensitive habitats and the human disturbance of the project site, special-status plant and animal species are not expected to occur on the project site. The primary biological resources onsite are trees.

Trees onsite are mostly non-native species, range in size from 3 to 31 inches in diameter. Within the boundaries of the project site, there are a total of 30 trees, 9 of which are ordinance-sized. The largest tree is a tree of heaven (tree # 33) measuring 31 inches in diameter. This ordinance size tree is located on the southern border of the project site.

Additionally, there are 10 off-site trees within 10 feet of the project boundary, 3 of which are ordinance-sized. Trees close to the site may have root systems that could be impacted by project construction activities and were, therefore, included in the tree survey for the site. Table 4.4-1 provides a summary of the existing trees onsite and within 10 feet of the project boundary. The tree numbers in Table 4.4-1 corresponds to the tree locations on the map shown on Figure 4.4-1. Ordinance size trees are identified in bold text in the table.

Table 4.4-1: Existing Trees On and Adjacent to the Project Site		
Tree #	Common Name	Diameter In Inches
1	Xylosma	6
2	Xylosma	14
3	Xylosma	4
4	Xylosma	3
5	Tree of Heaven	21
6	London Plane	8
7	Xylosma	6
8	Xylosma	11
9	Xylosma	5
10	Xylosma	8
11	London Plane	11

⁹ US Fish and Wildlife Service. "ECOS Environmental Conservation Online System." Accessed: October 3, 2017. Available at: <https://ecos.fws.gov/ecp/report/table/critical-habitat.html>.

Table 4.4-1: Existing Trees On and Adjacent to the Project Site		
Tree #	Common Name	Diameter In Inches
12	Xylosma	8
13	Xylosma	7
14	London Plane	11
15	Xylosma	8
16	Xylosma	9
17	Xylosma	13
18	London Plane	21
19	London Plane	21
22	Coast Live Oak	13
23	Coast Live Oak	14
24	Coast Live Oak	17
25	London Plane	4
26	London Plane	5
27	Pistache	7
28	Pistache	5
29	Pistache	6
30	Pistache	8
32	Pistache	7
33	Tree of Heaven	31
34	London Plane	15
35	Tree of Heaven	5
36	Tree of Heaven	2
37	London Plane	13
71	Coast Redwood	8
72	Coast Redwood	7
73	Coast Redwood	7
74	London Plane	17
75	Coast Redwood	11
76	Coast Redwood	6
Notes: Bold text indicates ordinance-size trees. Shaded text indicates trees located off-site, but within 10 feet of the project site boundary. Tree numbers correspond to the tree location map shown on Figure 4.4-1.		



TREE LOCATION MAP

FIGURE 4.4-1

4.4.2

Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	6,35
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	11

4.4.2.1 *Impacts to Sensitive Species (Checklist Question a)*

Since the entire project site was previously developed, disturbed by human use, and located in an urbanized area, the site does not contain sensitive habitats (such as wetlands and riparian habitats) or act as a wildlife corridor. Due to the lack of sensitive habitats onsite, no special-status plant or animal species are expected to be present onsite.

Nesting birds, however, may be present in trees on and adjacent to the project site. The trees could provide nesting habitat for birds, including migratory birds and raptors. Nesting birds are protected under provisions of MBTA and Fish and Game Code Sections 3503, 3503.5, and 2800.

Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes abandonment and/or loss of reproductive effort is considered a taking by the CDFW. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute a significant impact. Construction activities such as tree removal and site grading that disturb a nesting bird onsite or immediately adjacent to the construction zone would constitute a significant impact.

Impact BIO-1: Development of the project would impact nesting birds and raptors, if present onsite or in the immediate vicinity.

Mitigation Measures: In conformance with the Fish and Game Code and the provisions of MBTA, the project applicant shall implement the following mitigation measures to reduce impacts to nesting birds (if present on or adjacent to the site) to a less than significant level:

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

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

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

If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist, in consultation with the California Department of Fish and Wildlife (CDFW), shall designate a construction-free buffer zone to be established around the nest to ensure that no nests of species protected by the federal Migratory Bird Treaty Act (MBTA) and California Fish and Game Code are disturbed during construction activities. The buffer shall remain in place until a qualified ornithologist has determined that the nest is no longer active.

MM BIO-1.3: Reporting. A final written report on nesting birds and raptors, including survey methodology, survey date(s), map of identified active nests (if any), and

protection measures (if required), shall be submitted to the City's Supervising Environmental Planner and be completed to the satisfaction of the Director of Planning, Building, and Code Enforcement prior to the issuance of any grading permits.

The project, with the implementation of the above mitigation measures, would not result in significant impacts to nesting birds by avoiding construction activities during the nesting season, inhibiting nesting, and conducting preconstruction surveys in order to avoid disturbance of active nests that may be affected by project construction. **(Less Than Significant Impact with Mitigation Incorporated)**

4.4.2.2 *Impacts to Sensitive Natural Communities and Wetland Habitats (Checklist Questions b to d)*

As discussed above, the project was previously developed, disturbed by human use, and located in an urbanized area. The project site does not contain sensitive habitats such as wetlands and riparian habitats, or act as a wildlife corridor. The proposed project, therefore, would have no impact on sensitive natural habitats, protected wetlands, or wildlife corridors. **(No Impact)**

4.4.2.3 *Impacts to Trees (Checklist Question e)*

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

Development of the proposed project could result in the loss of 30 trees onsite and the potential loss of up to 10 trees adjacent to the site.

Standard Permit Conditions

- The project applicant shall implement the Tree Protection Plan included in the arborist report in Appendix B of this Initial Study. The Tree Protection Plan includes measures to implement during project construction to minimize impacts to off-site trees. The measures include training of construction personnel, installation of Tree Protection Zones (TPZs), and tree care procedures.
- Trees removed shall be replaced in accordance with the tree replacement ratio shown in Table 4.4-2 below. The species of trees to be planted shall be determined in consultation with the City Arborist and the City's Supervising Environmental Planner.

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

- If trees that have been removed cannot be replaced in the replacement ratios or manner identified in Table 4.4-2, one or more of the following measures shall be implemented, to the satisfaction of the City's Supervising Environmental Planner, at the development permit stage:
 - The size of a 15-gallon replacement tree can be increased to 24-inch box and count as two replacement trees.
 - Replacement tree plantings at an alternative site(s). Any alternatively proposed site would be pursuant to agreement with the Director of the Department of Planning, Building and Code Enforcement. An alternative site may include local parks or schools, or an adjacent property where such plantings may be utilized for screening purposes.
 - A donation of the appropriate fee (\$300 per mitigation tree in 2018, subject to change) made to the Department of Transportation for in-lieu off-site tree planting in the community. These funds shall be used for tree planting and maintenance of planted trees for approximately three years. A receipt for any such donation shall be provided to the City of San José Planning Project Manager prior to issuance of any grading permits.

The proposed project, with implementation of the above standard permit conditions, would not result in significant impacts to trees or conflict with applicable laws, policies, or guidelines pertaining to trees. **(Less Than Significant Impact)**

4.4.2.4 *Consistency with the Habitat Plan (Checklist Question f)*

Private development in the Habitat Plan area is subject to the requirements of the Habitat Plan if it meets the following criteria:

- The activity is subject to either ministerial or discretionary approval by the County or one of the cities;
- The activity is described in *Section 2.3.2 Urban Development* or in *Section 2.3.7 Rural Development*;¹⁰
- In Figure 2-5 of the Habitat Plan, the activity is located in an area identified as “Private Development is Covered,” or the activity is equal to or greater than two acres and;
 - The project is in an area identified as “Rural Development Equal to or Greater than two acres is covered” or;
 - The activity is in an area identified as “Rural Development is not Covered” but, based on land cover verification of the parcel (inside the Urban Service Area) or development area, the project is found to impact serpentine, wetland, stream, riparian, or pond land cover types; or the project is in occupied or occupied nesting habitat for western burrowing owls.

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

Standard Permit Condition

- The project is subject to applicable Habitat Plan 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.

The project, with implementation of the above Standard Permit Condition, would be consistent with the Habitat Plan. **(Less than Significant Impact)**

4.4.3 **Conclusion**

The project, with the implementation of mitigation measures MM BIO-1.1 through MM BIO-1.3, MM BIO-2.1 through MM BIO-2.3, and the Standard Permit Condition above, would not result in significant impacts to biological resources.

¹⁰ Covered activities in urban areas include residential, commercial, and other types of urban development within the Cities of Gilroy, Morgan Hill, and San Jose planning limits of urban growth in areas designated for urban or rural development, including areas that are currently in the unincorporated County (i.e., in “pockets” of unincorporated land inside the cities’ urban growth boundaries).

4.5 CULTURAL RESOURCES

4.5.1 Environmental Setting

4.5.1.1 *Regulatory Framework*

Federal

National Historic Preservation Act

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

State

California Register of Historical Resources

The California Register of Historical Resources (CRHR) is a guide to cultural resources that must be considered when a government agency undertakes a discretionary action subject to CEQA. The CRHR aids government agencies in identifying, evaluating, and protecting California's historical resources, and indicates which properties are to be protected from substantial adverse change (Public Resources Code, Section 5024.1(a)). The CRHR is administered through the State Office of Historic Preservation (SHPO), which is part of the California State Parks system. A historic resource listed in, or formally determined to be eligible for listing in, the NRHP is, by definition, included in the CRHP (Public Resources Code Section 5024.1(d)(1)).¹¹

State Regulations Regarding Cultural and Paleontological Resources

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

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

¹¹ Refer to Public Resources Code Section 5024.1(d)(1)

Assembly Bill 52 – Tribal Cultural Resources

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

Paleontological Resources Regulations

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

Local

Envision San José 2040 General Plan

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

Policies	Description
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.
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 Subsurface Resources

The project site is in the Santa Clara Valley. It is estimated that Native American occupation of the valley began over 5,000 to 8,000 years ago. Before European settlement, Native Americans resided in the area that encompasses the project site. The south Bay Area environment during the prehistoric period consisted of alluvial plains, foothills, water courses and bay margins that provided an abundance of food and resources.

The Native American people who originally inhabited the Santa Clara Valley belong to a group known as the “Coastanoan” or Ohlone. The Ohlone occupied the central California coast from the northern tip of the San Francisco Peninsula to Big Sur in the south, and as far east as the Diablo Range. The Ohlone people engaged in a hunting, fishing, and collecting economy which focused on the collection of seasonal plant and animal resources. Their traditional lifestyle disappeared by 1810 due to new diseases, a declining birth rate and the introduction of the California mission system established by the Spanish in the San José/Santa Clara area in 1777.

There are no prehistoric archaeological sites recorded for the project area.¹²

Paleontological Resources

The project site has a low potential to yield significant fossils at the surface but may contain resources at depth.¹³

Historic Resources

There are no buildings located onsite. The project site is bounded by roadways. The site is within 500 feet of the Hensley City Landmark and National Register Historic District to the north. However, Interstate-280 separates the site from the Historic District. There are historic buildings approximately 400 feet to the west, a block away from the project site.

¹² City of San José. *Martha Gardens Specific Plan*. December 2003.

¹³ City of San José. *Envision San José 2040 General Plan Final Program EIR*. November 2011.

4.5.2

Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Cause a substantial adverse change in the significance of an historical resource as defined in CEQA Guidelines Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,12
b) Cause a substantial adverse change in the significance of an archaeological resource as defined in CEQA Guidelines Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	3
c) Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	4
d) Disturb any human remains, including those interred outside of dedicated cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
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	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,4
2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying this criteria, the significance of the resource to a California Native American tribe shall be considered.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,4

4.5.2.1 *Impacts to Historic Resources (Checklist Question a)*

There are no historic structures on, or adjacent to the project site. The nearest historic resources are over 400 feet away from the project site with intervening buildings and structures. Therefore, the development of the project would not impact historic structures. **(No Impact)**

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

Archaeological Resources

The project does not propose to develop structures below ground and therefore, would not require excavation at great depths. While there are no known cultural resources onsite, there is a potential for buried archaeological resources onsite. As a result, construction of the proposed project could impact unknown subsurface cultural resources, if present.

Standard Permit Conditions

- Consistent with General Plan policies ER-10.2 and ER-10.3, the following Standard Permit Conditions shall be implemented by the project to reduce or avoid impacts to subsurface cultural resources to a less than significant level:

Prehistoric and Historic Resources

- In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Supervising Environmental Planner and Historic Preservation Officer of the City of San José Department of Planning, Building and Code Enforcement shall be notified, and a qualified professional archaeologist shall examine the find. Project personnel shall not collect or move any cultural material.
- The archaeologist shall (1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of any occupancy permits. If the finds do not meet the definition of a historical or archaeological resource, no further study or protection is necessary prior to project implementation. If the find(s) meet the definition of a historical or archaeological resource, then project activities shall avoid it. Project personnel shall not collect or move any cultural material. Fill soils that may be used for construction purposes shall not contain archaeological materials
- If avoidance is not feasible, adverse effects to such resources shall be mitigated in accordance with the recommendations of the archaeologist. Recommendations shall include, but are not limited to, collection, recordation, and analysis of any significant cultural materials. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation. Data recovery shall include excavation and exposure of features, field documentation, and recordation. A report of findings documenting any data recovery shall be submitted to the Supervising Environmental Planner and Historic Preservation Officer of the City of San José Department of Planning, Building and Code Enforcement and the Northwest Information Center prior to issuance of occupancy permits

Human Remains

- 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 AB 2641, shall be followed. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner shall make a determination as to whether the remains are Native American.

- If the remains are believed to be Native American, the Coroner shall contact the NAHC within 24 hours. The NAHC shall then designate a Most Likely Descendant (MLD). The MLD shall inspect the remains and make a recommendation on the treatment of the remains and associated artifacts.
- If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:
 - The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 24 hours after being notified by the NAHC.
 - The MLD identified fails to make a recommendation; or
 - The landowner or his authorized representative rejects the recommendation of the MLD, and the mediation by the NAHC fails to provide measures acceptable to the landowner.

Paleontological Resources

Soil onsite has been previously disturbed during construction of the previous development. The proposed development is not expected to encounter paleontological resources. Although not anticipated, construction activities associated with the proposed project could impact paleontological resources.

Standard Permit Conditions

- Consistent with General Plan policy ER-10.3, the following Standard Permit Conditions shall be implemented by the project to reduce or avoid impacts to paleontological resources to a less than significant level:
 - The project proponent shall ensure all construction personnel receive paleontological resources awareness training that includes information on the possibility of encountering fossils during construction; the types of fossils likely to be seen based on past finds in the project area; and proper procedures in the event fossils are encountered. Worker training shall be prepared and presented by a qualified paleontologist.
 - If vertebrate fossils are discovered during construction, all work on the site shall stop immediately until a qualified professional paleontologist can assess the nature and importance of the find and recommend appropriate treatment. Treatment may include

preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project proponent shall be responsible for implementing the recommendations of the paleontological monitor.

The project, with the implementation of the above Standard Permit Conditions, would not result in significant impacts to archaeological or paleontological resources. **(Less Than Significant Impact)**

4.5.2.3 *Impacts to Tribal Cultural Resources (Checklist Question e)*

No tribes have requested notice of projects within the geographic area of the project site from the City of San José except for in Coyote Valley (approximately five miles southeast of the site). Due to the distance of the project site from Coyote Valley, the project would not have an impact on tribal cultural resources. **(No Impact)**

4.5.3 Conclusion

The proposed project, with the implementation of the identified Standard Permit Conditions, would not result in significant impacts to cultural resources.

4.6 GEOLOGY AND SOILS

4.6.1 Environmental Setting

4.6.1.1 *Regulatory Framework*

State

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act was passed into law following the destructive 1971 San Fernando earthquake. The Act ensures public safety by prohibiting the siting of most structures for human occupancy across traces of active faults that constitute a potential hazard to structures from surface faulting or fault creep. Local agencies are responsible for regulating most development projects within designated fault zones. Alquist-Priolo maps are distributed to affected cities, counties, and State agencies for their use in planning and controlling new construction.

Seismic Hazards Mapping Act

Following the 1989 Loma Prieta earthquake, the Seismic Hazards Mapping Act (SHMA) was passed by the California legislature in 1990. The SHMA (Public Resources Code, Chapter 7.8, Section 2690-2699.6) directs the Department of Conservation, California Geological Survey to identify and map areas prone to liquefaction, earthquake-induced landslides and amplified ground shaking. It also requires that agencies only approve projects in seismic hazard zones following site-specific geotechnical investigations to determine if the identified hazard is present and the inclusion of appropriate mitigation to reduce earthquake-related hazards.

California Building Standards Code

Title 24 of the California Code of Regulations, known as the California Building Standards Code (CBSC) contains the regulations that govern the construction of buildings in California. Through the CBSC, the State provides a minimum standard for building design and construction. The CBSC contains specific requirements for seismic safety, excavation, foundations, retaining walls and site demolition. It also regulates grading activities, including drainage and erosion control.

The California Building Code (CBC) refers to Part 2 of the CBSC in Title 24 of the California Code of Regulations. The CBC covers grading and other geotechnical issues, building specifications, and non-building structures. The CBC requires that a site-specific geotechnical investigation report be prepared by a licensed professional for proposed developments. The purpose of a site-specific geotechnical investigation is to identify seismic and geologic conditions that require project mitigation, such as surface fault ruptures, ground shaking, liquefaction, differential settlement, lateral spreading, expansive soils, and slope stability. The CBC is renewed on a triennial basis (every three years).

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 geology and soil resources and are applicable to the proposed project.

Policies	Description
EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
EC-4.1	Design and build all new or remodeled habitat structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls.
EC-4.2	Development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
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.
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.

City of San José Municipal Code

Title 24 of the San José Municipal Code includes the current 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.

4.6.1.1 Existing Conditions

Regional Geology

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, which includes the Monte Vista-Shannon Fault, exists within the Santa Cruz Mountains. The Hayward and Calaveras Fault systems exist within the Diablo Range.

On-Site Geologic Conditions

Topography and Soils

The project site is relatively flat and is located approximately 101 feet above mean sea level.¹⁴ The site is located on a Holocene flood plain deposit and is underlain by silty clay loam to silty clay. Surface soils onsite (up to 24 feet below ground surface) have a moderate expansion potential.¹⁵

Seismicity and Seismic-Related Hazards

The San Francisco Bay Area is one of the most seismically active regions in the United States. The significant earthquakes that occur in the Bay Area are generally associated with crustal movements along well-defined active fault zones of the San Andreas Fault system, which regionally trend in the northwesterly direction.

The site is not located within a designated Alquist-Priolo Earthquake Fault Zone, Santa Clara County Fault Hazard Zone, or City of San José Fault Hazard Zone. No known surface expressions of active faults are believed to cross the site and, therefore, fault rupture is not anticipated onsite.

Nearby active or potentially active faults, including the Hayward, Monte Vista-Shannon, Calaveras, and San Andreas faults. The distances to these faults are listed in Table 4.6-1. Due to the proximity of the project site to these active or potentially active faults, ground shaking, ground failure, and/or liquefaction as a result of an earthquake could cause damage to structures.

Table 4.6-1: Active Faults Near the Project Site	
Fault	Approximate Distance and Direction from Site
Calaveras	8.1 miles east
Hayward (Southeast Extension)	4.4 miles northeast
Hayward (Total length)	8.3 miles north
Monte Vista – Shannon	7.8 miles south
San Andreas	7.8 miles southwest

¹⁴ KCE Matrix. *Phase I Environmental Site Assessment Report: 295 East Virginia Street*. July 3, 2014.

¹⁵ USDA. Natural Resources Conservation Service. *Web Soil Survey*. Accessed July 27, 2015.

Liquefaction

Liquefaction is a result of seismic activity and is characterized as the transformation of loose, water-saturated soils from a solid state to a liquid state after ground shaking. There are many variables that contribute to liquefaction, including the age of the soil, soil type, soil cohesion, soil density, and groundwater level. Soil susceptible to liquefaction includes loose to medium dense sand and gravel, low-plasticity silt, and some low-plasticity clay deposits.

The project site is located within a State of California Hazard Zone for liquefaction and also within a Santa Clara County Liquefaction Hazard Zone. Given the on-site soil type, soil density, and depth to groundwater, the potential for liquefaction on the site during seismic shaking is considered high.

Lateral Spreading

Lateral spreading typically occurs as a form of horizontal displacement of relatively flat-lying alluvial material toward an open or “free” face such as an open body of water, channel, or excavation. There are no creeks or open bodies of water adjacent to site for lateral spreading to occur and, therefore, the potential for lateral spreading to affect the site is low.

Landslides

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

4.6.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:					
1. Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	13
2. Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
3. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	14,15
4. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
c) Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	16,17
d) Be located on expansive soil, as defined in Section 1803.5.3 of the California Building Code (2016), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	16,17
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1

As previously discussed in *Section 3.0*, the California Supreme Court issued an opinion in “CBIA vs. BAAQMD” holding that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of existing conditions on a project’s future users or residents unless the project risks exacerbate those environmental hazards or risks already exist. Nevertheless, the City has policies and regulations (including those identified in *Section 4.6.1.1*) that address existing conditions affecting a proposed project, which are discussed below.

4.6.2.1 *Seismicity and Seismic-Related Hazards (Checklist Question a)*

Although the project site is not located on a known, active fault and is not located in an Alquist-Priolo Earthquake Fault Zone, the project site is in a seismically-active region and would be subject to strong shaking in the event of seismic activity.

