INITIAL STUDY

335 S. Winchester Boulevard Project

Prepared for: City of San José

Prepared by: Circlepoint
August 2019

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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: 335 S. Winchester Boulevard Project

PROJECT FILE NUMBER: SP18-049 & C18-043

PROJECT DESCRIPTION: The project site is located in an urbanized area, and is surrounded by commercial, retail, and residential land uses. The area surrounding the project site is characterized primarily by the mixed-use development of Santana Row and the Westfield Valley Fair Shopping Mall. Development of the project would entail demolition of the existing restaurant and construction of a five-story, 75-foot structure providing 82,068 square feet of office space and 12,928 square feet of retail space. The project would comprise office space on levels two through five, retail space on the ground floor, and below grade parking utilizing mechanized parking equipment.

PROJECT LOCATION: 335 S. Winchester Boulevard, San José, CA

ASSESSORS PARCEL NO.: 303-39-051; 303-39-047 **COUNCIL DISTRICT:** 1

APPLICANT CONTACT INFORMATION: Pacific Row Development LLC
1700 S El Camino Real Suite 100, San Mateo, CA 94402

FINDING: This Proposed Mitigated Negative Declaration (MND) is included to give notice to interested agencies and the public that the City of San José (City) intends to adopt an MND for this project. This does not mean that the City's decision regarding the project is final. This Proposed MND is subject to modification based on comments received by interested agencies and the public.

An initial study has been prepared by City. On the basis of this study it is determined, pending public review, that the proposed action with the incorporation of the identified mitigation measures will not have a significant effect on the environment.

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 this resource, therefore no mitigation is required.

B. **AGRICULTURE AND FORESTRY RESOURCES** – The project would not have a significant impact on this resource; therefore, no mitigation is required.

C. **AIR QUALITY.**

Impact AQ-1: Project construction would expose sensitive receptors to pollution concentrations in excess of Bay Area Air Quality Management District (BAAQMD) standards.

MM AQ-1: Selection of equipment during construction to minimize emissions.

Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall prepare a construction operations plan that includes specifications of the equipment to be used during construction. The plan shall demonstrate that the off-road equipment used on-site to construct the project would achieve a fleet-wide average 85 percent reduction in diesel particulate matter (DPM) exhaust emissions or more. The plan shall be accompanied by a letter signed by a qualified air quality specialist, verifying that the equipment included in the plan meets the standards set forth below:

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

The construction operations plan shall be submitted to the Director of the City of San José Department of Planning, Building, and Code Enforcement or Director's designee for review and approval.

Impact AQ-3: The operation of an emergency back-up generator would expose nearby residential sensitive receptors to a maximum cancer risk that exceeds the BAAQMD threshold of 10 chances per million for assumed infant exposure.

MM AQ-2: Selection of diesel equipment and proper placement to minimize health risk impacts to sensitive receptors.

The applicant shall develop an operations plan demonstrating that emissions from the generator operation will not cause significant cancer risk exposures over 10 chances per million at the closest sensitive receptor. Possible methods available to reduce these emissions include:

- Placement of the generator and stack that minimizes exposure;
- Use of CARB-certified Level 3 Diesel Particulate Filters or equivalent to reduce diesel particulate matter emissions or use of generator engines that meet U.S. EPA Tier 4 standards for particulate matter (or equivalent);
- Limiting the annual hours of testing to less than 50 hours per year

The operation plan submitted to the City shall also account for project construction impacts in the analysis. The total cancer risk and annual $PM_{2.5}$ concentrations associated with the generator and construction shall be shown to be less than 10 chances per million cancer risk. The operations plan shall be signed off by a qualified air quality specialist and submitted to the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of a building permit.

D. BIOLOGICAL RESOURCES.

Impact BIO-1: Construction activities may affect nesting birds, raptors, or other migratory birds protected under the Migratory Bird Treaty Act.

MM BIO-1.1: Avoidance.

To avoid disturbance of nesting and special-status birds, the project applicant shall schedule activities related to the project, including, but not limited to, vegetation removal, ground disturbance, construction, and demolition to occur outside of the bird nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1 through August 31 (inclusive).

MM BIO-1.2: Nesting Bird Surveys.

If demolition and construction activities cannot be scheduled between September 1st and January 31st (inclusive), pre- construction surveys for nesting birds shall be completed by a qualified ornithologist prior to the issuance of any grading permits to ensure that no nests shall be disturbed during project implementation. The nesting bird pre-construction survey shall be conducted within the project boundary, including a 300-foot buffer (500-foot for raptors). The survey shall be conducted by a qualified biologist familiar with the identification of avian species known to occur in the area. The pre-construction survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st inclusive).

MM BIO-1.3: Buffer Zones.

If active nests are found, the qualified biologist or ornithologist, in consultation with California Department of Fish and Wildlife (CDFW), shall determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests will not be disturbed during project construction (which depends upon the species, the proposed work activity, and existing disturbances associated with land uses outside the site). The buffer zone shall be demarcated by the qualified biologist or ornithologist with bright orange construction fencing, flagging, construction lathe, or other means to mark the boundary. All construction personnel shall be notified as to the existence of the buffer zone and shall be instructed to avoid entering the buffer zone during the nesting season. No ground disturbing activities shall occur within this buffer until the qualified biologist or ornithologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Encroachment into the buffer shall occur only at the discretion of the qualified biologist.

MM BIO-1.4: Reporting.

The project applicant shall submit a report to the City's Director of Planning, Building and Code Enforcement or Director's designee indicating the results of the survey and any designated buffer zones, and is to be completed to the satisfaction of the Director of Planning, Building and Code Enforcement prior to the issuance of any demolition or grading permits.

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

F. **ENERGY** – The project would not have a significant impact on this resource; therefore, no mitigation is required.

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

H. GREENHOUSE GAS EMISSIONS – The project would not have a significant impact on this resource; therefore, no mitigation is required.

I. HAZARDS AND HAZARDOUS MATERIALS.

Impact HAZ-1: Construction workers and adjacent residences could be exposed to undocumented contaminants during soil disturbing activities.

MM HAZ-1: Prior to the issuance of any demolition or grading permits, the applicant shall contact the Santa Clara County Department of Environmental Health (SCCDEH), or equivalent, to discuss the proposed redevelopment project and perform any other necessary investigations and studies to address the potential residual contamination as deemed necessary. The regulatory agency may require a Site Management Plan (SMP), or similar document, to manage the cleanup of potentially contaminated soils. If applicable, a SMP shall be prepared prior to construction to reduce or eliminate exposure risk to human health and the environment, specifically, potential risks associated with the presence of contaminated soils. If required, the SMP shall include, but is not limited to, the following elements to mitigate potential risks associated with environmental conditions:

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

The SMP, or similar document, shall be submitted to the Santa Clara County Department of Environmental Health (SCCDEH), or equivalent, for review and approval. A copy of the documentation shall be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee and Municipal Compliance Officer of the City of San José Environmental Services Department for approval prior to the issuance of any grading permits.

Impact HAZ-2: Construction workers and adjacent residences could be exposed to residual agricultural contaminants.

MM HAZ-2.1: After demolition but prior to the issuance of any grading permits, a qualified hazardous waste professional shall collect shallow soil samples from the near surface soil and tested for organochlorine pesticides and pesticide-based metals arsenic and lead to determine if contaminants from previous agricultural operations occur at concentrations above established construction worker safety and commercial/industrial environmental screening levels. A Soil Sampling Report should be prepared under the direction of the Santa Clara County Department of Environmental Health (SCCDEH) and shall be provided to the Director of Planning, Building, and Code Enforcement or the Director's designee and the City's Municipal Compliance Officer of the Environmental Services

Department for review.

MM HAZ-2.2: If contaminated soils are found in concentrations above established regulatory environmental screening levels, the project applicant shall enter into the Santa Clara County Department of Environmental Health's (SCCDEH) Voluntary Cleanup Program (VCP), or equivalent, to formalize regulatory oversight of the mitigation of contaminated soil to ensure the site is safe for construction workers and the public after development. The project applicant must remove contaminated soil to levels acceptable to the SCCDEH (or equivalent oversight agency). The SCCDEH (or equivalent oversight agency) may also approve leaving in-place some of the contaminated soil if the contaminated soil will be buried under hardscape and/or several feet of clean soil.

A Removal Action Plan, Site Management Plan or other similarly titled report describing the remediation must be prepared and implemented to document the removal and /or capping of contaminated soil. A copy of any reports prepared shall be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee and the Municipal Compliance Officer of the City of San José Environmental Services Department. All work and reports produced shall be performed under the regulatory oversight and approval of the SCCDEH (or equivalent oversight agency).

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

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

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

M. NOISE.

Impact NOI-1: Construction noise would reach as high as 89 dBA L_{eq} at a distance of 50 feet during the excavation phase, which would exceed the highest measured ambient noise level of 73 dBA L_{eq} by 16 dBA.

MM NOI-1:

- Prior to the issuance of any grading permits, the project applicant shall prepare a noise logistics plan, consistent with General Plan Policy EC-1.7. The noise logistics plan shall include but is not limited to the following standard measures: 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.
- Construct temporary solid plywood fences around ground level construction sites adjacent to operational businesses, hotels, and other noise-sensitive land uses to remain for the duration of demolition and construction activities.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines should be strictly prohibited.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.

- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
- If conflict with neighboring noise-sensitive receptors occurs during project construction that cannot be resolved by proper scheduling, a temporary noise control blanket shall be installed near the property line along the residential receptors immediately west of the project site, accounting for existing trees and other permanent structures along the property line.
- Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will 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 noise logistics plan shall be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee for review and approval prior to the issuance of any grading permits.

Impact NOI-2: Rooftop mechanical equipment noise levels could exceed the City's 55 dBA DNL noise limit at the residential property line.

MM NOI-2:

- Prior to the issuance of any building permits, a detailed acoustical study shall be prepared during building design to evaluate the potential noise generated by building mechanical equipment and to identify the necessary noise controls that are included in the design to meet the City's 55 dBA DNL noise limit at the shared property line. The study shall evaluate the noise from the equipment and predict noise levels at noise-sensitive locations. Noise control features shall be identified and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL at noise-sensitive locations, such as residences. These features could include, but would not be limited to, installation of noise barriers up to 10 feet in height between the noise source and the nearest receptors, selection of equipment that emits low noise levels, fan silencers, enclosures, and mechanical equipment screen walls. The study shall be submitted to the City of San José for review and approval prior to issuance of any building permits.

Impact NOI-3: Construction of the project could generate vibration levels exceeding the General Plan threshold of 0.2 in/sec PPV at one residence to the west and a retail structure to the north (DXL), located within 25 feet of the project site.

MM NOI-3: Prior to the issuance of any grading permits, the project applicant shall prepare a construction vibration plan. The construction vibration plan shall include but is not limited to the following standard measures: Where possible, prohibit operation of earth-moving equipment or other heavy vibration-generating equipment within distances of 25 feet of adjacent structures.

- A list of all heavy construction equipment to be used for this project and the anticipated time duration of using the equipment that is known to produce high vibration levels (clam shovel drops, vibratory rollers, hoe rams, large bulldozers, caisson drillings, loaded trucks, jackhammers, etc.) shall be included within the plan.
- A construction vibration- plan shall be implemented to document conditions at all structures

located within 125 feet of construction prior to, during, and after vibration generating construction activities. All plan tasks shall be conducted under the direction of a qualified Professional Structural Engineer licensed in the State of California and be in accordance with industry accepted standard methods. The construction vibration monitoring plan should be implemented to include the following tasks:

  - Identification of sensitivity to groundborne vibration of all structures located within 25 feet of heavy construction.
  - Performance of a photo survey, elevation survey, and crack monitoring survey for each structure of normal construction within 25 feet of other construction activities identified as sources of high vibration levels. Surveys shall be performed prior to any construction activity and after project completion and shall include internal and external crack monitoring in structures, settlement, and distress, and shall document the condition of foundations, walls and other structural elements in the interior and exterior of said structures.
  - Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.

- Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.
- Conduct a post-survey on the structure where either monitoring has indicated high levels or complaints of damage. Make appropriate repairs in accordance with the Secretary of the Interior's Standards where damage has occurred as a result of construction activities.

The construction vibration plan shall be signed off by a qualified acoustic professional/specialist and submitted to the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any grading and building permits.

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

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

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

Q. **TRANSPORTATION** – The project would not have a significant impact on this resource; therefore, no mitigation is required.

R. **TRIBAL CULTURAL RESOURCES** – The project would not have a significant impact on this resource; therefore, no mitigation is required.

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

T. **WILDFIRE** – The project would not have a significant impact on this resource; therefore, no mitigation is required.

U. **MANDATORY FINDINGS OF SIGNIFICANCE** – The project would not have a significant impact on this resource; therefore, no mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **Tuesday September 3rd, 2019** any person may:

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

2. Submit written comments regarding the information and analysis in the Proposed MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Proposed 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.

Kara Hawkins
Environmental Project Manager

8/12/19
Date

Rosalynn Hughey, Director
Planning, Building and Code Enforcement

Deputy

Circulation period: **August 14, 2019 to September 3, 2019**

Table of Contents

List of Tables

List of Figures

Appendices

Appendix A: Air Quality Study
Appendix B: Arborist Report
Appendix C: Environmental Data Resources, Inc. Report
Appendix D: Noise Assessment
Appendix E: Transportation Impact Analysis

1 Project Description

Project Title	335 S. Winchester
Lead agency contact and address:	Kara Hawkins City of San José Department of Planning, Building and Code Enforcement 200 E. Santa Clara Street San José, CA 95113 (408) 535-7852
File Number:	SP18-049 & C18-043
Project Location:	335 S. Winchester Blvd, San José, CA
Property Owner/Project Sponsor	Pacific Row Development LLC 1700 S El Camino Real Suite 100 San Mateo, CA 94402
Property APN	303-39-051; 303-39-047
General Plan Designation:	Mixed Use Commercial
Zoning:	Commercial Neighborhood (CN)
Council District	1
Habitat Plan Designation	Urban Development Equal to or Greater than 2 acres Urban-Suburban
Project-Related Approvals and Permits	Special Use Permit Conventional Rezoning Public Works Clearance

This Initial Study provides a project-level CEQA analysis for a conventional rezoning from the *Commercial Neighborhood* (CN) zoning district to the *Commercial Pedestrian* (CP) zoning district, the demolition of and existing restaurant structure, the removal of 40 trees (24 of which are ordinance-sized), and construction of a five-story commercial development on a 0.71-gross acre site (APNs 303-39-051 and -047) in San José.

1.1 Project Location and Setting

Existing Setting

The project site, which consists of two parcels located at 335 S. Winchester Boulevard (project site), is located in the western portion of the City of San José (City), Santa Clara County, California (**Figure 1**). The project site is currently developed with a two-story restaurant, surface parking lot and landscaping. The project site is located in an urbanized area, and is surrounded by commercial, retail, and residential land uses. The area surrounding the project site is characterized primarily by the mixed-use development of Santana Row and the Westfield Valley Fair Shopping Mall. Retail developments with surface parking lots are located north and northwest of the project site. The Westfield Valley Fair shopping mall is located to the northeast, reaching a maximum height of 65 feet, with the exception of the mall entry tower, which rises 72 feet (**Figure 2**). Santana Row, located across Winchester Boulevard to the east of the project site, comprises retail, office, parking and residential spaces with a maximum building height of 80 to 120 feet. Directly east of the project site, across Winchester Boulevard, is a six-story parking garage structure. Street-level views of the existing conditions and proposed project from east and west are shown in **Figure 3a**, **Figure 3b**, **Figure4a,** and **Figure 4b**. Mixed commercial uses are located to the south of the project site. Residential homes border the western portion of the project site and are obscured by tall trees along the property line (**Figure 5**).

Existing Land Use Designation and Zoning

The project site is located in the CN – Commercial Neighborhood zoning district (**Figure 6**) and is designated Mixed Use Commercial under the Envision San José 2040 General Plan (General Plan). The project site is located within the Santana Row Valley Fair Urban Village Plan (Urban Village Plan) and is designated Mixed Use Commercial under the Urban Village Plan (**Figure 7**), which is consistent with planned growth established in the General Plan.

1.2 Project Components

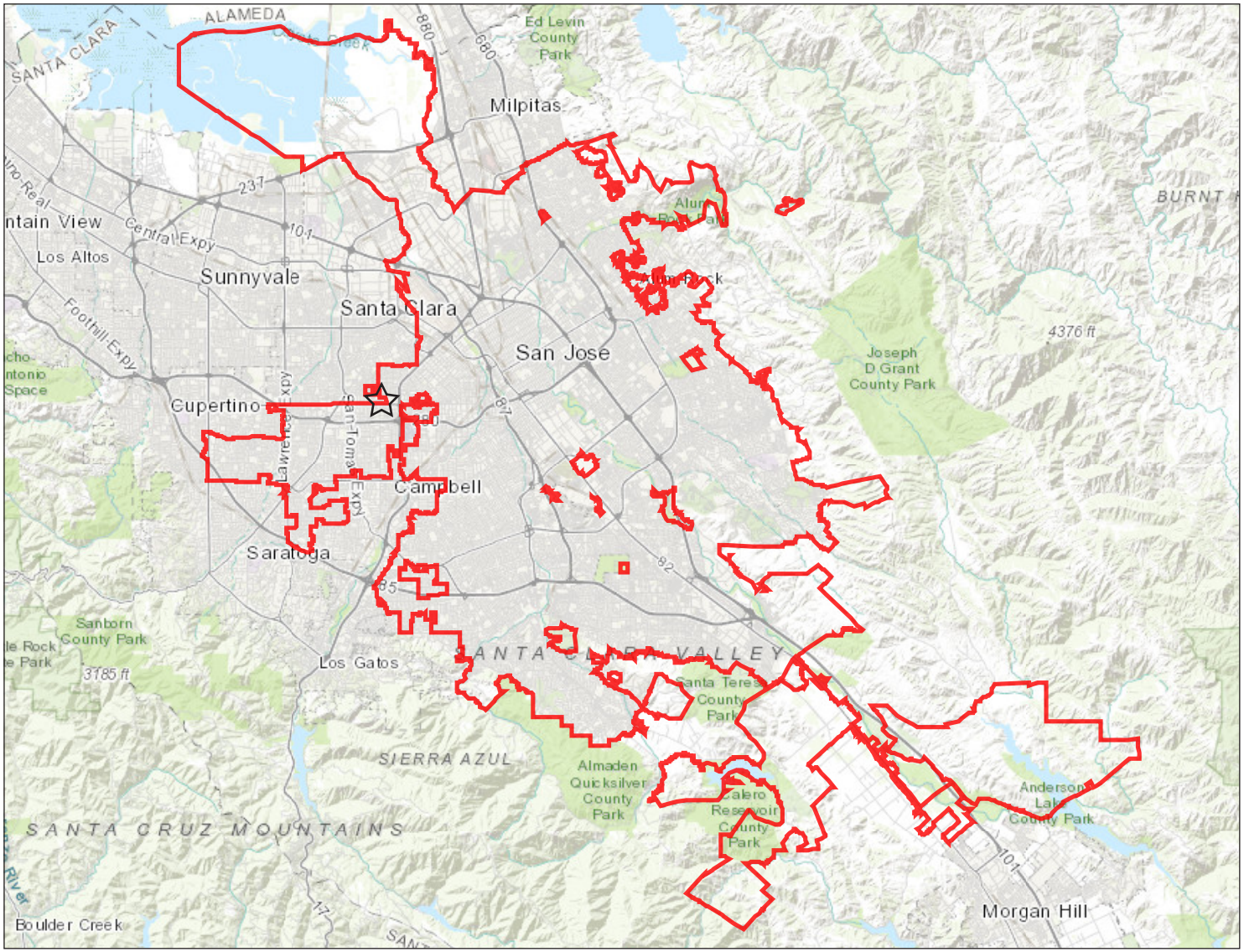
Development of the project would entail demolition of the existing restaurant onsite and construction of a five-story 75-foot structure providing 82,068 square feet of office space and 12,928 square feet of retail space (**Figure 8**). In total, project construction would require the removal of 40 trees, 24 of which are ordinance-sized.[1] The project would comprise office space on levels two through five, retail space on the ground floor, and below-grade parking featuring mechanized parking equipment. The project would provide 14 parking spaces on the ground floor, and 207 below-grade parking spaces for a total of 221 spaces. The project would also provide 22 bicycle parking spaces, consisting of 10 short-term spaces along the South Winchester Boulevard frontage and 12 long-term spaces within the at-grade parking area. Access to the project would be provided via a right-turn only driveway on Winchester Boulevard. The maximum height of the structure would be 75 feet, though the maximum allowable height is 85 feet.

[1] The City of San José designates trees 12" and larger in diameter as "Ordinance Sized Trees."

The San José Water Company and the City provide utility services to the urbanized project site. The project would connect to existing water, sewer, and power lines. In addition, a new public fire hydrant would be installed along the Winchester Boulevard frontage.

Construction would begin in February 2020, and the project is expected to be operational in February 2022. The existing building, parking spaces, fences and landscaping located onsite would be demolished and removed as part of the project. The excavation and grading period would last approximately 4.5 months, and the project would remove approximately 44,000 cubic yards of soil. Typical construction equipment would include dozers, graders, tractors, generators, and a tower crane. No pile driving equipment would be required. Construction would occur during the construction hours allowed by the San José Municipal Code Section 20.100.450, which establishes the hours of construction within 500 feet of residential units.[2]

[2] Typically 7:00 AM to 7:00 PM, Monday through Friday.



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- Project Location
- San Jose City Limits

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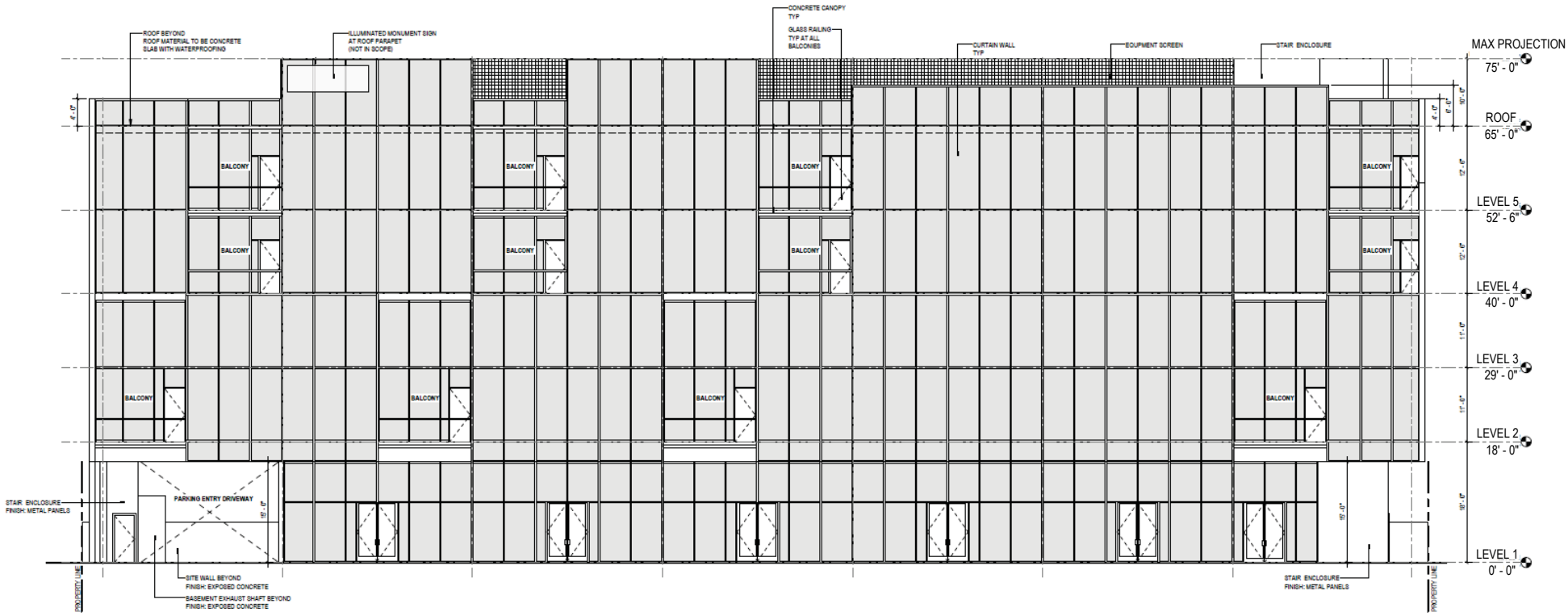
Regional Location Map