Due to the high groundwater table and soil type onsite, there is also a high potential for liquefaction impacts during a regional earthquake. Liquefaction can result in ground failure (e.g., fissures), foundation bearing failure, and settlement of the ground surface, which can ultimately damage future development or endanger future residents onsite.

Standard Permit Conditions

- To avoid or minimize potential damage from seismic shaking and seismic-related hazards (including liquefaction), the project applicant shall implement the following standard permit conditions:
 - The project shall be built using standard engineering and seismic safety design techniques.

- As required by the California Building Code, a design-level geotechnical investigation shall be completed for the project site which shall include design and construction recommendations to avoid and reduce seismic and seismic-related hazards (including liquefaction). The project applicant shall implement the recommendations identified in the design-level geotechnical investigation.
- The project shall comply with all CBC requirements.

The existing seismic conditions discussed above would not be exacerbated by the project such that it would impact (or worsen) off-site seismic conditions. **(Less Than Significant Impact)**

4.6.2.2 *Soil Erosion and Topsoil Impacts (Checklist Questions b)*

Soil Erosion

The project site is flat and developed, and no soil is currently exposed on the site. Ground disturbance would be required for removal of the existing pavement and excavation, grading, and construction of the proposed project. Ground disturbance would expose soils and increase the potential for wind or water related erosion, loss of topsoil, and sedimentation at the site until construction is complete. As further discussed in *Section 4.9 Hydrology and Water Quality*, the project is required to minimize soil erosion hazards through compliance with the NPDES General Permit for Construction Activities, and implementation of an Erosion Control Plan with Best Management Practices (BMPs).

Standard Permit Condition

- Comply with the City's Grading Ordinance, which includes submitting an Erosion Control Plan including, but not limited to, the following:
 - Utilize on-site sediment control BMPs to retain sediment on the project site;
 - Utilize stabilized construction entrances and/or wash racks;
 - Implement damp street sweeping;
 - Provide temporary cover of disturbed surfaces to help control erosion during construction; and
 - Provide permanent cover to stabilize the disturbed surfaces after construction has been completed.

The project, with the implementation of the Standard Permit Condition as outlined above, would not result in significant soil erosion impacts. **(Less Than Significant Impact)**

4.6.2.3 *Soil Impacts (Checklist Question c)*

As discussed above, the project site has high potential for liquefaction impacts during a regional earthquake, however, the site would not be subject to impacts from other seismically induced soil hazards including lateral spreading, slope instability, or landslides due to the flat topography of the site. **(Less Than Significant Impact)**

4.6.2.4 *Expansive Soils (Checklist Question d)*

The project site contains moderately expansive soils, which could damage future buildings and development onsite. Differential settlement, structural damage, warping and cracking of roads and sidewalks, and rupture of utility lines may occur if the nature of expansive soils are not considered during project design and construction.

Standard Permit Condition

- To ensure that future buildings on the site are designed properly to account for the expansive soils on the site, the project would be subject to the following:
 - 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 project shall conform to the recommendations in the design-level geotechnical investigation to be prepared for the project, which shall include measures to minimize impacts from expansive soils.

The project, with implementation of the Standard Permit Condition as outlined above, would not result in significant expansive soil impacts. **(Less Than Significant Impact)**

4.6.2.5 *Impacts of Septic Tanks on Soils (Checklist Question e)*

The project does not propose the use of septic tanks or alternative wastewater disposal systems. **(No Impact)**

4.6.3 Conclusion

The project, with the implementation of the above Standard Permit Conditions, would not result in significant geology and soil impacts.

4.7 GREENHOUSE GAS EMISSIONS

4.7.1 Environmental Setting

4.7.1.1 *Background Information*

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

4.7.1.2 *Regulatory Framework*

Federal

Clean Air Act

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

State

California Global Warming Solutions Act

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

On September 8, 2016, Governor Brown signed Senate Bill 32 (SB 32) into law, amending the California Global Warming Solution Act. SB 32 requires CARB to ensure that statewide greenhouse gas emissions are reduced to 40 percent below the 1990 level by 2030. As a part of this effort, CARB is required to update the *Climate Change Scoping Plan* to express the 2030 target in terms of million metric tons of carbon dioxide equivalent. CARB adopted the State’s updated *Climate Change Scoping Plan* in December 2017. The updated plan provides a framework for achieving the 2030 target.

Senate Bill 375 – Redesigning Communities to Reduce Greenhouse Gases

SB 375, known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. SB 375 builds upon AB 32 by requiring CARB to develop regional

GHG reduction targets for automobile and light truck sectors for 2020 and 2035, as compared to 2005 emissions levels. The per-capita GHG emissions reduction targets for passenger vehicles in the San Francisco Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.¹⁶

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

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

Other Implementing Laws and Regulations

There are a number of laws that have been adopted as part of the State's California's efforts to reduce GHG emissions and their contribution to climate change. State laws and regulations related to growth, development, planning and municipal operations in San José include, but are not limited to:

- California Mandatory Commercial Recycling Law (AB 341)
- California Water Conservation in Landscaping Act of 2006 (AB 1881)
- California Water Conservation Act of 2009 (SBX7-7)
- Various Diesel-Fuel Vehicle Idling regulations in Chapter 13 of the California Code of Regulations
- Building Energy Efficiency Standards (Title 24, Part 6)
- California Green Building Code (Title 25, Part 11)
- Appliance Energy Efficiency Standards (Title 20)

Implementation of the policies in the Envision San José 2040 General Plan as a part of the City's development permitting and other programs provides for meeting building standards for energy efficiency, recycling, and water conservation, consistent with State laws and regulations designed to reduce GHG emissions.

¹⁶ The emission reduction targets are for those associated with land use and transportation strategies, only. Emission reductions due to the California Low Carbon Fuel Standards or Pavley emission control standards are not included in the targets.

Regional

Bay Area Air Quality Management District

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

- *Regional Clean Air Plans:* BAAQMD and other agencies prepare clean air plans as required under the State and federal Clean Air Acts. The Bay Area 2017 Clean Air Plan (2017 CAP) focuses on two closely related BAAQMD goals: protecting public health and protecting the climate. Consistent with the GHG reduction targets adopted by the State of California, the 2017 CAP lays the groundwork for the BAAQMD's long-term effort to reduce Bay Area GHG emissions 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050. The 2017 CAP includes a wide range of control measures designed to decrease 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.
- *BAAQMD CEQA Air Quality Guidelines:* The *BAAQMD CEQA Air Quality Guidelines* are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. As discussed in the CEQA Guidelines, the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of San José and other jurisdictions in the San Francisco Bay Area Air Basin often utilize the thresholds and methodology for greenhouse gas emissions developed by the BAAQMD. The Guidelines include information on legal requirements, BAAQMD rules, plans and procedures, methods of analyzing greenhouse gas emissions, mitigation measures, and background information.

Local

Envision San José 2040 General Plan

The General Plan includes strategies, policies, and action items that are also incorporated in the City's GHG Reduction Strategy to help reduce GHG emissions. Multiple policies and actions in the General Plan have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings.

The following policies are specific to greenhouse gas emissions and are applicable to the proposed project.

Policies	Description
MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
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

Policies	Description
	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.
CD-2.11	Within the Downtown and Urban Village Boundaries, consistent with the minimum density requirements of the applicable Land Use/Transportation Diagram designation, avoid the construction of surface parking lots except as an interim use, so that long-term development of the site will result in a cohesive urban form. In these areas, whenever possible, use structured parking, rather than surface parking, to fulfill parking requirements. Encourage the incorporation of alternative uses, such as parks above parking structures.
CD-3.2	Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure that the design of new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity.
CD-5.1	Design areas to promote pedestrian and bicycle movements, to facilitate interaction between community members, and to strengthen the sense of community.
MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
MS-2.11	Require new development to incorporate green building policies, 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 effectiveness of passive solar design.).
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.
TR-2.18	Provide bicycle storage facilities as identified in the San José Bicycle Master Plan.
TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and provide direct access to transit facilities.

Greenhouse Gas Reduction Strategy

The City, in conjunction with its preparation of the Envision San José 2040 General Plan, prepared a GHG Gas Reduction Strategy to ensure that implementation of the General Plan aligns with implementation requirements of AB 32 (2020 emission target).

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

The City's current GHG Reduction Strategy does not address meeting the requirements of SB 32 (2030 emission target).

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 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)

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

In October 2008, the City adopted the Private Sector Green Building Policy (6-32) that establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. This policy requires that applicable projects achieve minimum green building performance levels using the Council adopted standards. The proposed project would be subject to this policy and would be required to achieve LEED Certified, at minimum.

4.7.1.3 *Existing Conditions*

The project site is currently undeveloped and vacant. The project site, therefore, generates minimal (if any) GHG emissions.

4.7.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,34
b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,34

4.7.2.1 *Project GHG Emissions (Checklist Question a)*

Construction Emissions

The proposed development would result in temporary increases in GHG emissions associated with construction activities including operation of construction equipment and emissions from construction workers' personal vehicles traveling to and from the project site. Construction-related GHG emissions were input into the CalEEMod model to estimate GHG emissions during the construction period. The project would generate approximately 1,445 MT of CO₂e total during construction period (refer to Appendix C for the GHG emissions model). Neither the City of San José nor BAAQMD have established a quantitative threshold or standard for determining whether a project's construction-related GHG emissions are significant. Because the project is relatively small and project construction would be temporary and occur over a short period of time, it is concluded that the project's construction-related GHG emissions would be less than significant.

Operational Emissions

The General Plan FPEIR disclosed that, in order to meet the State's SB 32 2030 emissions target, buildout of the General Plan post 2020 would require an aggressive multiple-pronged approach that includes policy decisions and additional emission controls at the federal and State level, new and substantially advanced technologies, and substantial behavioral changes to reduce single occupant vehicle trips – especially to and from work places. Future policy and regulatory decisions by other agencies (such as CARB, California Public Utilities Commission, California Energy Commission, MTC, and BAAQMD) and technological advances are outside the City's control and, therefore, could not be relied upon as feasible mitigation strategies the City could implement. The General Plan FPEIR, therefore, concluded that the buildout of the General Plan would result in significant and unavoidable greenhouse gas emissions.¹⁷

The project would be operational post 2020. At a project-level, in order to meet the State's 2030 GHG emissions target, the project would be compared to the threshold of 2.6 MT per service population.¹⁸ It is estimated the project would generate approximately 1,576 MT of CO₂e per year (refer to Appendix C for the GHG emissions model), or 3.49 MT per service population,¹⁹ which exceeds the project-level threshold of 2.6 MT per service population needed to meet the State's SB 52 2030 GHG emission target. Thus, in addition to consistency with the GHG Reduction Strategy's mandatory criteria, the project applicant shall implement all feasible (including optional) actions in listed in the GHG Reduction Strategy to reduce its GHG emissions. The project currently includes the following optional GHG Reduction Strategy measures: avoid construction of surface parking and reducing parking below code requirements.

Impact GHG-1: The project would result in significant operational GHG emissions.
 (Significant Impact)

¹⁷ City of San José. *Envision San José 2040 General Plan*. November 2011. Page 792.

¹⁸ The threshold of 2.6 MT per service population is based upon the 2030 emission target identified in the Scoping Plan and the estimated State population

¹⁹ Service population of 452 residents based on a rate of 1.5 residents per unit. Locke, Amanda. AMG & Associates, LLC. Personal Communication. January 12, 2018

Mitigation Measure: As a condition of approval, the project applicant shall implement the following measure to reduce its GHG emissions:

MM GHG-1.1: The project applicant shall develop and successfully implement a written Transportation Demand Management (TDM) plan to reduce project generated vehicle trips and parking demand. Using the City's VMT Evaluation Tool, the TDM plan shall demonstrate the reduction of project generated vehicle trips by at least 25 percent, which would subsequently reduce operational GHG emissions from the project site by at least 14.5 percent. The TDM plan shall incorporate at least three or more TDM elements including, but not limited to, measures such as transit passes, on-site transit information (kiosk) and ticket sales, direct shuttle service to light rail train (LRT) and Caltrain stations, parking cash-out program, car sharing, carpool and vanpools, unbundled parking, or other reasonable measures. The TDM Plan shall be submitted to the City's Supervising Environmental Planner and be completed to the satisfaction of the Director of Planning, Building and Code Enforcement prior to issuance of a grading permit.

The project applicant shall implement the above mitigation measure to reduce its GHG emission by reducing vehicle trips. Implementation of MM GHG-1.1 would reduce the project's GHG emissions to 2.98 MT of CO₂e per year per service population, however, does not reduce it to below the 2.6 MT of CO₂e per year per service population threshold (refer to Appendix C for the GHG emissions model). This significant unavoidable impact was previously disclosed in the certified General Plan FPEIR. **(No New Impact [Significant Unavoidable])**

4.7.2.2 *Consistency with Plans (Checklist Question b)*

GHG Reduction Strategy

The project's conformance with the GHG Reduction Strategy is based on its consistency with the General Plan land use designation, applicable GHG General Plan policies (as described above), and mandatory measures (i.e., consistency with the Land Use/Transportation diagram, implementation of Green Building Measures, and incorporation of pedestrian/bicycle site design measures) from the GHG Reduction Strategy. Refer to Appendix C of this Initial Study for a full list of mandatory GHG reduction criteria and additional (optional) actions to reduce GHG emissions.

The project would be consistent with the GHG Reduction Strategy by developing a use consistent with the General Plan land use designation; achieving a minimum LEED certification in compliance with Policy 6-32; and including ground level bicycle parking consistent with the City's Municipal Code.

General Plan

The project is consistent with the General Plan policies (CD-2.10, CD-2.11, CD-3.2, CD-5.1, MS-2.3, MS-2.11, MS-14.4, TR-2.18, and TR-3.3) by constructing in accordance with the City's Green Building Ordinance and most current State building code, participating in the construction and demolition debris recycling program, planting of new trees and landscaping, and developing a high-density residential development in Downtown. **(Less Than Significant Impact)**

4.7.3 Conclusion

The proposed project with implementation of MM GHG-1.1 would not result in a new or more significant greenhouse gas emission impact than previously disclosed in the certified General Plan FPEIR.

4.8 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based on a Phase I Environmental Site Assessment (ESA) prepared by *KCE Matrix* on July 3, 2014, a Subsurface ESA prepared by *KCE Matrix* on September 10, 2014, a Technical Memorandum prepared by *Environmental Partners, Inc.* on June 4, 2015, and a Remedial Action Report prepared by *Environmental Partners, Inc.* on November 19, 2017. Copies of these reports are included in Appendix D of this Initial Study.

4.8.1 Environmental Setting

4.8.1.1 *Regulatory Framework*

Federal and State

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and State laws. Key federal regulations and policies related to development include the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, and the Resource Conservation and Recovery Act (RCRA). In California, the USEPA has granted most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (CalEPA). In turn, 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 BAAQMD, which has oversight over air emissions, and the Regional Water Quality Control Board (RWQCB) which regulates discharges and releases to surface waters and groundwater.

Oversight over investigation and remediation of sites impacted by hazardous materials releases can be completed by State agencies, such as the Department of Toxic Substances Control [(DTSC) a division of CalEPA)], regional agencies, such as the RWQCB, or local agencies, such as SCCDEH. The SCCDEH oversees investigation and remediation Leaking Underground Storage Tank (LUST) sites in the City of San José. Other agencies that regulate hazardous materials include the California Department of Transportation and California Highway Patrol (transportation safety), and California Occupational Safety and Health Administration (Cal/OSHA).

Cortese List (Government Code Section 65962.5)

Section 65962.5 of the Government Code requires CalEPA to develop and update 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 DTSC, State Water Resources Control Board (SWRCB), and the Department of Resources Recycling and Recovery (CalRecycle).

Federal Aviation Regulations, Part 77

Federal Aviation Regulations, Part 77, “Objects Affecting Navigable Airspace” (referred to as FAR Part 77) sets forth standards and review requirements for protecting the airspace for safe aircraft

operation, particularly by restricting the height of potential structures and minimizing other potential hazards to aircraft such as reflective surfaces, flashing lights, and electronic interference. These regulations require 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.

California Accidental Release Prevention Program (CalARP)

The California Accidental Release Prevention (CalARP) Program aims to prevent accidental releases of regulated hazardous materials that represent a potential hazard beyond the boundaries of property. Facilities that are required to participate in the CalARP program use or store specified quantities of toxic and flammable substances (hazardous materials) that can have off-site consequences if accidentally released. The County of Santa Clara Department of Environmental Health reviews CalARP risk management plans as the Certified Unified Program Agency (CUPA).

Local

Envision San José 2040 General Plan

The following policies from the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to hazards and hazardous materials.

Policies	Description
EC-6.1	Require all users and producers of hazardous materials and wastes to clearly identify and inventory the hazardous materials that they store, use or transport in conformance with local, State and federal laws, regulations and guidelines.
EC-6.2	Require proper storage and use of hazardous materials and wastes to prevent leakage, potential explosions, fires, or the escape of harmful gases, and to prevent individually innocuous materials from combining to form hazardous substances, especially at the time of disposal by businesses and residences. Require proper disposal of hazardous materials and wastes at licensed facilities.
EC-6.6	Address through environmental review all proposals for new residential, park and recreation, school, day care, hospital, church or other uses that would place a sensitive population in close proximity to sites on which hazardous materials are or are likely to be located, the likelihood of an accidental release, the risks posed to human health and for sensitive populations, and mitigation measures, if needed, to protect human health.
EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, State and federal laws, regulations, guidelines and standards.
EC-7.4	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

Policies	Description
	building materials, such as lead-paint and asbestos-containing materials, shall be implemented in accordance with State and federal laws and regulations.
EC-7.5	On development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements.

Emergency Operations and Evacuation Plans

The City of San José's Emergency Operations Plan includes standard operating procedures for flood events, heat waves, off-airport aviation accidents, power outages, terrorism, and urban/wildland interface fires. The Citywide Emergency Evacuation Plan sets forth the responsibilities of City personnel and coordination with other agencies to ensure the safety of San José citizens in the event of a fire, geologic, or other hazardous occurrence.

4.8.1.2 *Site History*

Based on review of historic data (including maps, aerial photographs, regulatory records, and City directories), the project site was vacant prior to 1891 and developed with residential use from at least 1915 through 1969. Subsequently, the eastern portion of the site was developed as a gas station from at least 1972 through 1984. The western portion of the site was used for the sale and distribution of propane gas from at least 1984 through 2011. The gas station and propane facility were demolished in 2015.

4.8.1.3 *Existing Conditions*

On-Site Sources of Contamination

A database search was completed to determine whether the project site is listed on any federal, State, local, historical, and/or brownfield databases as a known or suspected source of contamination or a site that handles or stores hazardous materials. The project site was identified on databases for past auto station use; presence and removal of underground storage tanks (USTs) and propane tanks and associated equipment; and hazardous materials storage and generation.²⁰

Subsurface soil samples were collected and analyzed for volatile hydrocarbons (gasoline), benzene, toluene, ethylbenzene, xylenes (BTEX), and methyl-tert-butyl-ether (MTBE).²¹ The results found elevated concentrations of petroleum hydrocarbons in onsite soils. A soil remediation plan was implemented, which involved excavating petroleum-impacted subsurface soils onsite and mixing granulated calcium peroxide with native soils to accelerate the natural attenuation of residual concentrations of petroleum. A soil vapor survey was prepared after the remedial work to determine subsurface gas concentrations. The results found elevated levels of benzene in soil vapor above residential environmental screening levels (ESLs).²²

²⁰ KCE Matrix. *Phase I Environmental Site Assessment Report*. July 3, 2014. Pages 8-12.

²¹ KCE Matrix. *Subsurface Environmental Site Assessment Report*. September 10, 2014. Page 3.

²² Environmental Partners Inc. *Remedial Action Report*. November 29, 2017. Page 10.

The Santa Clara County Department of Environmental Health (SCCDEH) is the local regulatory agency that provides oversight for fuel leaks. SCCDEH did not provide oversight for the above described site investigation and remediation activities.

Off-Site Sources of Contamination

The Phase I ESA completed a database search of surrounding sites within 0.25-mile of the project site in order to identify potential off-site sources of environmental concern to the project site. Several nearby sites were listed on the databases. Given the type of listing and/or case closure status and observation by the professional hazardous materials consultant of the sites, however, there is no potential for migration of contamination from nearby sites towards the project site.²³ Refer to Appendix D for additional details of off-site facilities.

4.8.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	18
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,18
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	18
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,28

²³ KCE Matrix. *Phase I Environmental Site Assessment Report*. July 3, 2014. Page 23.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
f) For a project within the vicinity of a private airstrip, will the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
g) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,33

As previously discussed in *Section 3.0*, the California Supreme Court issued an opinion in “CBIA vs. BAAQMD” holding that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of existing conditions on a project’s future users or residents unless the project risks exacerbate those environmental hazards or risks already exist. Nevertheless, the City has policies and regulations (including those identified in *Section 4.8.1.4*) that address existing conditions affecting a proposed project and those affects are discussed below.

4.8.2.1 *Impacts from Hazardous Materials Use Onsite (Checklist Question a)*

Operation of the proposed project would likely include the use and storage of household cleaning supplies and maintenance chemicals in small quantities onsite. No other hazardous materials would be used or stored onsite. The small quantities of cleaning supplies and maintenance chemicals that would be used onsite do not pose a substantial risk to onsite residents or adjacent land uses through reasonably foreseeable accident conditions or the routine transport, use, and disposal of hazardous materials. **(Less Than Significant Impact)**

4.8.2.2 *Hazards from Hazardous Materials Upset or Accidental Release (Checklist Questions b and d)*

On-Site Soils

As discussed above, the project site was identified on databases for past auto station use; presence and removal of USTs and propane tanks and associated equipment; and hazardous materials storage and generation.

Given the soil remediation actions and the fact that the project proposes residential development on podium, the Remedial Action Report prepared for the project concluded that the project’s exposure of the surrounding environment and future residents to soil contamination and soil vapor intrusion is

less than significant.²⁴ Regulatory oversight, closure, and confirmation from the SCCDEH is required to determine that the site is suitable for residential development.

Impact HAZ-1: Project implementation (e.g., excavation) could release as yet undetected residual hazardous waste which could expose construction workers, future residents, and/or the environment to a significant health risk during earthwork activities.
(Significant Impact)

Mitigation Measure: The project proposes to implement the following mitigation measure to ensure the site is appropriate for residential development:

MM HAZ-1.1: The project applicant shall submit the following completed hazardous materials investigations to the Santa Clara County Department of Environmental Health (SCCDEH) for review:

- Phase I Environmental Site Assessment (ESA) prepared by *KCE Matrix* on July 3, 2014.
- Subsurface ESA prepared by *KCE Matrix* on September 10, 2014.
- Technical Memorandum prepared by *Environmental Partners, Inc.* on June 4, 2015.
- Remedial Action Report prepared by *Environmental Partners, Inc.* on November 19, 2017).

The SCCDEH shall review the reports and determine if the site investigation is complete or if further remediation and/or investigation is required. The project applicant shall complete the necessary steps to obtain regulatory closure for the property, pursuant to SCCDEH direction.

Final approval that the site is suitable for residential development shall be issued by SCCDEH which shall be submitted to the City of San José Supervising Environmental Planner prior to issuance of any grading permits for project construction.

The project, with the implementation of MM HAZ-1.1, would reduce impacts from on-site soil contamination by completing necessary work to obtain regulatory approval that the site is suitable for the proposed residential development. **(Less Than Significant Impact with Mitigation Incorporated)**

4.8.2.3 *Impacts to Nearby Schools (Checklist Question c)*

Lowell Elementary School is located approximately 400 feet north of the project site. Implementation of mitigation measure MM HAZ-1.1 above of obtaining regulatory closure for the property would ensure the contaminated soils onsite would not significantly affect nearby sensitive receptors (including Lowell Elementary School) during construction period. Future operation of the proposed project would not have a significant impact on nearby sensitive receptors, as discussed in

²⁴ Environmental Partners Inc. *Remedial Action Report*. November 29, 2017. Page 11.

Section 4.8.2.1. For these reasons, the project with implementation of MM HAZ-1.1, would not significantly impact existing or proposed schools within a quarter mile from the project site. **(Less Than Significant Impact with Mitigation Incorporated)**

4.8.2.4 *Airport Hazards (Checklist Question e)*

The project site is located approximately three miles southeast of the Norman Y. Mineta San José International Airport. While the site is not located within the Airport Influence Area (AIA) as defined by the Airport's Comprehensive Land Use Plan (CLUP),²⁵ the project site is located within the FAA Notification Surface area.²⁶ For the project site, any proposed structure of a height greater than approximately 105 feet above ground is required under FAR Part 77 to be submitted to the FAA for review.²⁷ At a proposed maximum building height of 87 feet above ground, the project would not trigger a Part 77 review or impact air traffic patterns. **(Less Than Significant Impact)**

4.8.2.5 *Private Airstrip Hazards (Checklist Question f)*

The project site is not in the vicinity of a private airstrip, therefore, would not result in a private airstrip-related safety hazard. **(No Impact)**

4.8.2.6 *Other Hazards (Checklist Question g and h)*

The project is in a highly developed urban area and it is not adjacent to any wildland areas that would be susceptible to fire.²⁸ The project will not interfere with any adopted emergency response plan or emergency evacuation plan. **(No Impact)**

4.8.3 Conclusion

The proposed, project in conformance with existing regulations discussed in *Section 4.8.1.4* and with the implementation of mitigation measure MM HAZ-1.1, would not result in significant hazardous materials impacts.

²⁵ Santa Clara County Airport Land Use Commission. *Norman Y. Mineta San José International Airport Comprehensive Land Use Plan*. November 2016.

²⁶ Federal Aviation Administration. "Notification of Proposed Construction or Alteration on Airport Part 77." Accessed: November 8, 2017. Available at: <https://www.faa.gov/airports/central/engineering/part77/>.

²⁷ Greene, Cary. Airport Planner, Norman Y. Mineta San José International Airport. Personal Communication. August 7, 2015.

²⁸ CalFire. *Fire Hazard Severity Zone Santa Clara County*. October 8, 2008.

4.9 HYDROLOGY AND WATER QUALITY

4.9.1 Environmental Setting

4.9.1.1 *Regulatory Framework*

Federal, State, and Regional

Water Quality Overview

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

Basin Plan

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

Statewide Construction General Permit

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

Municipal Regional Stormwater NPDES Permit/C.3 Requirement

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

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

National Flood Insurance Program

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

Dam Safety

Dam failure is the uncontrolled release of impounded water behind a dam. Flooding, earthquakes, blockages, landslides, lack of maintenance, improper operation, poor construction, vandalism, and terrorism can all cause a dam to fail.²⁹ Because dam failure that results in downstream flooding may affect life and property, dam safety is regulated at both the federal and State level. Dams under the jurisdiction of the California Division of Safety of Dams are identified in California Water Code Sections 6002, 6003, and 6004 and regulations for dams and reservoirs are included in the California Code of Regulations. In accordance with the State Dam Safety Act, dams are inspected regularly and detailed evacuation procedures have been prepared for each dam.

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

Santa Clara Valley Water District

The SCVWD operates as the flood control agency for Santa Clara County. Their stewardship also includes creek restoration, pollution prevention efforts, and groundwater recharge. Permits for well construction and destruction work, most exploratory boring for groundwater exploration, and projects within SCVWD property or easements are required under the SCVWD's Water Resources Protection Ordinance and District Well Ordinance.

²⁹ State of California. 2013. *2013 State Hazards Mitigation Plan*. Accessed: July 28, 2017. Available at: http://hazardmitigation.calema.ca.gov/plan/state_multi-hazard_mitigation_plan_shmp.

Local

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

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

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

The City of San José's Policy 8-14 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. Policy 8-14 requires all new and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP).

Based on the Santa Clara Permittees Hydromodification Management Applicability Map for the City of San José, the project site is exempt from the NPDES hydromodification requirements related to preparation of an HMP because it is located in a subwatershed greater than or equal to 65 percent impervious.

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 hydrology and water quality and are applicable to the proposed project.

Policies	Description
IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.
MS-3.4	Promote the use of green roofs (i.e., roofs with vegetated cover), landscape-based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.
MS-3.5	Minimize area dedicated to surface parking to reduce rainwater that comes into contact with pollutants.
ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.

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

Martha Gardens Specific Plan

The *Martha Gardens Specific Plan* includes hydrology and water quality policies including, but not limited to, the following which is applicable to the proposed project.

Policy	Description
1.2	All new development in the Martha Gardens Specific Plan area should conform to City Council Policy on Post Construction Urban Runoff Management.

4.9.1.2 *Existing Conditions*

Surface 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 to. Surface runoff from the project area are collected by storm drains which discharge runoff into Los Gatos Creek.

Groundwater

Groundwater was encountered at depths of below 20 feet at the site during soil boring tests.³⁰ Fluctuations in groundwater levels may occur due to variations in rainfall, underground drainage patterns, and other factors.

The project site is not located within a natural or facility groundwater recharge area.³¹

Stormwater Drainage

The project site is located within the Guadalupe Watershed and stormwater runoff from the project site drains into Los Gatos Creek. Los Gatos Creek is a tributary to the Guadalupe River, an alluvial stream that originates in the Santa Cruz Mountains west and south of San José and flows in a northerly direction to the San Francisco Bay.

³⁰ Bellecci & Associates, Inc. *Stormwater Control Plan for Virginia Studios Community*. July 2015.

³¹ Santa Clara Valley Water District. *Groundwater Management Plan*. 2016.

The previous gas station development onsite is demolished with remnants of paved surface parking, sidewalks, patios, and driveways remaining. The northern segment of South 6th Street (to be vacated) is paved as well. Most of the site (approximately 62,366 or 77 percent) is impervious. The remaining 18,609 square feet (or 23 percent) of the site is pervious, consisting of landscaping. Stormwater runoff from the site would flow to the 18-inch line in East Virginia Street, which connects to a 30-inch line in 7th Street.

Flooding

The project site is not located in a 100-year floodplain. According to the FEMA FIRM, the site is designated “Zone D,” which is defined as areas where flood hazards are undetermined, but possible.³² The project site is located in the Anderson Dam inundation area under the “inflow design” scenario, which assumes that dam failure occurs during a large storm event with a high pool elevation in the reservoir and high flow conditions downstream of the dam.³³

Earthquake-Induced Waves and Mudflow Hazards

Due to the project site’s inland location and distance from large bodies of water (e.g., the San Francisco Bay), it is not subject to seiche or tsunami hazards, or sea level rise.³⁴

The project site is located in a generally flat, urbanized area. There is a small, engineered embankment slope north of the site that abuts I-280. Given the generally flat nature of the site and the fact that the embankment slope north of the site is engineered and stabilized, the project site is not subject to mudflow hazards.

³² Federal Emergency Management Agency. *Flood Insurance Rate Map. Panel 06085C0234H*. May 18, 2009.

³³ Santa Clara Valley Water District. “Anderson Dam Inundation Map.” Accessed: October 2, 2017. Available at: <http://www.valleywater.org/services/andersondamandreservoir.aspx>.

³⁴ Sources: 1) Association of Bay Area Governments. *ABAG Map Services*. Accessed: August 3, 2017. Available at: <http://gis.abag.ca.gov/>. 2) San Francisco Bay Conservation and Development Commission. *Living with a Rising Bay: Vulnerability and Adaption in San Francisco Bay and on its Shoreline*. Approved on October 6, 2011. Page 28, Figure 1.7.

4.9.2

Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there will be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells will drop to a level which will not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which will result in substantial erosion or siltation on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which will result in flooding on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
e) Create or contribute runoff water which will exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
g) Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	21
h) Place within a 100-year flood hazard area structures which will impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	4
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,31,32

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

During Construction

Construction of the project 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 disturb more than one acre of soil and, therefore, compliance with the NPDES General Permit for Construction Activities is required.

In addition, all development projects in San José must comply with the City's Grading Ordinance. 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 1 to April 30), 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 BMPs that shall be implemented to prevent the discard of stormwater pollutants.

Standard Permit Condition

- Comply with the City's Grading Ordinance, which includes submitting an Erosion Control Plan including, but not limited to, the following:
 - Utilize on-site sediment control BMPs to retain sediment on the project site;
 - Utilize stabilized construction entrances and/or wash racks;
 - Implement damp street sweeping;
 - Provide temporary cover of disturbed surfaces to help control erosion during construction; and
 - Provide permanent cover to stabilize the disturbed surfaces after construction has been completed.

The project, with implementation of the above Standard Permit Condition, would not result in significant construction-related water quality impacts. **(Less Than Significant Impact)**

Post-Construction

Implementation of the project would slightly decrease impervious surfaces onsite by 2,203 square feet, or three percent. Since the project would create and/or replace over 10,000 square feet of impervious surfaces, the proposed project shall comply with the RWQCB Municipal Regional NPDES permit and City of San José's Post-Construction Urban Runoff Policy 6-29. In order to meet these requirements, the project proposes stormwater Treatment Control Measures, Site Design Measures, and Source Control Measures. Stormwater runoff from the Treatment Control Measures and Site Design Measures would drain into the treatment area onsite prior to entering the storm drainage system. Details of specific Site Design, Pollutant Source Control, and Treatment Control Measures demonstrating compliance with Provision C.3 of the Municipal Regional Stormwater Permit (NPDES Permit Number CAS612008), shall be included in the project design, to the satisfaction of the Director of Planning, Building and Code Enforcement.

The proposed project would reduce the impervious surface area onsite, therefore reducing stormwater runoff. With implementation of a stormwater control plan consistent with RWQCB requirements and compliance with the City's regulatory policies pertaining to stormwater runoff, operation of the proposed project would have a less than significant water quality impact. **(Less Than Significant Impact)**

4.9.2.2 *Groundwater Impacts (Checklist Question b)*

The project does not include below ground structures and would not require extensive excavation. Therefore, groundwater is not anticipated to be encountered during project construction and dewatering is not anticipated.

As discussed previously, the project site is not located within a natural or facility groundwater recharge area. The project does not include installation of new groundwater wells. For this reason, the project would not interfere with groundwater recharge or cause a reduction in the overall groundwater supply. **(Less Than Significant Impact)**

4.9.2.3 *Drainage Pattern Impacts (Checklist Questions c and d)*

There are no waterways on the project site. Therefore, development of the project site would not alter the course of a stream or river. In addition, the project would implement soil erosion and siltation control measures (see discussion under *Section 4.9.2.1*) and would decrease the amount of surface runoff (see discussion under *Section 4.9.2.4*). For these reasons, the project would not result in substantial erosion, siltation, or flooding due to changes in site drainage. **(Less Than Significant Impact)**

4.9.2.4 *Storm Drainage System Impacts (Checklist Question e)*

Compared to the previously developed site condition, the proposed project would reduce the amount of impervious surfaces onsite by approximately 2,203 square feet, which is a decrease of about three percent. Table 4.9-1 provides the breakdown of the pervious and impervious surfaces on the project site under existing and project conditions. Stormwater runoff from the Treatment Control Measures and Site Design Measures would drain into the treatment area onsite prior to entering the storm drainage system. Details of specific Site Design, Pollutant Source Control, and Stormwater Treatment Control Measures demonstrating compliance with Provision C.3 of the Municipal Regional Stormwater Permit (NPDES Permit Number CAS612008), shall be included in the project design, to the satisfaction of the Director of Planning, Building and Code Enforcement. The reduction in impervious surfaces along with stormwater treatment would result in a decrease in surface runoff from the site, therefore, it is anticipated that the existing storm drain line would have sufficient capacity to accommodate runoff from the project site. For these reasons, the project would not generate significant volumes of stormwater that would impact the existing City storm drain system. **(Less Than Significant Impact)**

Table 4.9-1: Pervious and Impervious Surfaces Onsite						
Site Surface	Previous Site Coverage (SF)	%	Proposed Site Coverage (SF)	%	Difference (SF)	%
<i>Impervious</i>						
Hardscape and Streets	62,366	77	60,163	74	-2,203	-3
<i>Pervious</i>						
Landscaped Areas	18,609	23	20,812	26	+2,203	+3
Total	80,975	100	80,975	100		

4.9.2.5 *Flooding and Inundation Impacts (Checklist Questions g to j)*

The project site is not located in a 100-year floodplain and, therefore, would not place housing within a 100-year flood hazard area or impede or redirect flood flows within a 100-year flood hazard area. The project site is located over 0.5 mile from Coyote Creek to the east and the Guadalupe River to the west, with densely developed areas in between. The project would not exacerbate off-site flooding conditions.

The project site is not subject to dam inundation, seiche, tsunami, or mudslide hazards. **(No Impact)**

4.9.3 Conclusion

The proposed project, with the implementation of Standard Permit Conditions, would not result in significant hydrology and water quality impacts.

4.10 LAND USE

4.10.1 Environmental Setting

4.10.1.1 *Regulatory Framework*

State

State Density Bonus Law

The purpose of the State Density Bonus Law (Government Code Section 65915) is to encourage cities to offer bonuses and incentives to housing developers that will “contribute significantly to the economic feasibility of lower income housing in proposed housing developments” (Government Code Section 65917). The State Density Bonus Law has four distinct primary components: (1) Density Bonuses; (2) Incentives/Concessions; (3) Development Standard Waivers; and (4) Parking Standards. Although interrelated, each component serves a different purpose and is governed by unique standards as follows:

- 1) Section 65915(b)(1) of the State Density Bonus Law provides that requests for a density bonus must be granted “when an applicant for a housing development seeks and agrees to construct a housing development” that meets one or more of the statute’s thresholds.

The project proposes to provide 100 percent affordable units.

- 2) The number of Incentives and Concessions to which a project applicant is entitled depends upon the percentage of Very Low, Low-, or Moderate-income units provided. The project applicant may receive three incentives for projects that include at least 30 percent for low income households. (§ 65915(d)(2)(C).)

The project proposes 100 percent affordable units for seniors earning up to 60 percent of the AMI for Santa Clara County, therefore is entitled to three incentives.

- 3) Development Standard Waivers may also be requested under the State Density Bonus Law if the standard would physically preclude the construction of the project at the densities or with the incentives permitted under the statute. There is no limit on the number of waivers that can be issued.

The project is requesting two waivers.

- 4) The fourth component of the State Density Bonus Law concerns the project parking ratio. The Density Bonus Law was recently amended to allow .5 parking spaces per bedroom for developments that provide at least 11 percent very-low income affordable units and are located within 0.5 miles of a major transit stop.

The nearest bus stops from the project site are approximately 0.3 mile away at the intersections of 1st and Virginia Streets and Keyes Street and 7th Street.

Regional and Local

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Habitat Plan, as discussed in Section 4.4 Biological Resources, 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 southern Santa Clara County.

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 land use and are applicable to the proposed project.

Policies	Description
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.
LU-2.2	Include within the General Plan Land Use / Transportation Diagram significant job and housing growth capacity within identified Growth Area including the Martha Gardens Specific Plan area.
IP-1.6	Ensure that proposals to rezone and prezone properties conform to the Land Use/Transportation Diagram, and advance General Plan Vision, goals and policies.
IP-8.5	Use the Planned Development zoning process to tailor such regulations as allowed uses, site intensities and development standards to a particular site for which because of unique circumstances a Planned Development zoning process will better conform to General Plan goals and policies than may be practical through implementation of a conventional Zoning District.

The project site has a General Plan land use designation of *Transit Residential*, which is intended for high-density, mixed-use residential developments that are located in proximity to transit, jobs, amenities, and services.

Martha Gardens Specific Plan

The *Martha Gardens Specific Plan* establishes the framework for the redevelopment of the Martha Gardens area (which is located south of Downtown San José on the south edge of I-280). The *Martha Gardens Specific Plan* sketches out a new community with emphasis on new housing with family and arts oriented services and facilities.

The project site is identified for *High Density Residential* land use in the Specific Plan. The *High Density Residential* designation allows for residential development at 40–70 dwelling units per acre (du/ac). The Specific Plan states that sites with the high density residential designation should include a choice of unit types and tenures and be affordable to families with a variety of income levels. The project site is located in the Infill East and West Sub-area of the Specific Plan. The maximum height of development on properties designated for *High Density Residential* land uses should be an average of 55 feet or four stories. Height variations may include minor incursions

above 65 feet for architectural elements, permitted to a maximum height of 70 feet. The following land use policy is applicable to the proposed project.

Policy	Description
4.2	Residential intensification of underutilized industrial and general commercial parcels is encouraged.

Zoning Ordinance

The project site is zoned *A(PD) – Planned Development* for the previous gas station development onsite.

The project proposes a rezoning to *R-M – Multiple Residence*. The *R-M – Multiple Residence* zoning requires a front setback of 10 feet, side corner setback of 7 feet and 6 inches, side interior setback of 5 feet, and rear corner of 15 feet. The *RM-Multiple Residence* zoning also requires 1.25 vehicle parking spaces per unit resulting in 377 vehicle parking spaces, 1 motorcycle space per 4 units resulting in 76 motorcycle parking spaces, and 1 bicycle parking space per 4 units resulting in 76 bicycle parking spaces.

4.10.1.2 Existing Conditions

Existing Land Uses

The project site was previously developed as a gas station and propane facility. The project site is currently undeveloped and vacant. The western portion of the site is an abandoned segment of South 6th Street.

Surrounding Land Uses

The project site is bounded by roadways including I-280 (eight lanes) to the north, South 7th Street to the east, East Virginia Street (to the south), and an I-280 off-ramp to the west. Beyond the roadways, land uses in the vicinity include undeveloped land to the east, a gas station and a warehouse to the south, and single-family residences to the west (refer to Figure 2.4-3). To the southwest of the project site, at the southwest quadrant of East Virginia Street and South 6th Street, there is a multi-family residential development (Foundry Commons).

4.10.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-3
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	3,4,6
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	11

4.10.2.1 *Physically Divide an Established Community (Checklist Question a)*

The project proposes a residential development consistent with the site's existing General Plan land use designation. The proposed development is also generally consistent with the land use identified for the site in the *Martha Gardens Specific Plan*. The project area consists of a mix of land uses and the proposed residential use would not introduce a new or incompatible land use to the area. In addition, the project site is separated from adjacent land uses by roadways and does not include any physical features that would physically divide the community (e.g., blocking of sidewalks). For these reasons, the project would not physically divide an established community. (**Less Than Significant Impact**)

4.10.2.2 *Consistency with Applicable Plans, Policies, and Zoning (Checklist Questions b)*

Envision San José 2040 General Plan

The project site has a General Plan land use designation of *Transit Residential*, which allows for residential densities of 50-250 du/ac and FAR of 2.0 to 12.0 (five to 25 stories). The project proposes 301 units on 1.8 acres, which equates to a density of approximately 167 du/ac. The project's use and density are consistent with the existing General Plan land use designation. The project is consistent with the applicable General Plan policies CD-3.4, LU-2.2, IP-1.6, and IP-8.5 by rezoning the site from *A(PD) – Planned Development* to *R-M – Multiple Residence*, consistent with the General Plan *Transit Residential* designation, providing housing in proximity (0.3 miles) to transit facilities in the *Martha Gardens Specific Plan* area, and replacing the existing sidewalk along the project frontage on 7th Street and East Virginia Street to provide pedestrian access to the surrounding area.