Figure 1

Source: Circlepoint; Google Earth, 2018



East Elevation

Project Elevation Figure **2**

Source: 335 S WINCHESTER PROJECT PLANS, 2018

Project Rendering from East—Existing Figure **3a**

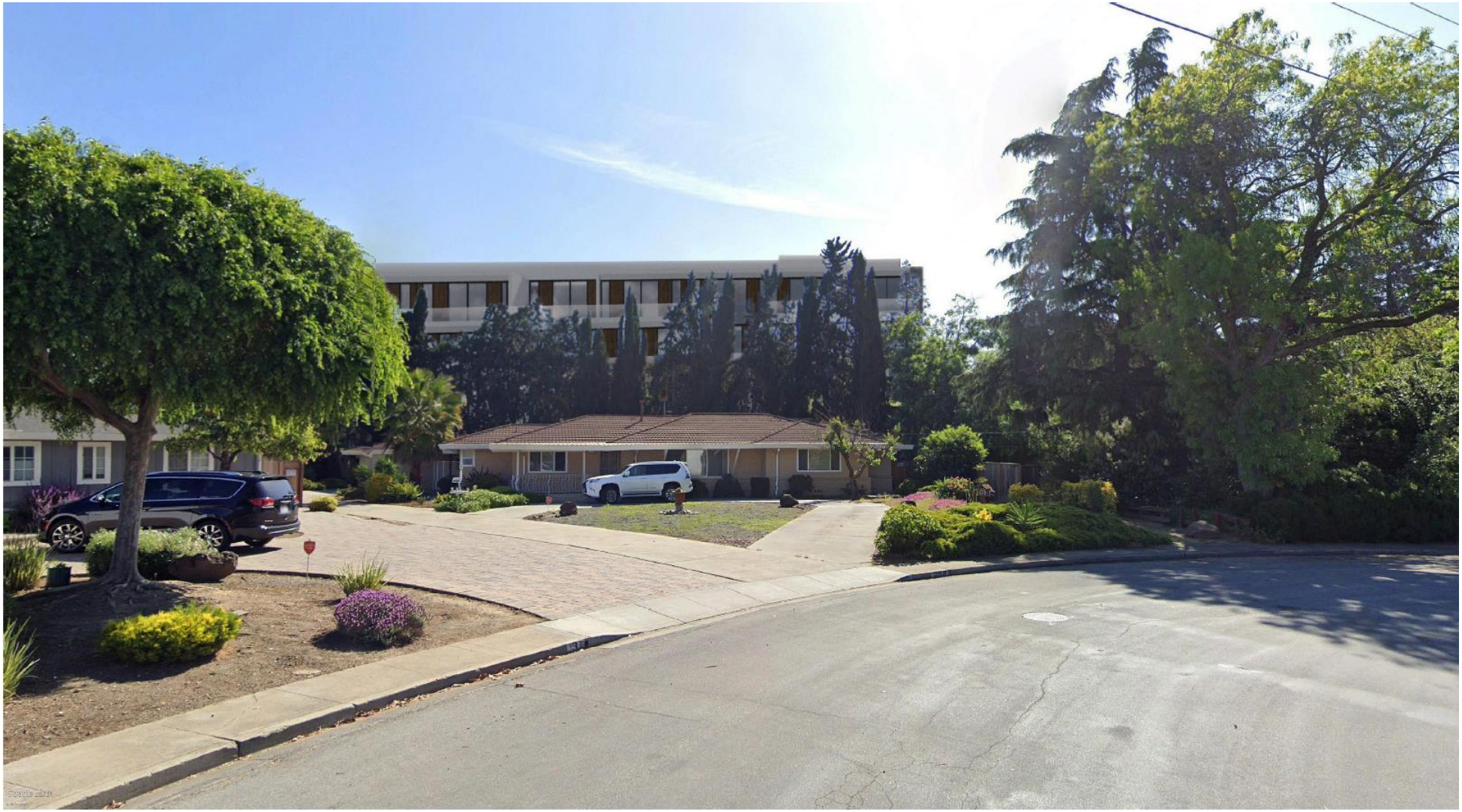
Source: Verse Design, 2019

Project Rendering from East—Proposed Figure **3b**

Source: Verse Design, 2019

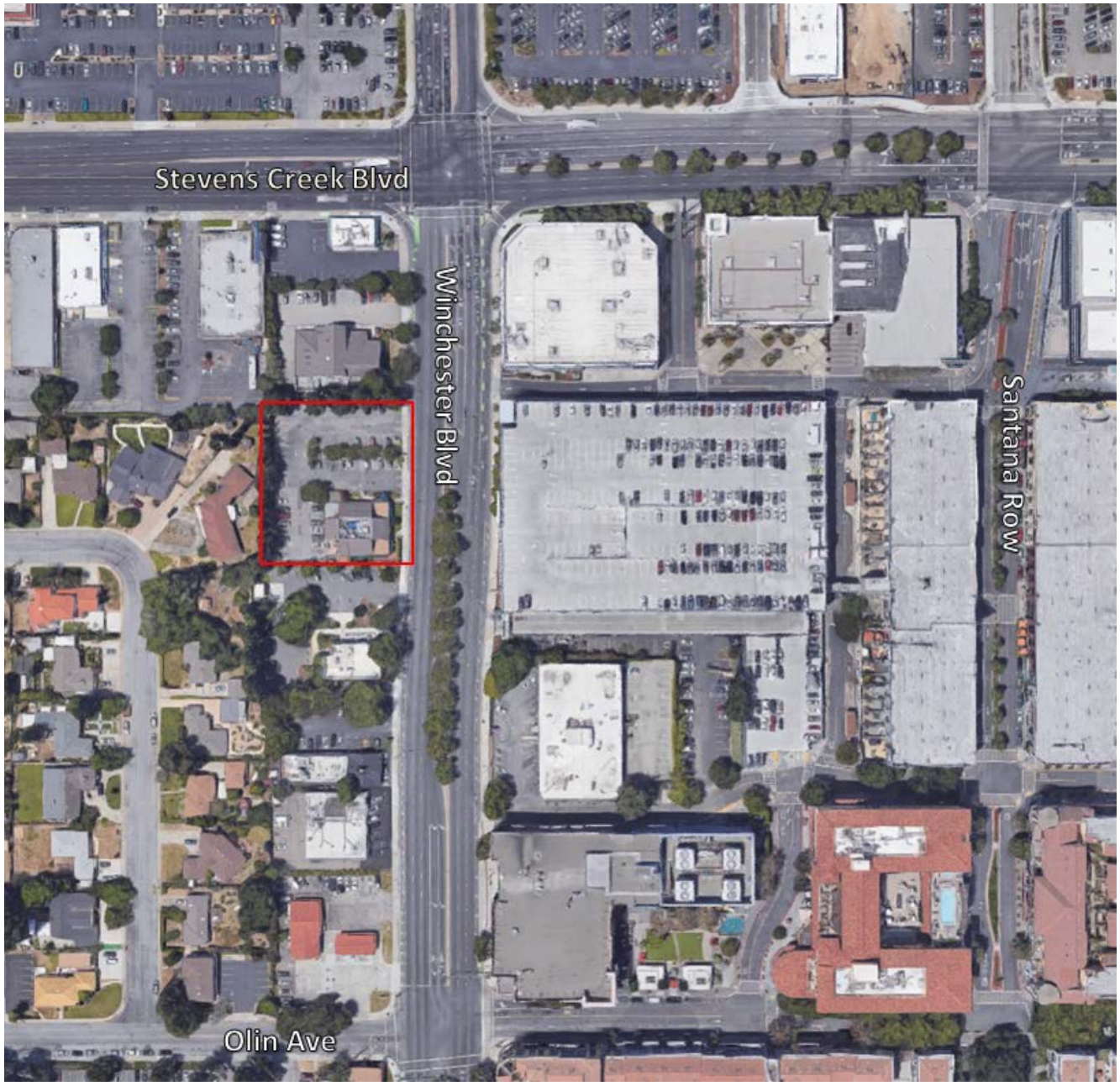
Project Rendering from West—Existing Figure **4a**

Source: Verse Design, 2019



Project Rendering West—Proposed Figure **4b**

Source: Verse Design, 2019



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Project Site

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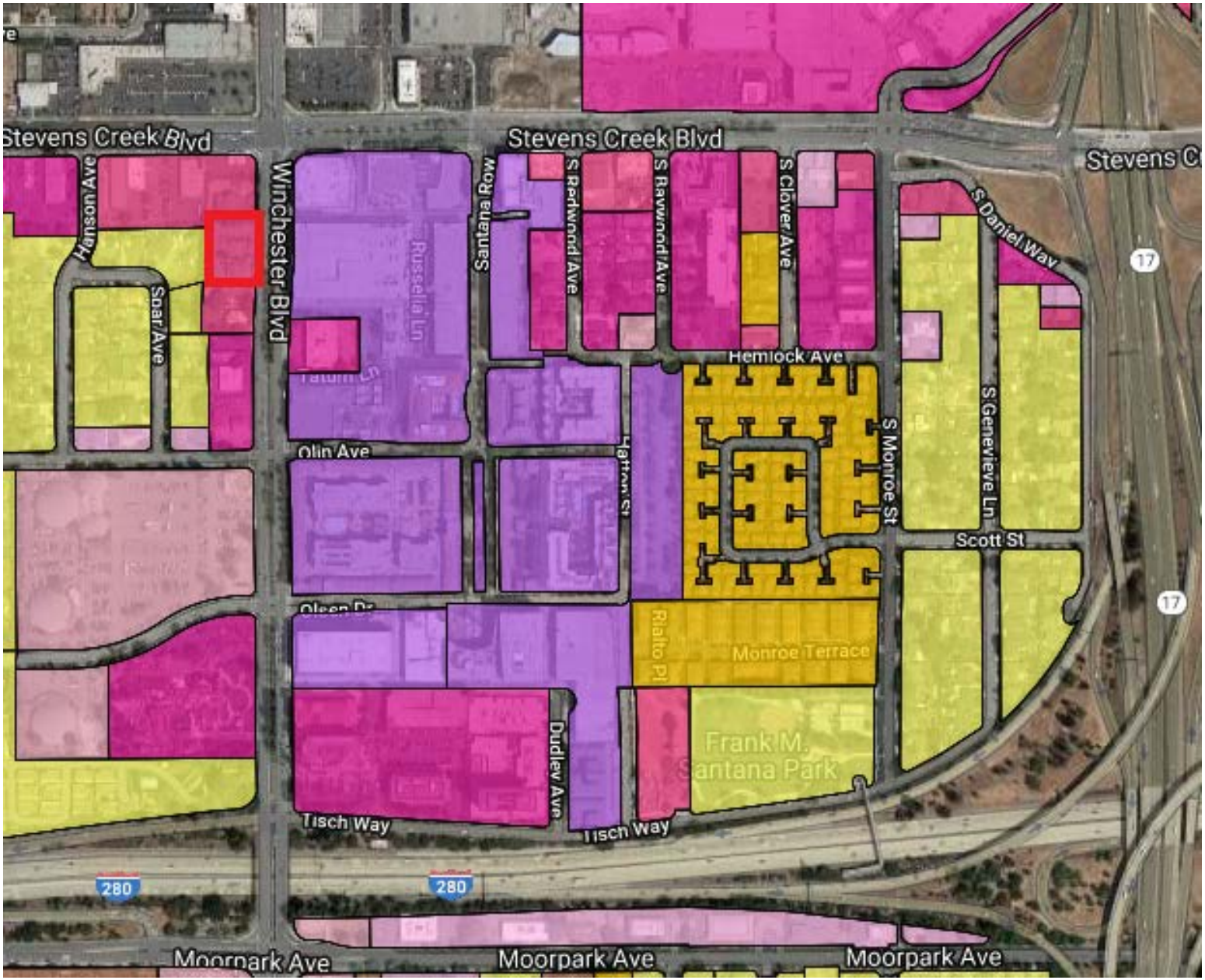
Project Site Map Figure **5**