Martha Gardens Specific Plan

The proposed residential land use is consistent with the *High Density Residential* designation for the site in the *Martha Gardens Specific Plan*. In addition, the project's inclusion of affordable units and

intensification of an underutilized industrial/commercial parcel is consistent with the *Martha Gardens Specific Plan*. The proposed density (167du/ac) exceeds the development standards for the site identified in the *Martha Gardens Specific Plan* (70 du/ac), resulting in development of 175 additional dwelling units on the 1.8-acre site. The project proposes to utilize the State's Density Bonus Law to develop these additional dwelling units, which allows for the development of up to 35 percent more than the density allowed under the General Plan designation.

In addition to allowing higher density, the State Density Bonus Law also includes waivers³⁵ to allow for flexibility with development standards. Table 4.10-1 below summarizes the density, maximum building height, common, and private open space required under the Martha Gardens Specific Plan and proposed for the project site with waivers allowed by the State Density Bonus Law.

Table 4.10-1: Martha Gardens Specific Plan Development Standards		
	Required	Proposed
Building Height	70 feet	<i>87 feet</i>
Common Open Space	100 square feet per unit (30,100 square feet)	30,109 square feet
Private Open Space	60 square feet for minimum of 50% of total units (9,030 square feet)	<i>546 square feet</i>
<i>Italicized = Requires State's Density Bonus Law waivers</i>		

The project is utilizing the State's Density Bonus Law to receive two waivers from the City's requirements, as specified in the *Martha Gardens Specific Plan*, for building height, and private open space. These waivers include the following:

Waivers:

1. Building Height (65 feet maximum, 87 feet proposed)
2. Private Open Space (minimum of 9,030 square feet total required, 546 square feet total proposed)

While the project's proposed density, maximum building height, and private open space are inconsistent with the *Martha Gardens Specific Plan*, utilization of the State's Density Bonus Law waivers would allow the higher density, taller building height, and reduced private open space and, therefore, reduce the land use impacts to a less than significant level.

Zoning Ordinance

Currently, the site is zoned A(PD) for the previous gas station development onsite. The project would require a rezoning to *R-M – Multiple Residence*. The purpose of the *R-M – Multiple Residence* zoning district is to reserve land for the construction, use and occupancy of higher density residential development and higher density residential-commercial mixed use development. Table 4.10-1 below summarizes the zoning setback and parking required and proposed.

³⁵ In addition to concessions, waivers are available for development standards that physically preclude the construction of the project that qualifies for a density bonus or concessions.

Table 4.10-2: R-M Zoning - Setback and Parking Requirements		
Setbacks	Required	Proposed
Front	10 feet	<i>2 feet 2 inches</i>
Side Interior	5 feet	7 feet 2 inches
Side Corner	7 feet 6 inches	<i>2 feet 1 inches</i>
Rear Corner	15 feet	67 feet 4 inches
Parking	Required	Proposed
Vehicle Parking	0.5 spaces/unit (151 spaces)	151 spaces*
Motorcycle Parking	1 space per 4 units (76 spaces)	<i>20 spaces</i>
Bicycle Parking	1 space per 4 units (76 spaces)	76 spaces
*State's Density Bonus Law allowed parking ratio <i>Italicized = Requires State's Density Bonus Law concessions</i>		

As shown in Table 4.10-1 above, the project would utilize the State's Density Bonus Law to receive three concessions³⁶ from the City's requirements, as specified in the Zoning Ordinance, for front setback, side corner setback, and motorcycle parking, as described below. These concessions include the following:

Concessions:

1. Front Setback on South 7th Street (10'-0" required, 2'2" provided)
2. Side Corner Setback on East Virginia Street (7'-6" required, 2'-1" provided)
3. Motorcycle Parking (minimum of 75 spaces required, 20 spaces proposed)

While the project's front setback, side corner setback, and motorcycle parking are inconsistent with the *R-M – Multiple Residence* zoning requirement, utilization of the State Density Bonus Law concessions, would reduce the land use impacts to a less than significant level. In addition, the project proposes senior affordable units and is entitled to a 0.5 parking ratio; therefore, the project's proposed parking of 151 parking spaces for 301 units (0.5 ratio) meets the parking requirement.

Through implementation of the State Density Bonus law, the proposed setback and motorcycle and vehicle parking ratio reductions would be allowed, and the resulting land use impacts would be a less than significant impact. **(Less Than Significant Impact)**

4.10.2.3 Consistency with Applicable Habitat Conservation Plan (Checklist Question c)

As discussed in *Section 4.4 Biological Resources*, the proposed project would not conflict with the Habitat Plan and would pay applicable fees, including the nitrogen deposition fee, to reduce the project's impact to biological resources to a less than significant impact. **(Less Than Significant Impact)**

4.10.3 Conclusion

The proposed project would not result in significant land use impacts.

³⁶ Concessions are defined as reduction in site development standards or modifications of zoning and architectural design requirement.

4.11 MINERAL RESOURCES

4.11.1 Environmental Setting

4.11.1.1 *Regulatory Framework*

State

Mineral Resources and the Surface Mining and Reclamation Act

The Surface Mining and Reclamation Act (SMARA) was enacted by the California Legislature in 1975 to address the need for a continuing supply of mineral resources, and to prevent or minimize the negative impacts of surface mining to public health, property and the environment. SMARA mandated the initiation by the State Geologist of mineral land classification in order to help identify and protect mineral resources in areas within the State subject to urban expansion or other irreversible land uses which would preclude mineral extraction. SMARA also allowed the State Mining and Geology Board, after receiving classification information from the State Geologist, to designate lands containing mineral deposits of regional or statewide significance.

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, SR 87, and Hillsdale Avenue as containing mineral deposits that are of regional significance as a source of construction aggregate materials. Neither the State Geologist nor the State Mining and Geology Board have classified any other areas in San José as containing mineral deposits of statewide significance or requiring further evaluation.

4.11.1.2 *Existing Conditions*

The project site is not located on or near Communications Hill and, therefore, does not contain known mineral resources

4.11.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	4
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	4

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

As discussed above, the project site is not located in an area containing known mineral resources.
(No Impact)

4.11.3 Conclusion

The project would not result in the loss of availability of known mineral resources.

4.12 NOISE AND VIBRATION

The following section is based on a noise and vibration assessment completed for the project by *Illingworth & Rodkin, Inc.* in October 2017. A copy of this assessment is included in Appendix E of this Initial Study.

4.12.1 Environmental Setting

4.12.1.1 *Background Information*

Fundamentals of Noise

Several factors influence sound as it is perceived by the human ear, including the actual level of sound, the period of exposure to the sound, the frequencies involved, and the fluctuation in the noise level during exposure. Noise is measured on a “decibel” scale which serves as an index of loudness. The zero on the decibel scale is based on the lowest sound level that the healthy, unimpaired human ear can detect. Sound levels in decibels are calculated on a logarithmic basis. An increase of 10 decibels represents a ten-fold increase in acoustic energy, while 20 decibels is 100 times more intense, 30 decibels is 1,000 times more intense, etc.

There is a relationship between the subjective noisiness or loudness of a sound and its intensity. Each 10 decibel increase in sound level is perceived as approximately a doubling of loudness over a fairly wide range of intensities. Because the human ear cannot hear all pitches or frequencies, sound levels are frequently adjusted or weighted to correspond to human hearing. This adjusted unit is known as the “A-weighted” decibel, or dBA. Further, sound is averaged over time and penalties are added to the average for noise that is generated during times that may be more disturbing to sensitive uses such as early morning or late evening.

Since excessive noise levels can adversely affect human activities (such as conversation and sleeping) and human health, federal, State, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. The noise guidelines are almost always expressed using one of several noise averaging methods, such as L_{eq} , DNL, or CNEL.³⁷ Using one of these descriptors is a way for a location’s overall noise exposure to be measured, realizing of course that there are specific moments when noise levels are higher (e.g., when a jet is taking off from the Airport or when a leaf blower is operating) and specific moments when noise levels are lower (e.g., during lulls in traffic flows on I-280 or in the middle of the night). L_{max} is the maximum A-weighted noise level during a measurement period.

Fundamentals of Vibration

Ground vibration consists of rapidly fluctuating motions or waves with an average motion of zero. Several different methods are typically used to quantify vibration amplitude. One is the Peak Particle Velocity (PPV). The PPV is defined as the maximum instantaneous positive or negative peak of the

³⁷ L_{eq} stands for the Noise Equivalent Level and is a measurement of the average energy level intensity of noise over a given period of time such as the noisiest hour. DNL stands for Day-Night Level and is a 24-hour average of noise levels, with a 10 dB penalty applied to noise occurring between 10:00 PM and 7:00 AM. CNEL stands for Community Noise Equivalent Level; it is similar to the DNL except that there is an additional five dB penalty applied to noise which occurs between 7:00 PM and 10:00 PM.

vibration wave. In the following discussion, a PPV descriptor with units of millimeters per second (mm/sec) or inches per second (in/sec) is used to evaluate construction generated vibration for building damage and human complaints.

Low-level vibrations frequently cause irritating secondary vibration, such as a slight rattling of windows, doors, or stacked dishes. The rattling sound can give rise to exaggerated vibration complaints, even though there is very little risk of actual structural damage. Construction activities can cause vibration that varies in intensity depending on several factors. The use of pile driving and vibratory compaction equipment typically generates the highest construction related ground-borne vibration levels. Because of the impulsive nature of such activities, the use of the PPV descriptor has been routinely used to measure and assess ground-borne vibration and almost exclusively to assess the potential of vibration to induce structural damage and the degree of annoyance for humans.

The two primary concerns with construction-induced vibration, the potential to damage a structure, and the potential to interfere with the enjoyment of life, are evaluated against different vibration limits. Studies have shown that the threshold of perception for average persons is in the range of 0.008 to 0.012 in/sec PPV. Human perception to vibration varies with the individual and is a function of physical setting and the type of vibration. Persons exposed to elevated ambient vibration levels, such as people in an urban environment, may tolerate a higher vibration level.

The two primary concerns with construction-induced vibration, the potential to damage a structure and the potential to interfere with the enjoyment of life, are evaluated against different vibration limits. Studies have shown that the threshold of perception for average persons is in the range of 0.008 to 0.012 in/sec PPV. Human perception to vibration varies with the individual and is a function of physical setting and the type of vibration. Persons exposed to elevated ambient vibration levels, such as people in an urban environment, may tolerate a higher vibration level.

Damage caused by vibration can be classified as cosmetic or structural. Cosmetic damage includes minor cracking of building elements (exterior pavement, room surfaces, etc.). Structural damage includes threatening the integrity of the building. Damage resulting from construction related vibration is typically classified as cosmetic damage. Safe vibration limits that can be applied to assess the potential for damaging a structure vary by researcher and there is no general consensus as to what amount of vibration may pose a threat for structural damage to the building. Construction-induced vibration that can be detrimental to the building is very rare and has only been observed in instances where the structure is at a high state of disrepair and the construction activity occurs immediately adjacent to the structure.

Additional information on the fundamentals of noise and vibration are included in Appendix E.

4.12.1.2 *Regulatory Framework*

State, Regional, and Local

State Building Code

The State Building Code, Title 24, Part 2 of the State of California Code of Regulations establishes uniform minimum noise insulation performance standards to protect persons within new buildings which house people, including hotels, motels, dormitories, apartment houses and dwellings other

than single-family dwellings. Title 24 mandates that interior noise levels attributable to exterior sources shall not exceed 45 dBA DNL or CNEL³⁸ in any habitable room.

Norman Y. Mineta San José International Airport Comprehensive Land Use Plan

The CLUP includes land use compatibility policies and standards, which form the basis for evaluating the land use compatibility of individual projects with the Airport and its operations. The project site is located approximately three miles southeast of the Norman Y. Mineta San José International Airport, however, it is not located within the AIA, as defined by the Airport's CLUP, nor is the project site located within the 65 dBA DNL Contour line for aircraft activities.³⁹

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 in Table 4.12-1.

Policies	Description
ES-1.1	<p>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:</p> <p><u>Interior Noise Levels</u></p> <ul style="list-style-type: none">The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected <i>Envision General Plan</i> traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan. <p><u>Exterior Noise Levels</u></p> <ul style="list-style-type: none">The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (refer to Table EC-1 in the General Plan or Table 4.12-1 in this Initial Study). Residential uses are considered "normally acceptable" with exterior noise exposures of up to 60 dBA DNL and "conditionally compatible" where the exterior noise exposure is between 60 and 75 dBA DNL such that the specified land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features are included in the design.
EC-1.2	<p>Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Land Use Categories 1, 2, 3 and 6 in Table EC-1 in the General Plan or Table 4.12-1 in this Initial Study) 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:</p>

³⁸ Title 24 states that the determination of whether to apply DNL or CNEL should be consistent with the metric used in the noise element of the local general plan.

³⁹ Santa Clara County Airport Land Use Commission. *Norman Y. Mineta San José International Airport Comprehensive Land Use Plan*. November 2016.

Policies	Description
	<ul style="list-style-type: none"> • 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.
EC-1.3	Mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to uses through noise standards in the City’s Municipal Code.
EC-1.6	Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City’s Municipal Code.
EC-1.7	<p>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:</p> <ul style="list-style-type: none"> • 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. <p>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.</p>
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.




City of San José 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.⁴⁰

The Zoning Ordinance limits noise levels to 55 dBA L_{eq} at any residential property line and 60 dBA L_{eq} at commercial property lines, unless otherwise expressly allowed in a Development Permit or other planning approval. The Zoning Ordinance also limits noise emitted by stand-by/backup and emergency generators to 55 decibels at the property line of residential properties. The testing of generators is limited to 7:00 AM to 7:00 PM, Monday through Friday.

⁴⁰ The Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.

Table 4.12-1: General Plan Land Use Compatibility Guidelines

Land Use Category	Exterior DNL Value in Decibels					
	55	60	65	70	75	80
1. Residential, Hotels and Motels, Hospitals and Residential Care ¹						
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
3. Schools, Libraries, Museums, Meeting Halls, and Churches						
4. Office Buildings, Business Commercial, and Professional Offices						
5. Sports Arena, Outdoor Spectator Sports						
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters						
<p>Notes: ¹Noise mitigation to reduce interior noise levels pursuant to Policy EC-1.1 is required.</p> <p> 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.</p> <p> 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.</p> <p> 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.</p>						

4.12.1.3 Existing Noise Conditions

The existing noise environment at the project site and in the vicinity results primarily from traffic on I-280, South 7th Street, the South 6th Street off ramp, and East Virginia Street. A noise monitoring survey was completed to document the existing noise conditions at the project site. The noise survey included two long-term noise measurements and one short-term noise measurement.

The existing noise level at the southern portion of the site was calculated to be 71 dBA DNL. The noise level at this portion of the site is primarily the result of traffic on East Virginia Street and background noise from I-280. The day-night average at the eastern portion of the site near South 7th Street was calculated to be 76 dBA DNL, primarily due to traffic on South 7th Street and I-280. The day-night average at the center of the site was measured to be 66 dBA DNL. Additional detail about the noise measurement locations and data is included in Appendix E.

The Airport Land-Use Commission (ALUC) has jurisdiction over new land uses in the vicinity of airports, and establishes 65 dBA DNL as the maximum allowable noise level considered compatible

with residential uses. In addition to being outside the airport's AIA, the project site is located outside of the Norman Y. Mineta San José International Airport's 65 dBA DNL contour.

4.12.1.4 *Sensitive Receptors*

The nearest noise sensitive receptors to the project site are existing residences located approximately 200 feet east and west of the project site (refer to Figure 2.4-3).

4.12.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	22
b. Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	22
c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	22
d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	22
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	22,23
f. For a project within the vicinity of a private airstrip, will the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1

As previously discussed in *Section 3.0*, the California Supreme Court issued an opinion in “CBIA vs. BAAQMD” holding that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of existing conditions on a project's future users or residents. Nevertheless, the City has policies and regulations (including those identified in *Section 4.13.1.2*) that address existing conditions affecting a proposed project, which are discussed below.

Appendix G of the CEQA Guidelines states that a project would normally be considered to result in significant noise impacts if noise levels conflict with adopted environmental standards or plans or if noise generated by the project would substantially increase existing noise levels at sensitive receivers on a permanent or temporary basis.

A substantial permanent noise increase would occur if the noise level increase resulting from the project (e.g., noise from project operations or project-generated traffic) is three dBA DNL or greater at noise-sensitive receptors, with an ambient noise level of 60 dBA DNL or greater. Where noise levels would remain at or below the normally acceptable noise level standard with the project, noise level increases of five dBA DNL or greater would be considered significant (General Plan policy EC-1.2).

Temporary, construction noise impacts from the project would be significant if the project is located within 500 feet of residential uses (or 200 feet of commercial or office uses) and would involve substantial noise generating activities (such as demolition, grading, excavation, pile driving, etc.) for more than one year (General Plan policy EC-1.7); and if hourly average noise levels exceed 60 dBA L_{eq} and are at least five dBA above the ambient noise environment at nearby residential uses. Construction vibration impacts would be considered significant when construction activities are anticipated to generate a peak vertical particle velocity of 0.08 in/sec at sensitive historic structures and 0.20 in/sec at buildings of normal conventional construction (General Plan policy EC-2.3).

4.12.2.1 *Exposure to Noise Levels in Excess of Standards (Checklist Question a)*

Exterior and Interior Noise

Exterior Noise

The existing noise environment at the project site (up to 76 dBA DNL) exceeds the City's residential exterior noise goal of 60 dBA DNL. The future noise environment at the project site would continue to result primarily from vehicular traffic along I-280, East Virginia Street, and South 7th Street. Future transportation-related noise levels at the project site were calculated based on anticipated future increased traffic along roadways in the project area. Noise levels throughout the project site would exceed the City of San José's "satisfactory" noise and land use compatibility goal of 60 dBA DNL for residential uses, but would vary depending upon the proximity of receptors to roadways and the presence of shielding features (e.g., proposed buildings).

Future traffic noise levels along I-280 are estimated to increase by one dBA DNL and day-night average noise levels from I-280 traffic are estimated to reach 78 dBA DNL at the proposed residential units with line-of-sight to the freeway. The future exterior noise environment at residential units proposed adjacent to East Virginia Street are estimated to reach 72 dBA DNL, and 77 dBA DNL at residential units proposed adjacent to South Seventh Street.

The project includes a rooftop deck and podium-level courtyard for common outdoor use. The unshielded rooftop deck is proposed in the northeast corner of the building. Exterior noise levels at the proposed rooftop deck are calculated to be up to 78 dBA DNL, and would be considered "unacceptable" as defined by the City. Approximately five to 10 dBA of noise reduction would be expected at portions of the rooftop deck not having direct line-of-sight to I-280 traffic; however,

exterior noise levels at the rooftop deck would continue to exceed the City's "normally acceptable" exterior noise level limit of 60 dBA DNL. The podium-level common courtyard is proposed in the middle of the site, which would be shielded by the proposed residential building and would not have line-of-sight to I-280 and South 7th Street. Exterior noise levels at the proposed podium-level courtyard are estimated to be less than 60 dBA DNL and would meet the City's "normally acceptable" exterior noise level limit of 60 dBA DNL. Future residents, therefore, would have at least one common outdoor use area that meets the City's exterior noise goal.

Interior Noise

Interior noise levels within new residential units are required by the State and City of San José to be maintained at or below 45 dBA DNL. Perimeter residential units on the site would be exposed to future noise levels greater than 60 dBA DNL, with the highest future noise exposures occurring at unshielded residential facades nearest I-280. Noise levels at these unshielded residential facades are calculated to reach 78 dBA DNL. Future noise levels at the unshielded residential facades along East Virginia Street are calculated to reach up to and 77 dBA DNL along South 7th Street.

Interior noise levels would vary depending upon the design of the buildings (relative window area to wall area) and the selected construction materials and methods. Standard residential construction provides approximately 15 dBA of exterior to interior noise reduction, assuming the windows are partially open for ventilation. Standard construction with the windows closed provides approximately 20 to 25 dBA of noise reduction in interior spaces. In exterior noise environments ranging from 60 to 65 dBA DNL, interior noise levels can typically be maintained below City standards with the incorporation of an adequate forced air mechanical ventilation system in each residential unit, allowing the windows to be closed. In noise environments of 65 dBA DNL or greater, a combination of forced-air mechanical ventilation and sound-rated construction methods is required to meet the interior noise level limit.

A design-level acoustical analysis following protocols in the City-adopted California Building Code is required of the project to demonstrate the project can meet the State and City interior noise standard and shall be completed at the building permit stage. The design-level acoustical analysis shall base required noise attenuation techniques on expected General Plan traffic volumes to ensure land use compatibility and General Plan consistency over the life of the project. Units facing I-280, East Virginia Street, and South 7th Street require analysis for potential sound-rated construction methods and building facade treatments to maintain interior noise levels at or below 45 dBA DNL. These treatments could include, but are not limited to, sound rated windows and doors, sound rated wall constructions, acoustical caulking, protected ventilation openings, etc.

Standard Permit Condition

- The project applicant shall complete a design-level acoustical analysis and include appropriate site and building design, building construction and noise attenuation techniques to meet the State and City interior noise standard of 45 dBA DNL. A qualified acoustical consultant shall review the final site plan, building elevations, and floor plans prior to issuance of a building permit to calculate the expected interior noise levels as required by State noise regulations. A preliminary review of the building floor plans and elevations

indicates that windows and doors with a minimum Sound Transmission Class (STC)⁴¹ rating of 32 to 37 would be needed at units having direct line-of-sight to I-280, East Virginia Street, and South 7th Street. The specific determination of required noise insulation treatments shall be completed on a unit-by-unit basis during final design of the project. Building sound insulation requirements shall include the provision of forced-air mechanical ventilation for all perimeter residential units, so that windows can be kept closed at the occupant's discretion to control noise.

The project, with the implementation of the above Standard Permit Condition requiring the preparation of a design-level acoustical analysis and implementation of recommendations in the analysis, would ensure interior noise levels are 45 dBA DNL or less. The project, therefore, would meet the State and City's interior noise goal.

Mechanical Noise

The proposed project would include mechanical equipment, such as heating and air conditioning systems. Typical air conditioning units and heat pumps for multi-family complexes would be about 60 dBA L_{eq} at a distance of 50 feet. Noise decreases as distance from the source increases. The nearest noise sensitive receptors are located approximately 200 feet east of the project site. At this distance, the worst-case project-generated mechanical equipment noise would be below the City's 55 dBA DNL exterior noise goal. **(Less Than Significant Impact)**

4.12.2.2 *Impacts from Groundborne Vibration Levels on Nearby Receptors (Checklist Question b)*

The construction of the project may generate perceptible vibration when heavy equipment or impact tools (e.g., jackhammers, etc.) are used in areas adjoining developed properties. Construction activities would include demolition of existing structures, excavation, grading, site preparation work, foundation work, and new building framing and finishing.

The California Department of Transportation uses a vibration limit of 0.3 in/sec PPV for buildings structurally sound and designed to modern engineering standards. Project construction activities such as drilling, the use of jackhammers, rock drills and other high-power or vibratory tools, and rolling stock equipment (tracked vehicles, compactors, etc.) may generate substantial vibration in the immediate vicinity of the work area. Jackhammers typically generate vibration levels of 0.035 in/sec PPV and drilling typically generates vibration levels of 0.09 in/sec PPV at a distance of 25 feet. Refer to Appendix E for additional vibration source levels for other construction equipment. Vibration levels would vary depending on soil conditions, construction methods, and equipment used.

No sensitive historic buildings, buildings that are documented to be structurally weakened, or residential buildings adjoin the project site. The nearest sensitive historic building is located at 702 South 7th Street, approximately 350 feet north of the project site, and the nearest buildings of normal

⁴¹ Sound Transmission Class (STC) is a single figure rating designed to give an estimate of the sound insulation properties of a partition. Numerically, STC represents the number of decibels of speech sound reduction from one side of the partition to the other. The STC is intended for use when speech and office noise constitute the principal noise problem.

conventional construction are approximately 90 feet south of the project site on East Virginia Street. At 350 feet, groundborne vibration levels produced by project construction activities would be up to 0.004 in/sec PPV, and at 90 feet, groundborne vibration levels produced by project construction activities would be up to 0.031 in/sec PPV. Groundborne vibration levels, therefore, would not exceed the 0.08 in/sec PPV significance threshold for sensitive historic buildings or the 0.2 in/sec PPV threshold for normal conventional buildings in the project vicinity. Vibration generated by construction activities at nearby residences would at times be perceptible, however, would not be expected to result in “architectural” damage to these buildings. **(Less Than Significant Impact)**

4.12.2.3 *Permanent Increase in Ambient Noise Levels (Checklist Question c)*

The project site is located near existing noise-sensitive receptors to the east and west of the site. Existing traffic volumes on nearby roadways would have to double in order for the project to result in a perceptible three dBA DNL increase above existing ambient noise conditions at these existing residences. Traffic data for existing, existing plus project, background, and background plus project conditions were reviewed. Traffic noise levels along roadways serving the project site are anticipated to increase by less than one dBA DNL as a result of the project. The project, therefore, would not result in a measureable increase in noise at existing sensitive receptors in the project area. **(Less Than Significant Impact)**

4.12.2.4 *Temporary Increase in Ambient Noise Levels (Checklist Question d)*

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

Construction activities generate considerable amounts of noise, especially during earth moving activities when heavy equipment is used. The highest maximum noise levels generated by project construction would typically range from about 90 to 95 dBA at a distance of 50 feet from the noise source. Typical hourly average construction generated noise levels are about 81 to 88 dBA measured at a distance of 50 feet from the center of the site during busy construction periods (e.g., earth moving equipment, impact tools, etc.). Hourly average noise levels generated by the construction of residential units would range from about 65 to 88 dBA measured at a distance of 50 feet depending on the amount of activity at the site. Construction generated noise levels drop off at a rate of about six dBA per doubling of distance between the source and receptor. Shielding by buildings or terrain often result in lower construction noise levels at distant receptors.

The nearest noise sensitive receptors are located approximately 200 feet east of the project site, on the northwest corner of East Virginia Street and South 7th Street. Existing hourly average noise levels along this roadway resulting from traffic noise is approximately 75 dBA L_{eq} during the day. Hourly average noise levels generated by construction activities on site are calculated to range from approximately 69 to 76 dBA and would be similar to existing noise levels resulting from local traffic noise. Construction period would take approximately 24 months. Noise generated by construction activities would temporarily elevate noise levels at adjacent noise sensitive receptors, but this would be considered a less than significant impact assuming that construction activities are conducted in

accordance with the provisions of the City of San José and with the implementation of construction best management practices.

Standard Permit Conditions

- Consistent with the certified General Plan FPEIR, General Plan policies (specifically Policy EC-1.7), and Municipal Code, the project applicant shall implement a noise logistics plan during all phases of project construction that includes the following measures to reduce construction-related noise impacts to a less than significant level:
 - Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence (Municipal Code Section 20.100.450).
 - Construct solid plywood fences around ground-level construction sites adjacent to operational businesses, hotels, and other noise-sensitive land uses.
 - Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
 - Unnecessary idling of internal combustion engines 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. Temporary noise barriers should reduce construction noise levels by five dBA.
 - Use “quiet” air compressors and other stationary noise sources where technology exists.
 - Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.
 - Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.
 - A temporary noise control blanket barrier shall be erected, if necessary, along building facades facing construction sites. This condition shall only be necessary if conflicts occur which are irresolvable by proper scheduling. Noise control blanket barriers shall be rented and quickly erected.
 - Consider the use of “acoustical blankets” for receptors located within 100 feet of the site during pile driving activities.
 - 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 require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include in it the notice sent to neighbors regarding the construction schedule.

The project, with the implementation of the above Standard Permit Conditions to reduce construction-related noise, would not result in a significant construction-related noise impact. **(Less Than Significant Impact)**

4.12.2.5 *Aircraft-Related Noise Impacts (Checklist Question e)*

The project site is located outside the 65 dBA DNL contour line for aircraft activities at San José Mineta International Airport and, therefore, would not expose people residing in the project area to excessive aircraft noise levels. **(Less Than Significant Impact)**

4.12.2.6 *Private Aircraft-Related Noise Impacts (Checklist Question f)*

The project site is not in the vicinity of a private airstrip and, therefore, would not expose people residing in the project area to excessive aircraft noise levels. **(No Impact)**

4.12.3 Conclusion

The proposed project, with the implementation of the identified Standard Permit Conditions, would not result in significant noise or vibration impacts.

4.13 POPULATION AND HOUSING

4.13.1 Environmental Setting

4.13.1.1 *Regulatory Framework*

Envision San José 2040 General Plan

To meet the current and projected housing needs in the City, the General Plan identifies areas for mixed-use and residential development (such as the project site) to accommodate 120,000 new dwelling units by 2035. Through policies and actions that address orderly growth within the City, buildout of the General Plan is projected to help balance the ratio of local jobs with available housing within the City.⁴²

4.13.1.2 *Existing Conditions*

Based on California Department of Finance data, San José had a population of approximately 1,046,079 persons, a total of approximately 332,574 households, and an average of 3.21 persons per household in January 1, 2017.⁴³

The project site is currently undeveloped and vacant. The project site does not contain housing.

4.13.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,4
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1

⁴² The jobs/housing balance is the relationship between the number of housing units required as a result of local jobs and the number of residential units available in the City. This relationship is quantified by the jobs/employed resident ratio. When the ratio reaches 1.0, a balance is struck between the supply of local housing and local jobs. The jobs/employed resident ratio is determined by dividing the number of local jobs by the number of employed residents that can be housed in local housing.

⁴³ California Department of Finance *Table 2: E-5 City/County Population and Housing Estimates*. January 1, 2017. Accessed August 3, 2017. Available at: <http://www.dof.ca.gov/Forecasting/Demographics/Estimates/>.

4.13.2.1 *Impacts to Population and Housing (Checklist Question a)*

A project can induce substantial population growth by: 1) proposing new housing beyond projected or planned development levels, 2) generating demand for housing as a result of new businesses, 3) extending roads or other infrastructure to previously undeveloped areas, or 4) removing obstacles to population growth (i.e., expanding capacity of a wastewater treatment plant beyond that necessary to serve planned growth).

The City's has an average of 3.21 persons per household, however, the studio units for senior housing proposed would likely generate fewer persons per unit than the City's average persons per household. The project proposes 301 residential units. It is estimated the project would generate up to approximately 425 new residents, based on a rate of 1.5 persons per unit.⁴⁴ As discussed in *Section 4.10 Land Use*, the proposed development is consistent with the project site's General Plan land use designation and, therefore, would not add growth beyond what is anticipated from the buildout of the General Plan. The project is also consistent with the General Plan goals focused on sustainable growth because it proposes intensification of development in an urbanized area that is currently served by existing roads, utilities, and public services.

While the project would increase housing and the number of residents living within the City, the project is consistent with the site's General Plan land use designation and would not induce substantial population growth over what has been planned for in the City's General Plan. For these reasons, the proposed project would not result in a significant impact on population and housing. **(Less Than Significant Impact)**

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

The project site is undeveloped and, therefore, the project would not result in the displacement of existing housing or people. For these reasons, the proposed project would not result in housing displacement impacts. **(No Impact)**

4.13.3 Conclusion

The project will not result in significant population or housing impacts.

⁴⁴ Locke, Amanda. AMG & Associates, LLC. Personal Communication. January 12, 2018.

4.14 PUBLIC SERVICES
4.14.1 Environmental Setting
4.14.1.1 *Regulatory Framework*

State and Local

Quimby Act

The Quimby Act (California Government Code Sections 66475-66478) was approved by the California legislature to preserve open space and parkland in the State. This legislation was in response to California’s increased rate of urbanization and the need to preserve open space and provide parks and recreation facilities for California’s growing communities. The Quimby Act authorizes local governments to establish ordinances requiring developers of new subdivisions to dedicate parks, pay an in-lieu fee, or perform a combination of the two.

School Impact Fees

California Government Code Section 65996 specifies that an acceptable method of offsetting a project’s effect on the adequacy of school facilities is the payment of a school impact fee prior to the issuance of a building permit. Sections 65995-65998 sets forth provisions for the payment of school impact fees by new development by “mitigating impacts on school facilities that occur (as a result of the planning, use, or development of real property)” (Section 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 (Section 65996[b]).

In accordance with California Government Code Section 65996, developers pay a school impact fee to the school district to offset the increased demands on school facilities caused by their proposed residential development project. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code.

Envision San José 2040 General Plan

The General Plan includes policies for 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
ES-2.2	Construct and maintain architecturally attractive, durable, resource-efficient, and environmentally healthful library facilities to minimize operating costs, foster learning, and express in built form the significant civic functions and spaces that libraries provide for the San José community. Library design should anticipate and build in flexibility to accommodate evolving community needs and evolving methods for providing the community with access to information sources. Provide at least 0.59 square feet of space per capita in library facilities.
ES-3.1	Provide rapid and timely Level of Service (LOS) response time to all emergencies: <ol style="list-style-type: none">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.

Policies	Description
	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.
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.
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.
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.
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.
PR-1.12	Regularly update and utilize San José's Parkland Dedication Ordinance/Parkland Impact Ordinance (PDO/PIO) to implement quality facilities.
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 ¾ mile radius of the project site that generates the funds.
PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, community gardens, community centers, etc.) within a three mile radius of the residential development that generates the PDO/PIO funds.

City of San José Parkland Dedication Ordinance and the Park Impact Ordinance

The City of San José has adopted the *Parkland Dedication Ordinance* (PDO) (Municipal Code Chapter 19.38) and *Park Impact Ordinance* (PIO) (Municipal Code Chapter 14.25) requiring residential developers to dedicate public parkland or pay in-lieu fees, or both, to offset the demand for neighborhood parkland created by their housing developments. Each new residential project is required to conform to the PDO and/or PIO. The acreage of parkland required is based upon the Acreage Dedication Formula outlined in the PDO.⁴⁵

4.14.1.2 Existing Conditions

Fire and Police 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. The closest fire station to the project site is Station No. 3 located at 98 Martha Street, approximately 0.4 miles southwest of the project site.

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 2.2 miles northwest of the project site. The City has four patrol divisions and 16 patrol districts. Patrols are dispatched from police

⁴⁵ Minimum Acreage Dedication = (0.003 acres) x (number of dwelling units) x (average persons per household).

headquarters and the patrol districts consist of 83 patrol beats, which include 357 patrol beat building blocks.

Schools

The project site is located in the San José Unified School District (SJUSD). Students in the project area attend Washington Elementary School, Hoover Middle School, and Lincoln High School.⁴⁶

Parks

The City provides and maintains approximately 3,435 acres of developed parkland and open space to serve its residents. Residents of San José are served by regional and community park facilities, including regional open space, community and neighborhood parks, playing fields and trails. The City's Department of Parks, Recreation, and Neighborhood Services is responsible for development, operation, and maintenance of all City park facilities.

Nearby City park facilities include Leninger and Kelley Park (0.5 miles southeast of the project site) and Bestor Art Park (0.26 mile south of the project site). In addition, William Street and Selma Olinder parks are located approximately 0.7 mile northwest of the project site.

Libraries

The San José Public Library System consists of one main library and 19 open branch libraries. The Dr. Martin Luther King Jr. Main Library is located in Downtown San José, approximately 1.2 miles northwest of the project site. The nearest branch library is the Biblioteca Latinoamericana Branch Library located at 921 S. 1st Street, approximately 0.5 mile southwest of the project site.

4.14.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
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:					
1. Fire Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	4
2. Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	4
3. Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	24

⁴⁶ San José Unified School District. San José Unified School District *SchoolFinder*. Accessed: July 28, 2017. Available at: <http://www.schfinder.com/sjUSD/>.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
4. Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	4,25
5. Other Public Facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	4

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

Fire and Police Protection Services

The project proposes to redevelop the project site with residential uses, consistent with the General Plan. The General Plan FPEIR concluded that, with the buildout of the General Plan, additional fire staff and equipment may be required to adequately serve a larger population but no new fire stations would be required other than those already planned. In regard to police services, the General Plan FPEIR concluded that the buildout of the General Plan could require new police facilities, which would require supplemental environmental review but are not anticipated to result in significant, adverse environmental impacts. Periodic operation and capital improvements may be required for both fire and police services, but those improvements would not result in significant environmental impacts.

Implementation of the proposed project would intensify the use of the site and generate additional residents in the area, which could incrementally increase the demand for fire and police protection services compared to existing conditions. The project site is currently served by both the SJFD and SJPD and the amount of proposed development represents a small fraction of the total growth identified in the General Plan. The project, by itself, would not preclude the SJFD and SJPD from meeting their service goals and would not require the construction of new or expanded fire or police facilities.

In addition, the proposed project will be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies to promote public and property safety. For these reasons, the proposed project will have a less than significant impact on fire and police protection services. **(Less Than Significant Impact)**

School Facilities

All of the units proposed would be senior studio housing units. Per California Civil Code 51.3, school-aged children can live in a senior housing development if they are a “qualified permanent resident.” A qualified permanent resident also means a disabled person or person with a disabling illness or injury who is a child or grandchild of the senior citizen; therefore, the circumstances are restrictive. For these reasons, it is estimated that the project would generate, minimal, if any, students in SJUSD.

State Law (Government Code Section 65996) specifies an acceptable method of offsetting a project’s effect under CEQA on the adequacy of school facilities as the payment of a school impact fee prior to issuance of a building permit. The affected school district(s) are responsible for implementing the specific methods for mitigating school effects under the Government Code, including setting the school impact fee amount consistent with State law. The school impact fees and the school districts’

methods of implementing measures specified by Government Code Section 65996 would partially offset project-related increases in student enrollment.

Standard Permit Condition

- The project applicant shall pay school impact fees pursuant to Government Code Section 65996.

With implementation of the Standard Permit Condition, the project would result in a less than significant impact on schools. **(Less Than Significant Impact)**

Park Facilities

Residential growth from the buildout of the General Plan is expected to result in an overall City population of over 1.3 million people by 2035, which would increase the demand for park and recreational facilities and create an overall (city-wide) parkland need for an additional 2,187.4 acres.⁴⁷ The General Plan FPEIR concluded that conformance with General Plan policies and payment of applicable fees would reduce any potential physical impacts from development to parks to a less than significant level.

Standard Permit Condition

- The project applicant shall pay the applicable PDO/PIO fees. The project's PDO/PIO fees would be used for neighborhood serving elements (such as playgrounds/tot-lots and basketball courts) within 0.75 miles of the project site, and/or community serving elements (such as soccer fields and community gardens) within a three-mile radius of the project site, consistent with General Plan Policies PR-2.4 and PR-2.5.

In addition to offsetting the project's parkland demand by compliance with the City's PDO/PIO, the project proposes a total of 30,109 square feet of on-site common open space in the form of a podium floor, rooftop deck, and indoor amenity space that would be available to future tenants for passive recreational uses. For these reasons, the project would not result significant impacts on park facilities. **(Less Than Significant Impact)**

Libraries

The proposed development is consistent with the growth planned in the city's General Plan. The General Plan FPEIR concluded that the existing and planned library facilities in the City would provide approximately 0.68 square feet of library space per capita for the anticipated population growth under buildout of the General Plan by the year 2035, which is above the General Plan service goal of 0.59 square feet of library space per capita (General Plan Policy ES-2.2).

⁴⁷ City of San José. *Envision San José 2040 General Plan Final Program EIR*. November 2011. Page 633 (see Table 3.9-5).

The population growth resulting from the project is anticipated in the General Plan and, therefore, the project would not require new or expanded library facilities beyond what is already planned in the City. **(Less Than Significant Impact)**

4.14.3 Conclusion

The project, with the implementation of Standard Permit Conditions (i.e., payment of school impact fees and compliance with the City's PDO/PIO), would not result in significant impacts to public services.

4.15 RECREATION

4.15.1 Environmental Setting

4.15.1.1 *Regulatory Framework*

Quimby Act - Parks

The Quimby Act (California Government Code Sections 66475-66478) was approved by the California legislature to preserve open space and parkland in the State. This legislation was in response to California's increased rate of urbanization and the need to preserve open space and provide parks and recreation facilities for California's growing communities. The Quimby Act authorizes local governments to establish ordinances requiring developers of new subdivisions to dedicate parks, pay an in-lieu fee, or perform a combination of the two.

City of San José Parkland Dedication Ordinance and the Park Impact Ordinance

The City of San José has adopted the PDO (Municipal Code Chapter 19.38) and PIO (Municipal Code Chapter 14.25) requiring residential developers to dedicate public parkland or pay in-lieu fees, or both, to offset the demand for neighborhood parkland created by their housing developments. Each new residential project is required to conform to the PDO and/or PIO. The acreage of parkland required is based upon the Acreage Dedication Formula outlined in the PDO.⁴⁸

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 recreational resources and are applicable to the proposed project.

Policies	Description
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.
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.
PR-1.3	Provide 500 SF per 1,000 population of community center space.
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 and Park Impact Ordinance fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds.
PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, community gardens, community centers, etc.) within a three mile radius of the residential development that generates the PDO/PIO funds.

⁴⁸ Minimum Acreage Dedication = (0.003 acres) x (number of dwelling units) x (average persons per household).

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 25 community centers, 12 senior centers, and 14 youth centers, though some are temporarily closed due to budget constraints. Other recreational facilities include six public skate parks and over 54 miles of trails.

As discussed in *Section 4.14 Public Services*, nearby City park facilities include Leninger and Kelley Park (0.5 miles southeast of the project site), Bestor Art Park (0.26 mile south of the project site) and William Street and Selma Olinder parks (0.7 mile northwest of the project site).

Washington Community Center is approximately 0.6 mile southwest of the project site and Leininger Community Center is 0.9 mile southeast of the project site.

4.15.2 Environmental Checklist and Discussion of Impacts

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

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

Future residents of the proposed project would incrementally increase the demand and use of existing recreational facilities, including local parks and trails. As discussed in *Section 4.14 Public Services*, the project is subject to the PDO/PIO and is required to dedicate parkland and/or pay in-lieu fees to offset the demand on parkland created by the project's future residents. Consistent with the conclusions in the General Plan FPEIR, the project's incremental increase in demand for recreational facilities would not result in the physical deterioration of existing facilities or require new or expanded facilities with the project's conformance with the PDO/PIO and applicable General Plan policies.