Source: Google Earth, 2018



Zoning Map Figure 6

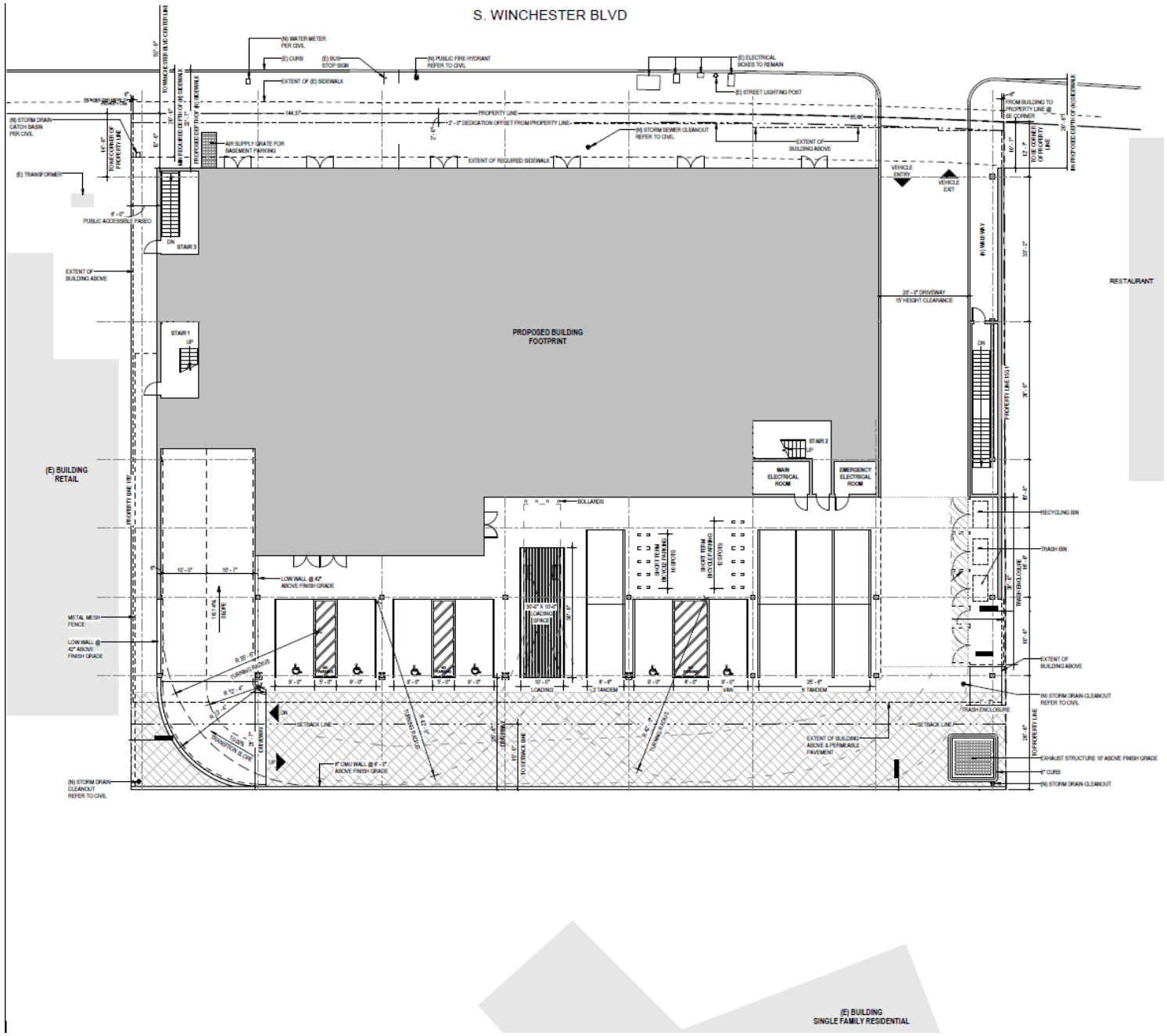
Source: City of San José General Zoning Map, 2018

Legend

- Project Site
- Mixed Use Commercial
- NBHD/ Community Commercial
- Mixed Use Neighborhood
- Open Space, Park & Habitat
- Urban Village
- Urban Village Commercial
- Residential Neighborhood

Land Use Map Figure 7

Source: City of San José General Land Use Map, 2018



Conceptual Site Plan 8

Source: 335 S WINCHESTER PROJECT PLANS, 2018

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2 Evaluation of Environmental Impacts

This Initial Study evaluates impacts based on the 2019 California Environmental Quality Act (CEQA) Guidelines Appendix G Environmental Checklist:

- "No Impact" indicates that there is no impact.
- "Less-than-Significant Impact" indicates that, while there is some impact, the impact does not exceed identified thresholds.
- "Less than Significant with Mitigation Incorporated" indicates that a potentially significant and/or significant impact has been identified in the course of this analysis and mitigation measures have been provided to reduce a potentially significant impact and/or significant impact to a less-than-significant level.
- "Significant Impact" indicates that not all impacts have been reduced to a less-than-significant level and an Environmental Impact Report (EIR) will be required. As noted previously, mitigation measures developed for this project reduce any significant impacts to a less-than-significant level and an EIR will not be required.
- Section XVIII, Mandatory Findings, discusses cumulative impacts. Cumulative impacts are two or more individual effects, which when combined, are considerable or which compound or increase other environmental impacts. Cumulative impacts can result from individually minor but collectively significant projects taking place over time. If a significant cumulative impact is identified, the project's contribution to the significant cumulative impact is considered.

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.

The environmental factors checked below would be potentially affected by the project, involving at least one impact that is a potentially significant or significant impact as indicated by the checklist on the following pages. Mitigation measures have been provided for each significant impact, reducing all to a less-than-significant level.

- ☐ Aesthetics
- ☒ Air Quality
- ☐ Cultural Resources
- ☐ Geology & Soils
- ☒ Hazards & Hazardous Materials
- ☐ Land Use & Planning
- ☒ Noise & Vibration
- ☐ Public Services
- ☐ Transportation & Circulation
- ☐ Utilities & Service Systems
- ☐ Mandatory Findings of Significance
- ☐ Agriculture & Forestry Resources
- ☒ Biological Resources
- ☐ Energy
- ☐ Greenhouse Gas Emissions
- ☐ Hydrology & Water Quality
- ☐ Mineral Resources
- ☐ Population & Housing
- ☐ Recreation
- ☐ Tribal Cultural Resources
- ☐ Wildfire

Important Note to the Reader

The California Supreme Court in a December 2015 opinion in California Building Industry Association v. Bay Area Air Quality Management District, 62 Cal. 4th 369 (BIA v. BAAQMD) confirmed that CEQA, with several specific exceptions, is concerned with the impacts of a project on the environment, not the effects the existing environment may have on a project. Therefore, the evaluation of the significance of project impacts under CEQA in the following sections focuses on impacts of the project on the environment, including whether a project may exacerbate existing environmental hazards.

The City of San José has policies that address existing conditions affecting a proposed project, which are also discussed in this Initial Study. This is consistent with one of the primary objectives of CEQA, which is to provide objective information to decision-makers and the public. The CEQA Guidelines and the courts are clear that a CEQA can include information of interest even if such information is not an environmental impact as defined by CEQA.

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

2.1 Aesthetics

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
Except as provided in Public Resources Code Section 21099, Would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☒	☐
b) Substantially damage scenic resources, including but not limited to: trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☒	☐
c) In non-urbanized areas, substantially degrade the existing visual character or quality of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality	☐	☐	☒	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☒	☐

Environmental Setting

The predominant visual character of the City of San José (City) is that of a gently sloping valley bounded by mountains ranges and the San Francisco Bay. The Diablo Mountain Range extends east of the City in a series of ridges, small valleys, and canyons. Lick Observatory is visible atop Mount Hamilton in the Diablo Mountain Range. The lower foothills of the Diablo Range support sparse development, but are predominantly characterized by grassland, woodland, and shrub vegetation over much of the hillslopes. Southwest of the City, the Santa Cruz Mountains rise approximately 3,400 feet in elevation. Mount Umunhum, the site of the former Almaden Air Force Station, is a visually prominent peak in the Santa Cruz Mountains. Other topographic landmarks within the City include Communications Hill, the Silver Creek Hills, and the Santa Teresa Hills. Major waterways within the City that still support riparian vegetation include the Guadalupe River, Coyote Creek, Los Gatos Creek, Penitencia Creek, and Silver Creek, which flows adjacent to the project site.

The project site is developed with a restaurant and a large surface parking lot area. Trees border the perimeter of the project site, and eight evergreen pear trees are situated in a parking lot median. The project site is located in a highly urbanized area surrounded by residential and commercial land uses. The area surrounding the project site is characterized primarily by the mixed-use development of Santana Row (approximately 1,700,000 square feet) and the Westfield Valley Fair Shopping Mall (approximately 2,000,000 square feet). Retail developments with surface parking lots are located north

and northwest of the project site. Northeast of the project, on Stevens Creek Boulevard, is Westfield Valley Fair which is a shopping mall that reaches a maximum height of 65 feet, with the exception of the mall entry tower, which rises to 72 feet in height. A residential neighborhood consisting of single-story and two-story homes borders the western boundary of the project. A single-story residential home is located adjacent to the western edge of the project site and is lined by tall trees along the project site. Directly south of the project site are several single-story restaurants. Santana Row, located across Winchester Boulevard to the east of the project site, comprises retail, office, parking and residential spaces with a maximum building height of 80 to 120 feet. Directly east of the project site, across Winchester Boulevard, is a 6-story parking garage structure for Santana Row.