In addition, as required by the *Martha Gardens Specific Plan*, the project is required to provide 100 square feet of on-site common open space, which results in a total of 30,100 square feet of common open space. The project includes a total of approximately 30,109 square feet of on-site common open space areas for tenants and guests which would offset some of the project's demand on existing recreational facilities in the area. The environmental impacts associated with the construction of the

on-site common open space are discussed throughout this Initial Study and are found to have a less than significant impact.

The incremental increase in park and recreational uses resulting from the project would not generate the need for new facilities beyond those planned and identified in the General Plan.

Standard Permit Condition

- The project applicant shall comply with the City's PDO/PIO (see *Section 4.14.2.3*).

The project's compliance with the City's PDO/PIO would ensure that significant impacts to recreational facilities do not occur. **(Less Than Significant Impact)**

4.15.3 Conclusion

The proposed project, with the implementation of Standard Permit Conditions (i.e., compliance with the City's PDO/PIO), would not result in significant recreation impacts.

4.16 TRANSPORTATION

The following discussion is based on a Transportation Impact Analysis (TIA) prepared in October 2017 (revised in July 2018), and a Supplemental Traffic Analysis Memorandum prepared in April 2018 for the project by *Hexagon Transportation Consultants*. Copies of these reports are included in Appendix F of this Initial Study.

4.16.1 Environmental Setting

4.16.1.1 *Regulatory Framework*

State and Regional

Regional Transportation Planning

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

Congestion Management Program

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

Local

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 transportation and are applicable to the proposed project.

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

Policies	Description
TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
TR-1.4	Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.
TR-1.5	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.
TR-1.6	Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.
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.
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 including the Downtown Core Area. 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.
TR-8.6	Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive TDM program, or developments located near major transit hubs or within Villages and Corridors and other growth areas.
TR-8.9	Consider adjacent on-street and City-owned off-street parking spaces in assessing need for additional parking required for a given land use or new development.
TR-9.1	Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.
CD-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.
CD-2.10	Recognize that finite land area exists for development and that density supports retail vitality and transit ridership. Use land use regulations to require compact, low-impact development that efficiently uses land planned for growth, especially 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.

City Council Policy 5-3⁴⁹

As established in the City Council Policy 5-3 “Transportation Impact Policy” (2005), the City of San José uses the same Level of Service (LOS) method as the County CMP, although the City’s standard is LOS D rather than LOS E. Level of service is a qualitative description of operating conditions

⁴⁹ The City adopted City Council Policy 5-1 “Transportation Analysis Policy” on February 27, 2018, which replaced City Council Policy 5-3. This new policy applies to projects filed to the City 30 days after the adoption date. Since the proposed project’s application was submitted prior to the adoption of the new policy, the former City Council Policy 5-3 is still used as the CEQA threshold of significance.

ranging from LOS A, or free-flow conditions with little or no delay, to LOS F, or jammed conditions with excessive delays. The various analysis methods are described in *Section 4.17.1.2* below.

According to Policy 5-3 and General Plan Policy TR-5.3, listed above, an intersection impact would be satisfactorily mitigated if the implementation 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 (i.e., pedestrian, bicycle, or transit).⁵⁰ The City's Level of Service Policy protects pedestrian and bicycle facilities from undue encroachment by automobiles.

The intersection of South 7th Street and East Virginia Street is identified as a Protected Intersection in the City's Level of Service Policy. 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 LOS D.

San José Bike Plan 2020

The San José Bike Plan 2020 also known as the Bicycle Master Plan, defines the City's vision to make bicycling an integral part of daily life in San José. The plan recommends policies, projects, and programs to realize this vision and create a San José community where bicycling is convenient, safe, and commonplace. The Bicycle Master Plan defines a 500-mile network of bikeways that focuses on connecting off-street bikeways with on-street bikeways.

4.16.1.2 *Study Methodology*

City of San José Signalized Intersections

The City of San José level of service methodology for signalized intersections is the 2000 *Highway Capacity Manual* (HCM) method. This method is applied using TRAFFIX software. The 2000 HCM operations method evaluates signalized intersection operations based on the average control delay time for all vehicles at the intersection. Since TRAFFIX is also the County CMP designated intersection level of service methodology, the City of San José methodology employs the CMP default values for the analysis parameters. The City of San José level of service standard for signalized intersections is LOS D or better. The correlation between average control delay and level of service is shown in Table 4.16-1.

⁵⁰ Examples of unacceptable impacts include reducing the width of a sidewalk or bicycle lane below the city standard or creating unsafe pedestrian operating conditions. Exceptions to the standard are made for small, infill projects, the Downtown Core, and for impacts to Protected Intersections within Special Strategy Areas, including Transit Oriented Development Corridors and Transit Station Areas.

Table 4.16-1: Signalized Intersection Level of Service Definitions		
Level of Service	Description of Operations	Average Control Delay* (seconds/vehicle)
A	Signal progression is extremely favorable. Most vehicles arrive during the green phase and do not stop at all. Short cycle lengths may also contribute to the very low vehicle delay.	10.0 or less
B	Operations characterized by good signal progression and/or short cycle lengths. More vehicles stop than with LOS A, causing higher levels of average vehicle delay.	10.1 to 20.0
C	Higher delays may result from fair signal progression and/or longer cycle lengths. Individual cycle failures may begin to appear at this level. The number of vehicles stopping is significant, though may still pass through the intersection without stopping.	20.1 to 35.0
D	The influence of congestion becomes more noticeable. Longer delays may result from some combination of unfavorable signal progression, long cycle lengths, or high volume-to-capacity (V/C) ratios. Many vehicles stop and individual cycle failures are noticeable.	35.1 to 55.0
E	This is considered to be the limit of acceptable delay. These high delay values generally indicate poor signal progression, long cycle lengths, and high volume-to-capacity (V/C) ratios. Individual cycle failures occur frequently.	55.1 to 80.0
F	This level of delay is considered unacceptable by most drivers. This condition often occurs with oversaturation, that is, when arrival flow rates exceed the capacity of the intersection. Poor progression and long cycle lengths may also be major contributing causes of such delay levels.	Greater than 80.0
Note: * Average Control Delay includes the time for initial deceleration delay, queue move-up time, stopped delay, and final acceleration. Source: Transportation Research Board. <i>2000 Highway Capacity Manual</i> . 2000. Pages 10-16.		

City of San José Protected Intersections

As discussed previously in *Section 4.17.1.1*, the intersection of South 7th Street and East Virginia Street is identified as a Protected Intersection in the City's Level of Service Policy. 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. 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. Additional information about how offsetting improvements are selected and implemented is provided in Appendix F of this Initial Study.

Freeway Segments

The LOS for freeway segments is estimated based on vehicle density, considering vehicles per mile per lane (vpml), peak hour volume in vehicles per hour (vph), number of travel lanes, and average travel speed in miles per hour (mph). Freeway LOS criteria are summarized in Table 4.16-2. The CMP defines an acceptable level of service for freeway segments as LOS E or better.

Table 4.16-2: Freeway Level of Service Based on Density		
Level of Service	Description	Density (vehicles/ mile/lane)
A	Average operating speeds at the free-flow speed generally prevail. Vehicles are almost completely unimpeded in their ability to maneuver within the traffic stream.	11.0 or less
B	Speeds at the free-flow speed are generally maintained. The ability to maneuver within the traffic stream is only slightly restricted, and the general level of physical and psychological comfort provided to drivers is still high.	11.1 to 18.0
C	Speeds at or near the free-flow speed of the freeway prevail. Freedom to maneuver within the traffic stream is noticeably restricted, and lane changes require more vigilance on the part of the driver.	18.1 to 26.0
D	Speeds begin to decline slightly with increased flows at this level. Freedom to maneuver within the traffic stream is more noticeably limited, and the driver experiences reduced physical and psychological comfort levels.	26.1 to 46.0
E	At this level, the freeway operates at or near capacity. Operations in this level are volatile, because there are virtually no usable gaps in the traffic stream, leaving little room to maneuver within the traffic stream.	46.1 to 58.0
F	Vehicular flow breakdowns occur. Large queues form behind breakdown points.	Greater than 58.0
Source: Santa Clara County 2004 CMP.		

4.16.1.3 Existing Conditions

Existing Roadway Network

Regional access to the project site is provided by State Route (SR) 87 and I-280. Local access to the site is provided by Virginia Street, 6th Street, 5th Street, 7th Street, Martha Street, Keyes Street, and Monterey Road. These roadways are described below as shown on Figure 4.17-1.

Regional Access

SR 87 is a north-south freeway that begins at its interchange with SR 85 and extends northward to Highway 101 (US 101). SR 87 is six lanes wide (four mixed-flow and two high occupancy vehicle lanes). Access to and from the project site is provided via its junction with I-280.

I-280 is an eight-lane freeway in the vicinity of the site. It extends northwest to San Francisco and east to King Road in San José, at which point it makes a transition into I-680 to Oakland. Access to the site is provided via its interchanges with 6th and 7th Streets.

Local Access

Virginia Street is an east-west roadway that forms the southern boundary of the project site. West of Monterey Road, Virginia Street is classified as a major collector street.⁵¹ The City previously completed the conversion of Virginia Street between 6th and 7th Streets from a one-way eastbound to a two-way operation. This segment of Virginia Street will provide access to the site via a single driveway.

6th Street is a two-lane local street. It runs north-south from Humboldt Street to Virginia Street. The north leg of the 6th and Virginia intersection is an off-ramp from I-280. The City plans to convert 6th Street to two-way operation between Virginia Street and Martha Street.

5th Street is a two-lane local street that extends north from Keyes Street to Patterson Street, located just south of I-280.

7th Street is a north-south roadway that begins at Tully Road and terminates at San José State University. 7th Street has an interchange with I-280. It is classified as a major collector street and has two travel lanes plus bike lanes.

Martha Street is an east-west roadway that extends west from 12th Street to Monterey Road, where it becomes Oak Street. Martha Street is a two-lane local street.



Keyes Street is a four-lane arterial that extends east from Monterey Road and continues to Senter Road, where it becomes Story Road. West of Monterey Road, Keyes Street becomes Goodyear Street, a residential street.

Monterey Road (SR 82) is a north-south arterial that runs from central San José south to Morgan Hill. In the vicinity of the project site, the roadway is a six-lane arterial. North of Alma Avenue, Monterey Road becomes South 1st Street, which transverses downtown San José.

⁵¹ A major collector street is a facility that serves internal traffic movements within an area and connects this area with the major arterial system.



LEGEND

-  = Project Site Location
-  = Study Intersection

Source: Hexagon Transportation Consultants, 7/30/15.

STUDY INTERSECTION

FIGURE 4.16-1

Existing Pedestrian and Bicycle Facilities

Pedestrian facilities consist of sidewalks and crosswalks along the streets in the vicinity of the project site. Crosswalks with pedestrian signal heads and push buttons are located at all signalized intersections in the project area. Overall, the existing network of sidewalks and crosswalks in the immediate vicinity of the project site has good connectivity and provides pedestrians with continuous routes to transit services and other points of interest in the area.

There are numerous bicycle facilities within the study area. Near the project site, Class II bikeways (striped bike lanes) are available on 2nd Street, 3rd Street, 7th Street, 10th Street, 11th Street, and Keyes Street/Story Road. In addition, Virginia Street west of 3rd Street and Goodyear Street west of 1st Street contain sharrows.⁵² Sharrows are most often used on roadways that are too narrow to install a standard striped bike lane. Overall, bicycle access to the site is adequate. The bikeways in the project vicinity are shown in Figure 4.17-2.

Existing Transit Service

Existing transit services in the study area are provided by the VTA. VTA bus lines that operate within the project area are listed below in Table 4.16-3, including their terminus points, closest scheduled stop, and commute hour headways. Local routes 25, 66, 68, 73, and 82, as well as limited stop route 304, run along South 1st Street, 10th Street, 11th Street, and Keyes Street/Willow Street/Story Road. Express route 168 operates along SR 87 and stops at the San José Convention Center and Diridon Station. The closest bus stops are approximately 0.3 mile from the site, which is about a seven minute walk. Transit accessibility for bus stops and typically recommended to be within one-quarter mile of the site.

Table 4.16-3: Bus Routes in the Project Area

Bus Route	Route Description	Closest Stop to Project Site	Weekday Hours of Operation	Headway (minutes)
Local Route 25	DeAnza College to Alum Rock Transit Center	Keyes/Seventh	5:15 AM to 12:30 AM	10-20
Local Route 66	Kaiser San José to Milpitas/Dixon Road	First/Virginia	5:15 AM to 12:00 PM	15-20
Local Route 68	Gilroy Transit Center to San José Diridon Transit Center	First/Virginia	4:00 AM to 11:30 PM	15-20
Local Route 73	Snell/Capitol to Downtown San Jose	Tenth/Martha	5:30 AM to 10:30 PM	15-20
Local Route 82	Westgate to Downtown San José	First/Virginia	6:00 AM to 9:30 PM	30
Limited Stop Route 304	South San José to Sunnyvale Transit Center	First/Virginia	5:55 AM to 7:00 PM	30-50

⁵² Sharrows are painted shared lane markings on a road that indicate to motorists that bicyclists may use the full travel lane.

Table 4.16-3: Bus Routes in the Project Area				
Bus Route	Route Description	Closest Stop to Project Site	Weekday Hours of Operation	Headway (minutes)
Express Bus Route 168	Gilroy Transit Center to San José Diridon Transit Center	San Carlos/Convention Center	5:30 AM to 7:00 PM	15-35

Study Intersections and Freeway Segments

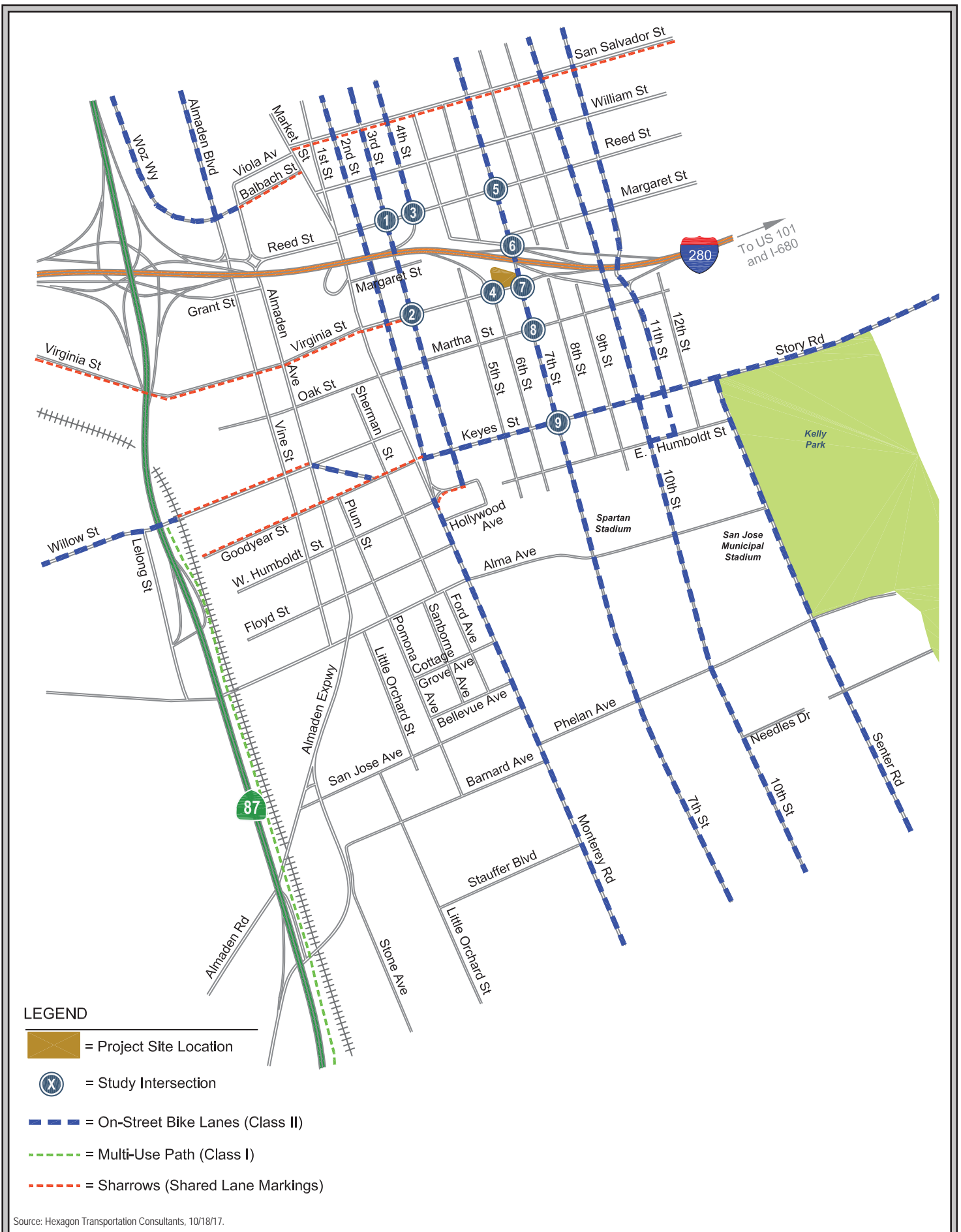
The traffic analysis determined the impacts of the proposed project on key signalized intersections and freeway segments in the vicinity of the project site during the weekday AM and PM peak periods of traffic. The study intersections and freeway segments are identified below and shown on Figure 4.17-1. The study intersections are not CMP intersection.

Study Intersections

1. South 3rd Street and East Reed Street
2. South 3rd Street and East Virginia Street
3. South 4th Street and East Reed Street
4. South 6th Street and East Virginia Street
5. South 7th Street and East Reed Street
6. South 7th Street and Margaret Way/I-280 off-ramp
7. South 7th Street and East Virginia Street (City of San José Protected Intersection)
8. South 7th Street and Martha Street
9. South 7th Street and Keyes Street

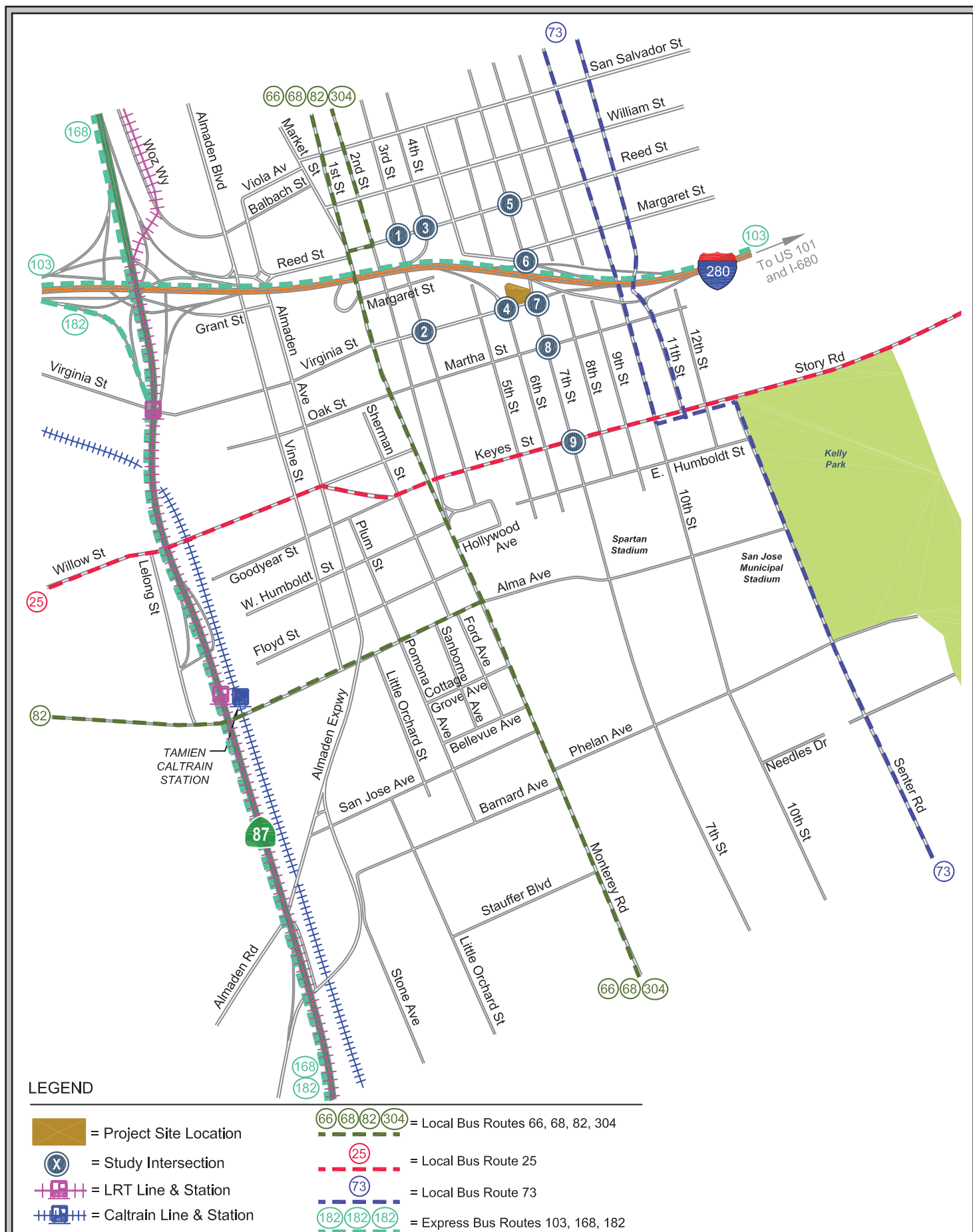
Study Freeway Segments

1. SR 87, between Almaden Road and Alma Avenue
2. SR 87, between Alma Avenue and I-280
3. SR 87, between I-280 and Julian Street
4. SR 87, between Julian Street and Coleman Avenue
5. I-280, between I-880 and Meridian Avenue
6. I-280, between Meridian Avenue and Bird Avenue
7. I-280, between Bird Avenue and SR 87
8. I-280, between SR 87 and 10th Street
9. I-280, between 10th Street and McLaughlin Avenue
10. I-280, between McLaughlin Avenue and US 101



EXISTING BICYCLE FACILITIES

FIGURE 4.16-2



EXISTING TRANSIT SERVICES

FIGURE 4.16-3

Traffic Scenarios Analyzed

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

- *Existing Conditions* represent existing peak-hour traffic volumes on the existing roadway.
- *Existing Plus Project Conditions* represent existing peak-hour traffic volumes plus peak-hour traffic from the proposed project. Existing plus project conditions were evaluated relative to existing conditions in order to determine the effects the project would have on existing traffic conditions.
- *Background Conditions* represent existing peak-hour traffic volumes plus projected peak-hour volumes from approved but not yet completed developments.
- *Background Plus Project Conditions* represent background traffic volumes plus projected peak-hour traffic volumes from the proposed project. Background plus project conditions were evaluated relative to background conditions in order to determine potential project impacts according to the City of San José Level of Service Policy.