Scenic Corridors

The City's General Plan identifies several scenic resources within the City, including broad views of Santa Clara Valley (the valley), the hills and mountains surrounding the valley, the urban skyline, and the baylands. However, these views are obscured from the project site due to the tall buildings of Santana Row and the sheer distance between the project site and said resources. Thoroughfares providing visual access to San José's scenic resources are designated as scenic corridors, the three types of scenic corridors being: Gateways, Urban Throughways, and Rural Scenic Corridors. Winchester Boulevard, where the project site is located, is not a designated scenic corridor.

Gateways represent the entrance to a City or a unique neighborhood. Gateways are locations which announce to a visitor or resident that they are entering the City, or a unique neighborhood. The closest Gateway to the project site is Stevens Creek Boulevard; the western terminus of this Gateway is located approximately 1,354 feet northeast of the project site, extending east over I-880. Stevens Creek Boulevard is a key roadway and has offers views of the hills and mountains surrounding the valley, such as the Diablo Mountain Range and the Santa Cruz Mountains.

Light and Glare

Sources of daytime glare can either be a direct source of light or can be an object which reflects light from another source, such as windows. Existing sources of daytime glare on the project site include light reflected from the windows of buildings or cars surrounding the project site. External nighttime lighting from buildings and residences near the project site contribute low levels of nighttime glare. Existing sources of light within the project site vicinity are primarily from Winchester Boulevard, such as streetlights and vehicle headlights. Other sources of light include lighting elements typical for commercial buildings and residential neighborhoods (e.g., storefront lights, porch lights, etc.).

Regulatory Setting

City of San José General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating visual and aesthetic impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the visual and aesthetic policies listed in the General Plan, including the following:

Policy CD-1.1: Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the

	enhancement and development of community character and for the proper transition between areas with different types of land uses.
Policy CD-1.5:	Encourage incorporation of publicly accessible spaces, such as plazas or squares, into new and existing commercial and mixed-use developments.
Policy CD-1.8:	Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity through the City.
Policy CD-1.11:	To create a more pleasing pedestrian-oriented environment, for new building frontages, include design elements with a human scale, varied and articulated facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Provide windows or entries along sidewalks and pathways; avoid black walls that do not enhance the pedestrian experience. Encourage inviting, transparent facades for ground-floor commercial spaces that attract customers by revealing active uses and merchandise displays.
Policy CD-1.11:	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
Policy CD-3.9:	Minimize driveway entrances to enhance pedestrian safety and decrease the area of paved surfaces. Encourage shared vehicular access points that serve multiple uses and/or parcels, including shared access for commercial and residential uses. Avoid driveways that break up continuous commercial building frontages. Position vehicular access to minimize negative impacts to aesthetics and to pedestrian and bicycle safety.
Policy CD-5.5:	Include design elements during the development review process that address security, aesthetics, and safety. Safety issues include, but are not limited to, minimum clearances around buildings, fire protection measures such as peak load water requirements, construction techniques, and minimum standards for vehicular and pedestrian facilities and other standards set forth in local, state, and federal regulations.
Policy CD-10.2	Require that new public and private development adjacent to Gateways, freeways (including U.S.101, I-880, I-680, I-280, SR17, SR85, SR237, and SR87), and Grand Boulevards consist of high-quality architecture, use high-quality materials, and contribute to a positive image of San José
Policy CD-10.3:	Require that development visible from freeways, including U.S. Route 101 (U.S. 101), Interstate 880 (I-880), I-680, I-280, State Route (SR) 17, SR 85, SR 237, and SR 87 be designed to preserve and enhance attractive natural and man-made vistas.

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

In addition to applicable General Plan policies, the project would be required to comply with the following City policies and guidelines, as applicable:

- San José Commercial Design Guidelines
- San José Zoning Code, Chapter 20.75 Pedestrian Oriented Zoning Districts

Santana Row Valley Fair Urban Village Plan Policies

The adopted Santana Row Valley Fair Urban Village Plan does not include aesthetics policies applicable to the proposed project. The plan does, however, include design standards that are applicable to the project as noted below:

DS-1: Ground floor building frontages shall have clear, untinted glass or other glazing material on at least 60% of the surface area of the facade between a height of two and seven feet above grade.

DS-2: Primary pedestrian entrances for both ground floor and upper-story uses shall face Winchester Boulevard.

DS-9: New projects proposed within the Urban Village Plan over 55 feet in height must provide detailed visualizations of their proposed project that show what the project would look like from the street level, from different perspectives and distances, within the context of the neighborhood including both current and proposed projects.

Outdoor Lighting Policy (City Council Policy 4-3)

The City's Outdoor Lighting Policy promotes energy efficient and partially or fully shielded outdoor lighting on private development to promote adequate light for nighttime activities while benefiting the continued enjoyment of the night sky and continuing operation of the Lick Observatory by reducing light pollution and sky glow.

Impact Discussion

a) Have a substantial adverse effect on a scenic vista?

and

b) Substantially damage scenic resources, including but not limited to: trees, rock outcroppings, and historic buildings within a State scenic highway?

Less than Significant. The project site is located within an urbanized, flat area of the City. The existing built environment surrounding the project site blocks any potential scenic vista that would be visible from the project site. Views that are visible from the project site consist of roadways and residential, commercial, and mixed used buildings in the vicinity of the project site. Further, the General Plan identifies no scenic resources near the project site. The project would not damage scenic trees, rock outcroppings or historic buildings visible from a State scenic highway. The California Scenic Highway mapping system shows that the nearest scenic highway to the project site is Interstate 280 (I-280),

located approximately 0.5 miles south of the project site. Views from I-280 feature the hills and mountains surrounding the valley. According to the General Plan, the project site is not located within a Gateway, Urban Corridor, or Rural Scenic Corridor. However, Stevens Creek Boulevard, located approximately 280 feet north of the project site, is a designated Gateway and also has views of the hills and mountains surrounding the valley. As the visible hillsides from Stevens Creek Boulevard and I-280 are east and west of the roadway, and the project site is located south of Stevens Creek Boulevard and north of I-280, the project would not interrupt scenic views of travelers on either roadway. Given the urban context of the project site, project implementation would not substantially alter the visual character in the area, nor would it damage any scenic resources identified in the General Plan. Therefore, this impact would be less than significant.

c) In non-urbanized areas, substantially degrade the existing visual character or quality of the site and its surroundings? If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

***Less than Significant*.** The project site is located within an urbanized portion of the city, and is fully developed with an existing structure, paved areas, and landscaping. New construction on site would be visible from the roadways and surrounding businesses and residences. Grading and other construction-related impacts would result in short-term impacts to aesthetics. However, construction would not permanently alter the long-term visual character of the site.

Although implementation of the project would change the visual character of the site from a small restaurant/parking lot to a multi-story commercial development, the project would not substantially degrade the visual character of the area because the proposed land uses would be consistent with the uses in the surrounding area. Furthermore, the project would be consistent with the scale and type of development permitted within the Santana Row/Valley Fair Urban Village Plan Area. Adherence to all applicable design standards in the Winchester Boulevard Urban Village Plan (e.g., height, placement, transition, accessibility, and landscaping requirements) would ensure that the project contributes to a high-quality and visually compelling urban village environment. The project would comply with all General Plan regulations and policies and would therefore avoid substantial degradation of the visual character or quality of the City. This impact would be less than significant.

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

Less than Significant. The project would generate new sources of light and glare on the project site. The proposed buildings would increase the number of light sources and reflective surfaces—such as windows—than what currently exists on the project site. However, the project would install lighting in accordance with the City Council's adopted Outdoor Lighting Policy 4.3 which would ensure that lighting is partially or fully shielded to prevent light pollution that contributes to glare. Development would also be subject to Municipal Code controls for lighting and development adjacent to residential properties, which require lighting to be directed away from residential units. The project site and surrounding area are urbanized and include existing sources of light and glare (e.g., windows, signs, headlights, streetlights, etc.).

Design and construction of the project in conformance with the General Plan policies and Urban Village Plan design and lighting standards would not create a new source of nighttime light that would adversely affect views. The design of the proposed project would be subject to the City's design review process and would be required to utilize exterior materials that do not result in daytime glare, consistent with General Plan policies. For these reasons, the project would not substantially increase light and glare levels in the project area. This impact would be less than significant.