Existing Levels of Service

Existing Intersection Levels of Service

The results of the intersection level of service analysis under existing conditions are summarized in Table 4.16-4 and show that all signalized study intersections operate at an acceptable LOS D or better during both the AM and PM peak hours.

Table 4.16-4: Existing and Background Intersection Levels of Service					
Study Intersection	Peak Hour	Existing Conditions		Background Conditions	
		Average Delay (seconds)	LOS	Average Delay (seconds)	LOS
1. South 3 rd Street and Reed Street	AM	15.4	B	19.4	B
	PM	16.7	B	16.8	B
2. South 3 rd Street and Virginia Street	AM	15.7	B	17.3	B
	PM	9.0	A	9.1	A
3. South 4 th Street and Reed Street	AM	17.4	B	17.6	B
	PM	24.1	C	27.7	C
4. South 6 th Street and E. Virginia Street	AM	17.2	B	17.2	B
	PM	20.8	C	20.8	C
5. South 7 th Street and Reed Street	AM	13.2	B	13.2	B
	PM	14.7	B	14.7	B

Table 4.16-4: Existing and Background Intersection Levels of Service					
Study Intersection	Peak Hour	Existing Conditions		Background Conditions	
		Average Delay (seconds)	LOS	Average Delay (seconds)	LOS
6. South 7 th Street and Margaret Way/I-280 Off-ramp	AM	23.6	C	26.0	C
	PM	21.5	C	25.8	C
7. South 7 th Street and E. Virginia Street (Protected)	AM	26.4	C	28.9	C
	PM	27.1	C	38.6	D
8. South 7 th Street and Martha Street	AM	8.5	A	7.8	A
	PM	6.7	A	6.8	A
9. South 7 th Street and Keyes Street	AM	34.6	C	38.3	D
	PM	36.2	D	40.0	D

Existing Freeway Levels of Service

Traffic volumes for the study freeway segments were obtained from the 2016 CMP Annual Monitoring Report, which contains the most recent data collected for freeway segments located in Santa Clara County. The results of the analysis are summarized in Table 4.16-5 below. As shown in Table 4.16-5, the following freeway segments currently operate at an unacceptable LOS F in at least one direction during the AM and/or PM peak hour:

- SR 87, between Almaden Road and Alma Avenue
- SR 87, between Alma Avenue and I-280
- SR 87, between I-280 and Julian Street
- SR 87, between Julian Street and Coleman Avenue
- I-280, between I-880 and Meridian Avenue
- I-280, between Meridian Avenue and Bird Avenue
- I-280, between Bird Avenue and SR 87
- I-280, between SR 87 and 10th Street
- I-280, between 10th Street and McLaughlin Avenue
- I-280, between McLaughlin Avenue and US 101

Table 4.16-5: Existing Freeway Segment Levels of Service

Freeway	Segment	Direction	Peak Hour	Mixed-Flow Lanes	HOV Lane
				LOS	LOS
SR 87	Almaden Road to Alma Avenue	Northbound	AM PM	E D	E B
	Alma Avenue to I-280		AM PM	D D	D B
	I-280 to Julian Street		AM PM	F B	F A
	Julian Street to Coleman Avenue		AM PM	F D	F B
I-280	I-880 to Meridian Avenue	Eastbound	AM PM	C F	B F
	Meridian Avenue to Bird Avenue		AM PM	E F	--- ---
	Bird Avenue to SR 87		AM PM	C F	--- ---
	SR 87 to 10 th Street		AM PM	B F	--- ---
	10 th Street to McLaughlin Avenue		AM PM	C D	--- ---
	McLaughlin Avenue to US 101		AM PM	C D	--- ---
SR 87	Alma Avenue to Almaden Road	Southbound	AM PM	D F	A E
	I-280 to Alma Avenue		AM PM	B F	A E
	Julian Street to I-280		AM PM	B F	A D
	Coleman Avenue to Julian Street		AM PM	D E	A D
I-280	Meridian Avenue to I-880	Westbound	AM PM	F C	F A
	Bird Avenue to Meridian Avenue		AM PM	F D	--- ---
	SR 87 to Bird Avenue		AM PM	F F	--- ---
	10 th Street to SR 87		AM PM	F D	--- ---

Table 4.16-5: Existing Freeway Segment Levels of Service					
Freeway	Segment	Direction	Peak Hour	Mixed-Flow Lanes	HOV Lane
				LOS	LOS
	McLaughlin Avenue to 10 th Street		AM PM	F D	--- ---
	US 101 to McLaughlin Avenue		AM PM	F C	--- ---

Field Observations

Traffic conditions were observed in the field to identify existing operational deficiencies and to confirm the accuracy of calculated levels of service. The purpose of this effort was (1) to identify any existing traffic problems that may not be directly related to level of service, and (2) to identify any locations where the level of service analysis does not accurately reflect actual existing traffic conditions.

AM and PM field observations revealed that overall the study intersections operate well, and the level of service calculations accurately reflect existing conditions. Field observations, however, revealed that some minor operational problems currently occur, described in Appendix F.

4.16.1.4 Background Conditions

Background traffic conditions are defined as conditions just prior to completion of the proposed project. Traffic volumes for background conditions are existing traffic counts plus traffic generated by other approved but not yet completed developments in the vicinity of the site. Background conditions predict a realistic traffic condition that would occur as approved development gets built and occupied.

Background Transportation Network

The transportation network under background conditions would be the same as the roadway network described under existing conditions.

Background Traffic Volumes

Background peak hour traffic volumes were estimated by adding to existing peak hour volumes the estimated traffic from approved but not yet constructed developments. The added traffic from approved but not yet constructed developments in the City of San José was obtained from the City's Approved Trips Inventory (ATI).

Background Intersection Levels of Service

The results of the intersection level of service analysis under background conditions are summarized in Table 4.16-4. The results of the analysis show that all of the study intersections would operate at an acceptable LOS D or better during both the AM and PM peak hours of traffic under background conditions.

4.16.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	26,27
b. Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	26
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	23,28
d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	26
e. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	26
f. Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2,29

4.16.2.1 *Impact Criteria*

Intersection Impact Criteria

City of San José City Council Policy 5-3 states a project would create a significant adverse impact on traffic conditions at a signalized intersection in the City of San José if for either peak hour:

1. The level of service at the intersection degrades from an acceptable LOS D or better under background conditions to an unacceptable LOS E or F under background plus project conditions;
2. The level of service at the intersection is an unacceptable LOS E or F under background conditions and the addition of project trips causes both the critical-movement delay at the intersection to increase by four (4) or more seconds and the volume-to-capacity ratio (V/C) to increase by one percent (.01) or more; or
3. The level of service at a designated Protected Intersection is an unacceptable LOS E or F under background conditions and the addition of project trips causes the volume-to-capacity ratio (V/C) to increase by one-half percent (.005) or more.

An exception to #2 above applies when the addition of project traffic reduces the amount of average delay for critical movements (i.e., the change in average stopped delay for critical movements is negative). In this case, the threshold of significance is an increase in the critical V/C value by .01 or more.

A significant impact by City of San José standards is said to be satisfactorily mitigated when measures are implemented that would restore intersection level of service to background conditions or better.

Freeway Segment Impact Criteria

The CMP defines an acceptable level of service for freeway segments as LOS E or better. CMP impact criteria states that a project would create a significant impact on traffic conditions on a freeway segment if for either peak hour:

1. The level of service on the freeway segment degrades from an acceptable LOS E or better under existing conditions to an unacceptable LOS F with the addition of project trips; or
2. The level of service on the freeway segment is already operating at an unacceptable LOS F and the number of project trips added to the segment constitutes at least one percent of capacity of the segment.

A significant impact by CMP standards is said to be satisfactorily mitigated when measures are implemented that would restore freeway conditions to existing conditions or better.

4.16.2.2 *Project Trip Estimates – Studio Apartment Units*

At the time the TIA was prepared, the project was proposing 301 studio apartment units, therefore, the analysis from *Section 4.16.2.2 Project Trip Estimates – Studio Apartment Units* to *Section 4.16.2.5 Bicycle and Pedestrian Facilities Impacts* evaluates the project with studio apartment units. Subsequently, the project was modified to prepare 301 senior affordable apartment units. The reduced trip generation for the currently proposed 301 senior affordable apartments is provided for comparison purposes in *Section 4.16.2.6 Project Comparison – Senior Affordable Units*.

The amount of traffic produced by a new development and the locations where that traffic would appear are estimated using a three-step process: (1) trip generation, (2) trip distribution, and (3) trip assignment. In determining project trip generation, the amount of traffic entering and exiting the site is estimated for the AM and PM peak hours. As part of the project trip distribution, an estimate is

made of the directions to and from which the project trips would travel. In the project trip assignment, the project trips are assigned to specific streets. These procedures are described further in Appendix F.

After applying the standard Institute of Transportation Engineers' (ITE) trip rates for apartments and a two percent transit trip reduction, the project would generate 1,962 new daily vehicle trips, with 151 new trips occurring during the AM peak hour and 183 new trips occurring during the PM peak hour (see Table 4.16-6).⁵³

⁵³ The TIA for the project was based on the conservative (i.e., higher trip generation) of non-age restricted apartments. The project, however, is proposing senior apartments. Based on the trip generation estimates in Table 4.16-6, 301 studio apartment units were estimated to generate 151 trips (30 inbound and 121 outbound) during the AM peak hour and 183 trips (119 inbound and 64 outbound) during the PM peak hour. In contrast, 301 senior housing units are estimated to generate 59 trips (20 inbound and 39 outbound) during the AM peak hour and 73 trips (40 inbound and 33 outbound) during the PM peak hour (see Table 4.16-10). This equates to 92 fewer AM peak hour trips and 110 fewer PM hour trips being generated by the proposed senior apartments, compared to the standard apartment units. With the reduced trip generation, the proposed affordable senior housing development would have proportionately reduced traffic impact on the surrounding roadway network than typical studio apartment units.

Table 4.16-10: Project Trip Generation Rates and Estimates – Senior Housing											
Land Use	# of Units	Daily Rate	Daily Trips	AM Peak-Hour				PM Peak-Hour			
				Rate	In	Out	Total	Rate	In	Out	Total
Senior Housing ¹	301	3.44	1,035	0.20	20	40	60	0.25	41	34	75
Transit Reduction ²			(21)		(0)	(1)	(1)		(1)	(1)	(2)
Net Total			1,014		20	39	59		40	33	73
Notes: ¹ Rates based on ITE Land Use Code 252 (Senior Adult Housing), average rates used. ² A two percent transit reduction was applied since the project site is located within 2,000 feet of a major bus stop. (Santa Clara VTA Guidelines, October 2014) Source: Institution of Transportation Engineers. <i>Trip Generation Manual</i> . 9 th Edition. 2012.											

Table 4.16-6: Project Trip Generation Rates and Estimates - Apartments											
Land Use	# of Units	Daily Rate	Daily Trips	AM Peak-Hour				PM Peak-Hour			
				Rate	In	Out	Total	Rate	In	Out	Total
Apartments ¹	301	6.65	2,002	0.51	31	123	154	0.62	121	66	187
Transit Reduction ²			(40)		(1)	(2)	(3)		(2)	(2)	(4)
Net Total			1,962		30	121	151		119	64	183
Notes: ¹ Rates based on ITE Land Use Code 220 (Apartment), average rates used. ² A two percent transit reduction was applied since the project site is located within 2,000 feet of a major bus stop. (Santa Clara VTA Guidelines, October 2014) Source: Institution of Transportation Engineers. <i>Trip Generation Manual</i> . 9 th Edition. 2012.											

4.16.2.3 Existing Plus Project Conditions (Checklist Question a and b)

Existing Plus Project Transportation Network

The project does not propose off-site transportation improvements; therefore, the transportation network under existing plus project conditions is presumed to be the same as those described under existing conditions.

Existing Plus Project Traffic Volumes

The project trips were added to existing traffic volumes to obtain existing plus project traffic volumes.

Existing Plus Project Intersection Levels of Service

The results of the intersection level of service analysis under existing plus project conditions show that all of the signalized study intersections would operate at an acceptable LOS D or better during both the AM and PM peak hours of traffic (see Table 4.16-7).

The project would not result in significant intersection level of service impacts under existing plus project conditions. **(Less Than Significant Impact)**

Table 4.16-7: Existing and Existing Plus Project Intersection Levels of Service					
Study Intersection	Peak Hour	Existing Conditions		Existing Plus Project Conditions	
		Critical Delay	LOS	Critical Delay	LOS
1. S. 3 rd Street and Reed Street	AM PM	15.4 16.7	B B	15.5 16.8	B B
2. S. 3 rd Street and Virginia Street	AM PM	15.7 9.0	B A	16.8 9.0	B A
3. S. 4 th Street and Reed Street	AM PM	17.4 24.1	B C	17.9 24.9	B C
4. S. 6 th Street and E. Virginia Street	AM PM	17.2 20.8	B C	17.7 20.7	B C
5. S. 7 th Street and Reed Street	AM PM	13.2 14.7	B B	13.1 14.7	B B
6. S. 7 th Street and Margaret Way/I-280 Off-ramp	AM PM	23.6 21.5	C C	23.9 22.0	C C
7. S. 7 th Street and E. Virginia Street (Protected)	AM PM	26.4 27.1	C C	26.8 27.5	C C
8. S. 7 th Street and Martha Street	AM PM	8.5 6.7	A A	8.4 6.6	A A
9. S. 7 th Street and Keyes Street	AM PM	34.6 36.2	C D	35.1 36.4	D D

Existing Plus Project Freeway Segment Levels of Service

The results of the CMP freeway level of service analysis are summarized in Table 4.16-8. Traffic volumes on the study freeway segments were estimated by adding project trips to the existing volumes obtained from the 2016 CMP Annual Monitoring Report. The results, as can be seen by comparing existing (shown in Table 4.16-5) and existing plus project (shown in Table 4.16-8) LOS columns, show that the project would not cause significant increases in traffic volumes either causing a segment operation at LOS E or better under existing condition to degrade to LOS F, or adding traffic equivalent to one percent or more of the segment's capacity to any segment operating at LOS F under existing conditions. **(Less Than Significant Impact)**

Table 4.16-8: Existing Plus Project Freeway Segment Levels of Service

Freeway	Segment	Direction	Peak Hour	Existing Plus Project Trips				Project Trips			
				Mixed-Flow Lanes		HOV Lane		Mixed-Flow Lanes		HOV Lane	
				Capacity (vph)	LOS	Capacity (vph)	LOS	Volume	% Capacity	Volume	% Capacity
SR 87	Almaden Road to Alma Avenue	NB	AM	4,400	F	1,650	E	2	0.0	1	0.0
			PM	4,400	E	1,650	B	9	0.2	3	0.2
	Alma Avenue to I-280		AM	4,400	D	1,650	D	2	0.0	1	0.0
			PM	4,400	D	1,650	B	9	0.2	3	0.2
	I-280 to Julian Street		AM	4,400	F	1,650	F	18	0.4	6	0.4
			PM	4,400	B	1,650	B	10	0.2	3	0.2
	Julian Street to Coleman Avenue		AM	4,400	F	1,650	F	18	0.4	6	0.4
			PM	4,400	D	1,650	B	10	0.2	3	0.2
I-280	I-880 to Meridian Avenue	EB	AM	6,900	C	1,650	B	4	0.1	2	0.1
			PM	6,900	F	1,650	F	18	0.3	6	0.4
	Meridian Avenue to Bird Avenue		AM	9,200	E	---	---	4	0.0	2	---
			PM	9,200	F	---	---	18	0.2	6	---
	Bird Avenue to SR 87		AM	9,200	C	---	---	4	0.0	2	---
			PM	9,200	F	---	---	18	0.2	6	---
	SR 87 to 10 th Street		AM	9,200	B	---	---	11	0.1	4	---
			PM	9,200	F	---	---	44	0.5	16	---
SR 87	Alma Avenue to Almaden Road	SB	AM	4,400	D	1,650	A	9	0.2	3	0.2
			PM	4,400	F	1,650	E	4	0.1	2	0.1
	I-280 to Alma Avenue		AM	4,400	B	1,650	A	9	0.2	3	0.2
			PM	4,400	F	1,650	E	4	0.1	2	0.1
	Julian Street to I-280		AM	4,400	B	1,650	A	4	0.1	2	0.1
			PM	4,400	F	1,650	D	18	0.4	6	0.4
	Coleman Avenue to Julian Street		AM	4,400	D	1,650	A	4	0.1	2	0.1
			PM	4,400	E	1,650	D	18	0.4	6	0.4

Table 4.16-8: Existing Plus Project Freeway Segment Levels of Service

Freeway	Segment	Direction	Peak Hour	Existing Plus Project Trips				Project Trips			
				Mixed-Flow Lanes		HOV Lane		Mixed-Flow Lanes		HOV Lane	
				Capacity (vph)	LOS	Capacity (vph)	LOS	Volume	% Capacity	Volume	% Capacity
I-280	Meridian Avenue to I-880	WB	AM	7,820	F	1,650	F	18	0.2	6	0.4
			PM	7,820	C	1,650	A	10	0.1	3	0.2
	Bird Avenue to Meridian Avenue		AM	9,200	F	---	---	18	0.2	6	---
			PM	9,200	D	---	---	10	0.1	3	---
	SR 87 to Bird Avenue		AM	9,200	F	---	---	18	0.2	6	---
			PM	9,200	F	---	---	10	0.1	3	---
	10 th Street to SR 87		AM	9,200	F	---	---	44	0.5	19	---
			PM	9,200	D	---	---	23	0.3	9	---
	McLaughlin Avenue to 10 th Street		AM	9,200	F	---	---	2	0.0	1	---
			PM	9,200	D	---	---	9	0.1	3	---
	US 101 to McLaughlin Avenue		AM	9,200	F	---	---	2	0.0	1	---
			PM	9,200	C	---	---	9	0.1	3	---

4.16.2.4 Background Plus Project Conditions (Checklist Question a and b)

Background plus project conditions describes near-term traffic conditions that most likely would occur when the project is complete. Background plus project conditions were evaluated relative to background conditions in order to determine potential project impacts. This traffic scenario represents a more congested traffic condition than the existing plus project scenario, since it includes traffic generated by approved but not yet built projects in the area.

Background Plus Project Intersection Levels of Service

The results of the intersection level of service analysis under background plus project conditions show that all of the study intersections would continue to operate at an acceptable LOS D or better during both the AM and PM peak hours of traffic (see Table 4.16-9).

In addition, as discussed in *Section 4.7 Greenhouse Gas Emissions*, the project applicant shall develop and successfully implement a TDM plan to reduce its GHG emissions, which would further reduce project vehicle trips and parking demand. The TDM plan shall incorporate one or more elements of TDM including, but not limited to, measures such as transit passes, on-site transit information (kiosk) and ticket sales, direct shuttle service to LRT and Caltrain stations, parking cash-out program, ride sharing, carpool and vanpools, unbundled parking, or other reasonable measures.

The project would not result in significant intersection level of service impacts under background plus project conditions. **(Less Than Significant Impact)**

Table 4.16-9: Background and Background Plus Project Intersection Levels of Service

Study Intersection	Peak Hour	Background Conditions		Background Plus Project Conditions			
		Average Delay (sec)	LOS	Average Delay (sec)	LOS	Incr. In Crit. Delay (sec)	Incr. In Crit. V/C
1. S. 3 rd Street and Reed Street	AM	19.4	B	19.7	B	0.3	0.000
	PM	16.8	B	16.9	B	0.1	0.005
2. S. 3 rd Street and Virginia Street	AM	17.3	B	18.5	B	1.5	0.027
	PM	9.1	A	9.0	A	0.0	0.008
3. S. 4 th Street and Reed Street	AM	17.6	B	18.1	B	0.7	0.039
	PM	27.7	C	28.8	C	1.7	0.020
4. S. 6 th Street and E. Virginia Street	AM	17.2	B	17.7	B	0.2	0.003
	PM	20.8	C	20.7	C	0.3	0.029
5. S. 7 th Street and Reed Street	AM	13.2	B	13.0	B	-0.2	0.007
	PM	14.7	B	14.7	B	0.0	0.006
6. S. 7 th Street and Margaret Way/I-280 Off-ramp	AM	26.0	C	26.5	C	0.6	0.015
	PM	25.8	C	26.5	C	1.0	0.018
7. S. 7 th Street and E. Virginia Street (Protected)	AM	28.9	C	29.4	C	0.4	0.015
	PM	38.6	D	39.5	D	1.3	0.008

Table 4.16-9: Background and Background Plus Project Intersection Levels of Service

Study Intersection	Peak Hour	Background Conditions		Background Plus Project Conditions			
		Average Delay (sec)	LOS	Average Delay (sec)	LOS	Incr. In Crit. Delay (sec)	Incr. In Crit. V/C
8. S. 7 th Street and Martha Street	AM	7.8	A	7.7	A	0.0	0.003
	PM	6.8	A	6.8	A	0.1	0.007
9. S. 7 th Street and Keyes Street	AM	38.3	D	38.8	D	0.9	0.014
	PM	40.0	D	40.3	D	0.7	0.008
Notes: sec = seconds LOS = level of service V/C = volume-to-capacity							

4.16.2.5 *Change in Air Traffic Patterns (Checklist Question c)*

As discussed in *Section 4.8*, the project would need to be at least 105 feet above ground to be subject to review by the FAA for Part 77. The project would be up to 87 feet tall; therefore, the project would not trigger a Part 77 review or impact air traffic patterns. **(No Impact)**

4.16.2.6 *Site Design Hazards and Emergency Access (Checklist Questions d and e)*

The site access and circulation evaluation is based on the conceptual ground floor/parking plan (Figure 3.0-2). On-site vehicular circulation was reviewed in accordance with generally accepted traffic engineering standards.

Standard Permit Condition

- The project applicant shall implement the following measures to ensure adequate site access and circulation:
 - Ensure the project driveway is free and clear of obstructions and adequate sight distance is provided.
 - Relocate the entry security gate inward so that it is 50 feet from the face of the curb.
 - Establish no parking zones immediately adjacent to the project driveway.
 - Appropriate visible warning signs also shall be provided at the driveway to alert pedestrians and bicyclists to vehicles exiting the site.
 - Add a loading zone on East Virginia Street adjacent to the lobby and elevators for use by residential moving vans and large delivery vehicles. The project applicant shall coordinate with City of San José staff to verify if enough right-of-way will exist along the project frontage on East Virginia Street to install a loading zone at this location.

- Establish an ideal street location for the trash bins on garbage collection days by coordinating with City of San José staff.
- Work with City staff to ensure that all applicable parking reductions are taken into account, and determine if the use of street parking to address the project’s parking deficit is a viable option.

The design of the project is required to comply with the City’s standards for emergency vehicle access (including providing adequate points of access, vertical clearance, and turning radius) and therefore, would not result in inadequate emergency access.

Based on the above conditions and discussion, the project would not substantially increase hazards due to a design feature (e.g., sharp curves or inadequate site distance) or result in inadequate emergency access. Refer to Appendix F for a more detailed discussion. **(Less Than Significant Impact)**

Project Trip Generation

4.16.2.7 *Bicycle and Pedestrian Facilities Impacts (Checklist Question f)*

Pedestrian Facilities

The City’s General Plan identifies the walk commute mode split target as 15 percent or more for the year 2040. The existing network of sidewalks exhibits good connectivity and would provide project residents with continuous routes to transit services and other points of interest in the area.

The project proposes to replace the existing sidewalk along the project frontage on 7th Street and East Virginia Street in conformance with current City standards.

The recently installed traffic signal at 6th Street and East Virginia Street includes crosswalks on the north and south legs of the intersection, with pedestrian signal heads and push buttons. In addition, the City plans to put in a crosswalk on the east leg (across East Virginia Street). This additional crosswalk will provide easier access to the project site for future residents.

Since the project proposes a new sidewalks onsite and is served by pedestrian facilities in the immediate area, the proposed project would not conflict with adopted policies, plans, or programs regarding pedestrian facilities, or otherwise decrease the performance, safety, or effectiveness of such facilities. **(Less Than Significant Impact)**

Bicycle Facilities

The City’s General Plan identifies the bicycle commute mode split target as 15 percent (or more) for the year 2040. This calculates to approximately 23 project-generated bicycle trips during the AM peak hour and about 27 project-generated bicycle trips during the PM peak hour. As discussed in *Section 4.17.1.3*, existing bicycle facilities adequately serve the project site. In addition, according to the San José Bike Plan 2020 Bikeway Network map, Class II bicycle facilities (striped bike lanes) are planned along the following roadways in the future:

- 3rd Street, between Reed Street and Keyes Street
- Keyes Street, between 5th Street and Vine Street
- Vine Street, between Willow Street and Grant Street
- 10th Street, between Keyes Street and Tully Road
- William Street, between 1st Street and 24th Street
- Monterey Road, between Keyes Street and Tully Road

Class III bicycle facilities (bike route is an on-street facility that shares space with cars):

- Martha Street, between 12th Street and 1st Street
- 12th Street, between Martha Street and Keyes Street
- 1st Street, between Keyes and Reed Street
- San Salvador Street, between 7th Street and 16th Street

The project does not propose any changes to existing bicycle facilities or impede the implementation of future, planned bicycle facilities. Since the project is served by existing bicycle facilities in the area, and would be served by additional planned Class II and Class III bicycle facilities, the proposed project would not conflict with adopted policies, plans, or programs regarding bicycle facilities (including the San José Bike Plan 2020), or otherwise decrease the performance, safety, or effectiveness of such facilities. **(Less Than Significant Impact)**

Transit Facilities

The nearest transit services within walking distance of the project site are bus routes located on South Market Street to the west and 10th/11th Streets to the east. The bus stops are located approximately 2,000 feet from the project site. Guidelines for transit accessibility are that bus stops should be within one-quarter mile (or 1,350 feet) of a site. Thus, the site is not considered to be within an area well-served by transit.

The project itself would generate a relatively small number of potential new transit riders. For this reason, additions to the transit system to serve the site either through new routes or diversions to existing routes are not justified. The site is located within an older, low to moderately dense area. It is possible that the project area could redevelop over time with more intensive uses, which could justify new or rerouted transit services in the future.

The City's General Plan identifies the transit commute mode split target as "at least 20 percent" for the year 2040. This calculates to 30 new transit riders during the AM peak hour and 37 new transit riders during the PM peak hour from the proposed project. Due to the distance between the project site and the closest LRT and passenger train services, this level of transit mode share is probably not attainable without additional transit-related assistance.

As discussed in *Section 4.7 Greenhouse Gas Emissions*, and Section 2.16.2.6 above, the project applicant shall be required to develop and successfully implement a TDM Plan, which shall include

measures such as transit passes, on-site transit information (kiosk) and ticket sales, direct shuttle service to LRT and Caltrain stations, parking cash-out program, ride sharing, carpool and vanpools, unbundled parking, a Bay Area Bike Share station at or near the project site location, or other reasonable measures.

The project does not propose any changes to existing transit facilities or require new routes. For these reasons, the proposed project would not conflict with adopted policies, plans, or programs regarding transit facilities, or otherwise decrease the performance, safety, or effectiveness of such facilities. **(Less Than Significant Impact)**

4.16.3 Conclusion

The proposed project would not result in significant transportation impacts.

4.17 UTILITIES AND SERVICE SYSTEMS

4.17.1 Environmental Setting

4.17.1.1 *Regulatory Framework*

Assembly Bill 939

AB 939 established the California Integrated Waste Management Board (now CalRecycle) and required all California counties to prepare integrated waste management plans. AB 939 required all municipalities to divert 50 percent of the waste stream by the year 2000.

California Green Building Standards Code

In January 2010, the State of California adopted the California Green Building Standards Code that establishes mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality. These standards include a mandatory set of guidelines, as well as more rigorous voluntary measures, for new construction projects to achieve specific green building performance levels:

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

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 utilities and service systems and are applicable to the proposed project.

Policies	Description
MS-3.1	Require water-efficient landscaping, which conforms to the State’s Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
MS-3.2	Promote use of green building technology or techniques that can help to reduce the depletion of the City’s potable water supply as building codes permit.
MS-3.3	Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.

Policies	Description
IN-3.5	Require development which will have the potential to reduce downstream LOS to lower than “D”, or development which would be served by downstream lines already operating at a LOS lower than “D”, to provide mitigation measures to improve the LOS to “D” or better, either acting independently or jointly with other developments in the same area or in coordination with the City’s Sanitary Sewer Capital Improvement Program.
IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
IN-3.10	Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City’s National Pollutant Discharge Elimination System (NPDES) permit.

Martha Gardens Specific Plan

The *Martha Gardens Specific Plan* includes utility policies including, but not limited to, the following which are applicable to the proposed project.

Policies	Description
1.2	All new development in the Martha Gardens Specific Plan area should conform to City Council Policy on Post Construction Urban Runoff Management.
3.2	Water consumption and wastewater flows should be reduced through a program of water conservation measures.
4.3	Future development should incorporate energy-conserving devices to promote conservation

San José Zero Waste Strategic Plan/Green Vision

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

San José Construction & Demolition Diversion Program

More than 30 percent of landfill waste is construction and demolition (C&D) debris. The City’s Construction & Demolition Diversion (CDD) Program ensures that at least 75 percent of this waste is recovered and diverted from landfills.

Private Sector Green Building Policy

The City of San José’s Green Building Policy for private sector new construction encourages building owners, architects, developers, and contractors to incorporate meaningful sustainable building goals

early in building design process. This policy establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. It is also intended to enhance the public health, safety and welfare of San José residents, workers, and visitors by fostering practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water and other resources in the City of San José.

4.17.1.2 *Existing Conditions*

Water Service and Supply

Water service in the project area is provided by the San José Water Company (SJWC), which is the largest private water retailer in the City. SJWC obtains its potable water supply through groundwater, imported treated water, and local surface water (collected and stored in reservoirs), with an average of 55 percent purchased from the SCVWD.⁵⁴ Approximately 53 percent of the SCVWD's water supply is imported water from the Sacramento-San Joaquin Delta. During droughts, the SJWC has a Water Shortage Contingency Plan that entails specific actions for prohibiting certain uses of water and provides enforcement mechanisms.

The site is currently undeveloped and vacant. On-site water usage is minimal, if any. Existing water lines serving the site include a four-inch line in East Virginia Street.⁵⁵ Recycled water pipelines currently do not serve the project area.⁵⁶

Wastewater/Sanitary Sewer System

Wastewater from the project area is treated at the San José/Santa Clara Regional Wastewater Facility (RWF) in Alviso. The RWF has a capacity to treat 167 million gallons per day (gpd) of sewage during dry weather flow. On average, the RWF treats 110 million gpd of wastewater.⁵⁷ The resulting fresh water from the RWF is discharged to the South San Francisco Bay or delivered to the South Bay Water Recycling Project for distribution.

The City of San José generates approximately 69.8 million gpd of dry weather sewage flow. The City's share of the RWF's treatment capacity is 108.6 million gpd, which leaves the City with approximately 38.8 million gpd of excess treatment capacity.⁵⁸

Sanitary sewer lines in the project area are inspected and maintained by the City of San José Department of Transportation, and rehabilitated and replaced by the Department of Public Works. Existing sewer lines serving the project site include a 12-inch sewer line in East Virginia Street and a 72-inch sewer line in South 7th Street.

⁵⁴ San José Water Company. *City of San José 2040 General Plan Water Supply Assessment*. 2010.

⁵⁵ All utility infrastructure measurements discussed in this section refer to the *diameter* of the pipe or system in question.

⁵⁶ City of San José. *Recycled Water Pipeline System*. July 2011.

⁵⁷ City of San José. *San José/Santa Clara Regional Wastewater Facility*. May 4, 2010. Accessed: July 28, 2017. Available at: <http://www.sanjoseca.gov/index.aspx?nid=1663>.

⁵⁸ City of San José. *Envision San José 2040 General Plan Final Program EIR*. November 2011.

Storm Drainage

The City of San José owns and maintains the municipal storm drainage system which serves the project site. Storm drain lines are inspected and maintained by the Department of Transportation, and are installed, rehabilitated, and replaced by the Department of Public Works.

The project site was previously developed with a gas station, and most of the site (approximately 62,366 or 77 percent) is impervious. The remaining 18,609 square feet (or 23 percent) of the site is pervious, consisting of landscaping. Stormwater runoff from the site would connect to the 18-inch line in East Virginia Street, which connects to a 30-inch on 7th Street.

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 2026.⁵⁹ Solid waste generated within the County is landfilled at Guadalupe Mines, Kirby Canyon, Newby Island, Zanker Road Materials Processing Facility, and Zanker Road landfills.

All residential solid waste in San José is landfilled at Newby Island Sanitary Landfill (NISL). The City has an existing contract with NISL through December 31, 2020 with the option to extend the contract for as long as the landfill is open. The estimated closure date for NISL is 2041.⁶⁰ The City has an annual disposal allocation for 395,000 tons per year. As of January 2017, NISL had approximately 18 million cubic yards of capacity remaining.⁶¹

GreenTeam of San José provides all recycling and garbage collection service to all apartment and condominium complexes in San José. GreenWaste Recovery provides yard trimmings and street sweeping services to all households in the City.

⁵⁹ Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report*. May 2011.

⁶⁰ City of San José. Solid Waste Facility Permit. Facility Number: 43-AN-0003. February 9, 2015. Accessed July 31, 2017. Available at: <http://www.calrecycle.ca.gov/swfacilities/directory/43-an-0003/detail/>.

⁶¹ Mills, Joshua. Environmental Manager, NISL, Republic Services, Inc. Personal communication. May 10, 2017.

4.17.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
c. Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,4
e. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,4,30
g. Comply with federal, state and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

4.17.2.1 Water Service and Supply Impacts (Checklist Questions b and d)

The project proposes to develop 301 studio units onsite, which is consistent with planned growth in the General Plan. With the buildout of the General Plan, water demand could exceed water supply during dry and multiple dry years after 2025. The certified General Plan FPEIR concluded, however, that with the implementation of existing regulations and General Plan policies, water demand would not exceed water supply.

The project applicant shall comply with CalGreen and the City’s Private Sector Green Building Policy. Per the City’s Private Sector Green Building Policy, the project is required to achieve a minimum of 50 points under Build it Green (BIG) or LEED certified by incorporating a variety of design features including water conservation measures such as planting drought-tolerant landscaping.

It is estimated that the project would use approximately 53,880 gallons of water per day.⁶² While the project would require connections to existing water mains in the project area, the project would not require new or expanded water facilities. **(Less Than Significant Impact)**

4.17.2.2 Wastewater/Sanitary Sewer System Impacts (Checklist Questions a, b, and e)

Generally, sewage generation is approximately 85 percent of a site’s water use. Based on the project’s estimated water use, it is estimated that the project would generate approximately 45,800 gallons of wastewater per day.

Given the City’s existing, remaining treatment capacity at the RWF (38.8 million gpd), there is sufficient capacity at the RWF to treat project flows. Moreover, the General Plan FPEIR concluded that the sewage generated by the buildout of the General Plan would not exceed the City’s allocated capacity at the RWF.

While the project would require connections to existing sewer lines in the project area, the project would not require new or expanded water facilities. **(Less Than Significant Impact)**

4.17.2.3 Storm Drainage Impacts (Checklist Question c)

The proposed project would decrease impervious surfaces onsite by approximately 2,848 square feet (or three percent), compared to previous development onsite, which would result in a reduction in stormwater runoff. The project also proposes bio-retention area and landscaping with flow-through planters in the western boundary of the project site, and pervious asphalt paving (refer to *Section 4.9*). For these reasons, the existing storm drain line has sufficient capacity to accommodate runoff from the project. **(Less Than Significant Impact)**

⁶² The estimation is based on the land use of Apartments Mid Rise and its indoor water usage rate of approximately 179 gallons of water per day per unit. Source: CAPCOA. *CalEEMod User’s Guide*. September 2016. Appendix D, Table 9.1.

4.17.2.4 *Solid Waste Impacts (Checklist Question f and g)*

Given the City's existing recycling and yard waste collection services, multi-family residential units divert about 75 percent of their waste stream from being landfilled. Assuming a 75 percent diversion rate, it is estimated that the proposed project would generate approximately 2,250 pounds (or 4.5 cubic yards) of waste per week.^{63,64}

Given NISL's existing, remaining capacity (18 million cubic yards), the City's contract with NISL, the existing amount of waste the City disposes at the landfill, and the amount of waste the project is estimated to generate (4.5 cubic yards per week), there is sufficient capacity at NISL to serve the proposed project.

In addition, the General Plan FPEIR concluded the increase in waste generated from buildout of the General Plan would not exceed the capacity of existing landfills that serve the City. Future increases in solid waste generation from development allowed under the General Plan would be minimized with ongoing implementation of the City's Zero Waste Strategic Plan. This Plan, in combination with existing regulations and programs including the City's CDD Program, would ensure that the buildout of the General Plan would not result in significant impacts from the provision of landfill capacity to accommodate the City's increased service population.

The proposed project would intensify the uses onsite and increase the amount of solid waste generated compared to existing conditions; however, the proposed development is consistent with the development assumptions in the General Plan.

Standard Permit Condition

- The project applicant shall successfully participate in the City's CDD Program.

Construction and operation of the proposed project, would comply with applicable federal, State, and local regulations related to appropriate disposal of solid waste.

Based on the above discussion, the proposed project would be served by a landfill with sufficient capacity and comply with applicable federal, State, and location regulations related to disposal of solid waste. **(Less Than Significant Impact)**

4.17.3 **Conclusion**

The proposed project would not result in significant impacts to utility and service systems.

⁶³ The project's solid waste generation is based on the multi-family solid waste generation rate of 29.9 pounds per unit per week and a 75 percent reduction to account for recycling and composting. Source: Trinh, Hahuy. City of San José Integrated Waste Management Environmental Services Department. Personal communication. June 7, 2013.

⁶⁴ A common conversion factor used for municipal solid waste as it is collected and transported in compaction vehicles is 500 pounds per cubic yard. Source: Lacaze, Skip. City of San José Department of Environmental Services. Personal communication. June 3, 2013.

4.18 MANDATORY FINDINGS OF SIGNIFICANCE

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1-35
b. Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1-35
c. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1-35

4.18.1 Project Impacts (Checklist Question a)

As discussed in the individual sections, the proposed project would not degrade the quality of the environment with the implementation of identified Standard Permit Conditions and mitigation measures. As discussed in *Section 4.4 Biological Resources*, the project would not impact sensitive habitat or species. While there is a potential for buried archaeological resources onsite, implementation of the identified mitigation measures in *Section 4.5 Cultural Resources*, would avoid or reduce impacts to cultural resources to a less than significant level. **(Less Than Significant Impact with Mitigation Incorporated)**

4.18.2 Cumulative Impacts (Checklist Question b)

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

The project would not result in impacts to agricultural and forestry resources or mineral resources; therefore, the project would not contribute to cumulative impacts to these resources. The project’s impacts to geology and soils and hazards and hazardous materials are site specific and, therefore, would not contribute to a significant cumulative impact to those resources.

There are no cumulative projects in the vicinity of the project site that the project would contribute cumulatively to for aesthetics, noise, or utility and service system impacts. With implementation of the identified mitigation measures and Standard Permit Conditions, the project would not result in cumulatively considerable contributions to significant hydrology and water quality, biological resources, or cultural resources.

The traffic impacts of the project were evaluated following the standards and methodologies set forth by City and VTA CMP guidelines. Since there are no CMP intersections in the project vicinity, no cumulative or future growth scenario is required. It is assumed, therefore, that the project would not have a cumulatively considerable contribution to a significant cumulative traffic impact.

The project’s cumulative impact on land use, population and housing, public services, and recreation were analyzed in the General Plan FPEIR and therefore, are not discussed further. Implementation of the project would marginally contribute to global GHG emissions, by definition. As discussed in *Section 4.6 Greenhouse Gas Emissions*, the project’s individual GHG emissions was analyzed in the General Plan SPEIR, and implementation of the standard measures, would have a less than significant (cumulative) impact. The project would not result in significant emissions of criteria air pollutants or greenhouse gas emissions and, therefore, would not result in a cumulatively considerable impact.

The project site is surrounded by other developments with sources of air pollutant emissions. As discussed in *Section 4.3 Air Quality*, the proposed project and operation of surrounding developments, would not result in cumulative construction health risk impacts. The maximum combined cumulative increase in cancer risk from the cumulative sources (i.e., project construction, I-280, the gasoline station, and South 7th Street) is 95 excess cases in one million, which is below the BAAQMD cumulative threshold of 100 excess cases in one million. The maximum combined cumulative PM_{2.5} concentration is 0.78 µ/m³, which is above the BAAQMD cumulative threshold of 0.8 µ/m³. The maximum combined cumulative Hazard Index from the cumulative sources is less than 0.11, which is below the BAAQMD cumulative Hazard Index threshold of 10.0. The

cumulative cancer risk, non-cancer hazard, and annual PM_{2.5} levels, therefore, are less than significant.

Based on the above discussion, the project would not have cumulatively considerable contributions to significant cumulative impacts. **(Less Than Significant Impact with Mitigation Incorporated)**

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

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

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SECTION 6.0 LEAD AGENCY AND CONSULTANTS

6.1 LEAD AGENCY

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