2.2 Agriculture and Forest Resources

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
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?	☐	☐	☐	☒
b) Conflict with existing zoning for agricultural use, or with a Williamson Act contract?	☐	☐	☐	☒
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))?	☐	☐	☐	☒
d) Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
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?	☐	☐	☐	☒

Environmental Setting

A search through the Department of Conservation's California Important Farmland Finder revealed that the project site is classified as Urban and Built-Up Land, and is not located near any land under the Williamson Act contract.[3] There is Prime and Unique Farmland located approximately 6 miles southeast of the project site, but the distance between the project and the designated farmland would ensure that no impact would occur. There is no forest land in proximity to the project site, as the project site is located within and surrounded by urban and built up land.[4] The project site is located within the western portion of the City, within the City's Urban Growth Boundary (UGB). The project site is developed with an existing building and parking area and is completely paved. The project site's General

[3] California Department of Conservation. *Santa Clara County Williamson Act 2015/2016 Map*. Available: ftp://ftp.consrv.ca.gov/pub/dlrp/wa/. Accessed: July, 2018.

[4] City of San José Municipal Code. 2018. Available: https://library.municode.com/ca/san_José/codes/code_of_ordinances?nodeId=TIT20ZO_CH20.75PEORZODI. Accessed: July, 2018.

Plan land use designation is Mixed Use Commercial, and the project site is zoned Commercial Neighborhood (CN). According to the General Plan, the Mixed-Use Commercial designation and CN zoning supports only neighborhood agricultural uses, which includes home gardens, community gardens, and urban farms.[5]

Regulatory Setting

The California Land Conservation Act

The California Land Conservation Act of 1965, also referred to as the Williamson Act, enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or related open space use. In return, landowners receive property tax assessments which are much lower than normal because they are based upon farming and open space uses as opposed to full market value. The project site is designated as urban and built-up land and is not under a Williamson Act contract.[6]

Farmland Mapping and Monitoring Program

The California Resources Agency's Farmland Mapping and Monitoring Program (FMMP) provides maps and data to decision makers to assist them in making informed decisions regarding the planning of the present and future use of California's agricultural land resources. The project site is located in an area designated for urban uses. According to the Santa Clara County Important Farmlands 2017 Map, the project site is designated as "Urban and Built-up Land."[7]

California Public Resource Code/California Government Code

- Public Resources Code Section 12220(g) identifies forest land as land that can support a 10 percent native tree cover of any species, including hardwoods, under natural conditions, and that allows for management of one or more forest resources, including timber, aesthetics, fish and wildlife, biodiversity, water quality, recreation, and other public benefit.
- Public Resources Code Section 4526 identifies timberland as land, other than land owned by the federal government and land designated by the State Board of Forestry and Fire Protection as experimental forest land, which is available for, and capable of, growing a crop of trees of a commercial species used to produce lumber and other forest products, including Christmas trees. Commercial species shall be determined by the board on a district basis.
- Government Code Section 51104(g) identifies timberland production zones as areas which have been zoned and are devoted to and used for growing and harvesting timer, or for growing and harvesting timber and compatible uses.

[5] City of San José Municipal Code. 2018. Available: https://library.municode.com/ca/san_José/codes/code_of_ordinances?nodeId=TIT20ZO_CH20.75PEORZODI. Accessed: July, 2018.

[6] California Department of Conservation. *Santa Clara County Williamson Act 2015/2016 Map*. Available: ftp://ftp.consrv.ca.gov/pub/dlrp/wa/. Accessed: July, 2018.

[7] California Department of Conservation. *Santa Clara County Important Farmland Map 2016 Map*. Available: https://maps.conservation.ca.gov/dirp/cliff/. Accessed: July, 2018.

City of San José General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating agricultural impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the agricultural policies listed in the General Plan, including the following:

Policy LU-12.3: Protect and preserve the remaining farmlands within San José's sphere of influence that are not planned for urbanization in the timeframe of the *Envision General Plan* through the following means:

- Limit residential uses in agricultural areas to those which are incidental to agriculture.
- Restrict and discourage subdivision of agricultural lands. Encourage contractual protection for agricultural lands, such as Williamson Act contracts, agricultural conservation easements, and transfers of development rights.
- Prohibit land uses within or adjacent to agricultural lands that would compromise the viability of these lands for agricultural uses.
- Strictly maintain the Urban Growth Boundary in accordance with other goals and policies in this Plan.

Policy LU-12.4: Preserve agricultural lands and prime soils in non-urban areas in order to retain the aquifer recharge capacity of these lands.

Policy LU-12.7: Encourage incorporation of edible landscaping in appropriate locations on new and existing residential, commercial, and public development projects.

Impact Discussion

a) **Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?**

and

b) **Conflict with existing zoning for agricultural use, or with a Williamson Act contract?**

and

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))?**

and

d) **Result in the loss of forest land or conversion of forest land to non-forest use?**

and

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?**

No Impact. There is no Prime Farmland, Unique Farmland, Farmland of Statewide Importance, or Williamson Act Contracts on the project site, which is identified as "urban/built-up land" on the Santa Clara County Important Farmlands map. Further, no farming operations or forest lands existing on or near the project site, so the project would not result in the loss of farmland or conversion of forest land. No impact would occur.

The project site is developed and zoned CN, which supports only neighborhood agricultural uses, which includes home gardens, community gardens, and urban farms. The urbanized project site does not contain any forest land as defined in Public Resources Code section 12220(g), timberland as defined by the Public Resources Code section 4526, or property zoned for Timberland Production as defined by Government Code section 51104(g). There are no forest lands adjacent to the project site. Therefore, the project would not conflict with existing zoning for forest land or timberland. No impact would occur.

2.3 Air Quality

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under federal or State ambient air quality standard?	☐	☐	☒	☐
c) Expose sensitive receptors to substantial pollutant concentrations?	☐	☒	☐	☐
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	☐	☐	☐	☒

Environmental Setting

Illingworth and Rodkin, Inc., prepared an Air Quality Study in 2018 (**Appendix A**) to analyze the project's potential air quality impacts.

Local Climate and Meteorology

The project site is located in the San Francisco Bay Area Air Basin (SFBAAB). Air quality in the SFBAAB is affected by the emission sources located in the region, as well as by natural factors. Atmospheric conditions such as wind speed and direction, air temperature gradients, and local and regional topography influence air quality. The SFBAAB is affected by a Mediterranean climate of warm, dry summers and cool, damp winters. Topographical features, the location of the Pacific high-pressure system, and varying circulation patterns resulting from temperature gradients affect the speed and direction of local winds. The winds play a major role in the dispersion of pollutants. Strong winds can carry pollutants far from their source; whereas a lack of wind will allow pollutants to concentrate in an area.

Air pollutant emissions within the SFBAAB are generated primarily by stationary and mobile sources. Stationary sources can be divided into two major subcategories: point and area sources. Point sources occur at a specific location and are often identified by an exhaust vent or stack. Examples include boilers or combustion equipment that produce electricity or generate heat. Area sources are widely distributed and include sources such as residential and commercial water heaters, painting operations, lawn mowers, agricultural fields, landfills, and some consumer products. Mobile sources refer to emissions from motor vehicles, including tailpipe and evaporative emissions, and are classified as either on-road or off-road. On-road sources may be legally operated on roadways and highways. Off-road sources include

aircraft, ships, trains, and self-propelled construction equipment. Air pollutants can also be generated by the natural environment such as when high winds suspend fine dust particles.

Sensitive Receptors

There are groups of people more affected by air pollution than others. CARB has identified the following persons who are most likely to be affected by air pollution: children under 16, the elderly over 65, athletes, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive receptors. Locations that may contain a high concentration of these sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, and elementary schools. The closest sensitive receptors to the project site are adjacent residences west of the project site. There are additional residences west, north, and south of the project site at farther distances. The Shalom Christian Academy toddler daycare facility 0.1 mile southwest of the project site at 383 Spar Avenue.

Toxic Air Contaminants

TACs are caused by industry, agriculture, fuel combustion, and commercial operations (e.g., dry cleaners). The project area includes both mobile and stationary sources of TAC emissions within 1,000 feet of the site, including vehicles on Stevens Creek Boulevard, and a gas station located 400 feet south of the project site on Winchester Boulevard.

Regulatory Setting

Regulatory Agencies

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. These regulations include the solid waste collection vehicle (SWCV) rule, in-use public and utility fleets, and the heavy-duty diesel truck and bus regulations. In 2008, CARB approved a new regulation to reduce emissions of DPM and nitrogen oxides from existing on-road heavy-duty diesel fueled vehicles. The regulation requires affected vehicles to meet specific performance requirements between 2014 and 2023, with all affected diesel vehicles required to have 2010 model-year engines or equivalent by 2023. These requirements are phased in over the compliance period and depend on the model year of the vehicle.

The BAAQMD is the regional agency tasked with managing air quality in the region. At the State level, the CARB (a part of the California Environmental Protection Agency [EPA]) oversees regional air district activities and regulates air quality at the State level. The BAAQMD has published California Environmental Quality Act (CEQA) Air Quality Guidelines that are used in this assessment to evaluate air quality impacts of projects. The detailed community risk modeling methodology used in this assessment is contained in **Appendix A**.

Regional and Local Criteria Concerns

Major criteria pollutants, listed in “criteria” documents by the EPA and CARB include ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, and suspended particulate matter (PM). These pollutants can have health effect such as respiratory impairment and heart/lung disease symptoms. The project is located in the northern portion of Santa Clara County, which is in the San Francisco Bay Area Air Basin.

Based on the California standards, the Bay Area meets all ambient air quality standards with the exception of ground-level ozone, respirable particulate matter (PM_{10}), and fine particulate matter ($PM_{2.5}$); which are described further below.

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 ozone levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to reduce ozone levels. The highest ozone levels in the Bay Area occur in the eastern and southern inland valleys that are downwind of air pollutant sources. High ozone 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 (PM_{10}) and fine particulate matter where particles have a diameter of 2.5 micrometers or less ($PM_{2.5}$). Elevated concentrations of PM_{10} 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 growth in children.

Toxic Air Contaminants

Toxic air contaminants (TAC) 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 impacts, 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 impacts of diesel exhaust a complex scientific issue. Some of the chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the CARB, and are listed as carcinogens either under the State's Proposition 65 or under the Federal Hazardous Air Pollutants programs.

Fine particulate matter is a complex mixture of substances that includes elements such as carbon and metals; compounds such as nitrates, organics, and sulfates; and complex mixtures such as diesel exhaust and wood smoke. Long-term and short-term exposure to $PM_{2.5}$ can cause a wide range of health effects. Common stationary sources of TACs and $PM_{2.5}$ include gas stations, dry cleaners, and diesel backup generators. The other, more significant, common source is motor vehicles on roadways and freeways.

Significance Thresholds

In June 2010, BAAQMD adopted thresholds of significance to assist in the review of projects under CEQA and these significance thresholds were contained in the District's 2011 CEQA Air Quality Guidelines. These thresholds were designed to establish the level at which BAAQMD believed air pollution emissions would cause significant environmental impacts under CEQA. The thresholds were challenged through a series of court challenges and were mostly upheld. BAAQMD updated the CEQA Air Quality Guidelines in 2017 to include the latest significance thresholds, which were used in this analysis and are summarized in **Table 1**. The commercial use would not be considered a sensitive receptor, so health risk standards would not apply to the proposed use.

Table 1 Air Quality Significant Thresholds

Criteria Air Pollutant	Construction Thresholds	Operational Thresholds	
	Average Daily Emissions (lbs./day)	Average Daily Emissions (lbs./day)	Annual Average Emissions (tons/year)
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	**Single Sources Within 1,000-foot zone of influence**	**Combined Sources (Cumulative from all sources within 1,000-foot zone of influence)**	
Excess Cancer Risk	>10 per one million	>100 per one million	
Hazard Index	>1.0	>10.0	
Incremental annual $PM_{2.5}$	>0.3/m^3	>0.8/m^3	

Source: Illingworth & Rodkin, 2018

Clean Air Plan

Regional air quality management districts such as Bay Area Air Quality Management District (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 defines an integrated, multi-pollutant control strategy to reduce emissions of particulate matter, TACs, ozone precursors, and greenhouse gases (GHGs). The proposed control strategy is designed to complement efforts to improve air quality and protect the climate that are being implemented by partner agencies at the state, regional, and local scale. The control strategy encompasses 85 individual control measures

that describe specific actions to reduce emissions of air and climate pollutants from the full range of emission sources and is based on the following four key priorities:

- Reduce emissions of criteria air pollutants and TACs from all key sources;
- Reduce emissions of "super-GHGs" such as methane, black carbon, and fluorinated gases;
- Decrease demand for fossil fuels (gasoline, diesel, and natural gas); and
- Decarbonize our energy system.

City of San José General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating air quality impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the air quality goals and policies listed in the General Plan, including the following:

Goal MS-10: Minimize emissions from new development.

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

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

Policy MS-10.3: Promote the expansion and improvement of public transportation services and facilities, where appropriate, to both encourage energy conservation and reduce air pollution.

Goal MS-11: Minimize exposure of people to air pollution and toxic are contaminants such as ozone, carbon monoxide, lead, and particulate matter.

Policy 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. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.

Policy MS-11.5: Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of toxic air contaminants (TACs) and sensitive land uses.

Policy MS-11.7: Consult with BAAQMD to identify stationary and mobile TAC sources and determine the need for any requirements of a health risk assessment for proposed developments.

Policy MS-11.8: For new projects that generate truck traffic, require signage which reminds drivers that the State truck idling law limits truck idling to five minutes.

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

In addition to the policies of the General Plan, all future development allowed by the proposed land use designations would be subject to the City's Grading Ordinance, which mandates that all earth moving activities shall include requirements to control fugitive dust, including regular watering of the ground surface, cleaning nearby streets, damp sweeping, and planting any areas left vacant for extensive periods of time.

Private Sector Green Building Policy (City Council Policy 6-32)

This policy establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. This policy is intended to enhance the public health, safety, and welfare of City 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. The green building standards required by this policy are intended to advance greenhouse gas reduction and other sustainability strategies outlined in the City's Green Vision. Green building reduces per capita energy use, provides energy from renewable sources, diverts waste from landfills, uses less water, and encourages the use of recycled wastewater. Green building also encourages buildings to be located close to public transportation and services and provide amenities that encourage walking and bicycling and therefore offer further potential to achieve a healthy, environmentally sustainable City.

Impact Discussion

a) Conflict with or obstruct implementation of the applicable air quality plan?

***Less than Significant*.** BAAQMD is the agency primarily responsible for assuring the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. BAAQMD's most recent adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). Determining consistency with the 2017 CAP involves assessing whether applicable control measures in the 2017 Clean Air Plan are implemented. Implementation of the control measures improves air quality and protects health.

The consistency of the project is evaluated with respect to each set of applicable control measures in **Table 2**.

Table 2 Bay Area 2017 CAP Applicable Control Measures

Control Measures	Description	Project Consistency
Transportation Control Measures		
Trip Reduction Programs	Encourage trip reduction policies and programs in local plans, e.g., general and specific plans. Encourage local governments to require mitigation of vehicle travel as part of new development approval, to develop innovative ways to encourage rideshare, transit, cycling, and walking for work trips.	The project proposes a commercial development at an infill, urban location near VTA bus routes 23, 60, and 323. Additional bus stops that service other routes are located at the Winchester/Stevens Creek Boulevard intersection, approximately 0.25 mile north of the project site. The project would include 22 bicycle parking spaces to promote automobile-alternative modes of transportation. The project would also incorporate a range of TDM measures such as transit subsidies, on site TIM coordinators and services, on site ride matching assistance, and trip planning resources. The project, therefore, is consistent with this measure.
Bicycle and Pedestrian Access and Facilities	Encourage planning for bicycle and pedestrian facilities in local plans, e.g., general and specific plans, fund bike lanes, routes, paths and bicycle parking facilities.	The project would include 22 bicycle parking spaces. The project area is equipped with pedestrian facilities including sidewalks and crosswalks. The project, therefore, is consistent with this measure.
Land Use Strategies	Support implementation of Plan Bay Area, maintain and disseminate information on current climate action plans and other local best practices.	The project proposes commercial development at an urban location with an adjacent bus stop and other commercial/retail centers within walking distance, both of which encourage shorter distance traveled to and from potential amenities. The project, therefore, is consistent with this measure.
Building Control Measures		
Green Building	Identify barriers to effective local implementation of the CalGreen (Title 24) statewide building energy code; develop solutions to improve implementation/enforcement. Engage with additional partners to target reducing emissions from specific types of buildings.	The project would comply with the City's Green Building Program and the California Green Building Standards Code (CalGreen). The project, therefore, is consistent with this measure.

Control Measures	Description	Project Consistency
Decrease Electricity Demands	Work with local governments to adopt additional energy efficiency policies and programs. Support local government energy efficiency program via best practices, model ordinances, and technical support. Work with partners to develop messaging to decrease electricity demand during peak times.	The proposed building would be constructed in compliance with the San José Green Building Ordinance (Policy 6-32) and the California Green Building Standards Code (Part 11 of Title 24, California Code of Regulations).
Urban Heat Island Mitigation	Develop and urge adoption of a model ordinance for "cool parking" that promotes the use of cool surface treatments for new parking facilities. Develop and promote adoption of model building code requirements for new construction or reroofing/roofing upgrades for commercial and residential multifamily housing.	The project would locate vehicle parking for the residents and customers in an underground parking structure. In addition, the project would plant new landscaping and trees. These features would minimize surface parking and reduce the project's heat island effect. The project, therefore, is consistent with this measure.
Waste Management Control Measures		
Recycling and Waste Reduction	Develop or identify and promote model ordinances on communitywide zero waste goals and recycling of construction and demolition materials in commercial and public construction projects.	The project would comply with the City's Zero Waste Strategic Plan, which 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. In addition, the project would comply with the City's Construction and Demolition Diversion Program during construction which ensures that at least 75 percent of construction waste generated by the project is recovered and diverted from landfills. Therefore, the project is consistent with this control measure.
Water Control Measures		
Support Water Conservation	Develop a list of best practices that reduce water consumption and increase on-site water recycling in new and existing buildings; incorporate into local planning guidance.	The project would comply with CalGreen and reduce potable indoor water consumption and outdoor water use by including water efficient fixtures and planting drought tolerant non-invasive landscaping. The project, therefore, would be consistent with this measure.

Control Measures	Description	Project Consistency
Natural and Working Lands Measures		
Urban Tree Planting	Develop or identify an existing model municipal tree planting ordinance and encourage local governments to adopt such an ordinance. Include tree planting recommendations, the Air District's technical guidance, best management practices for local plans, and CEQA review.	The project would be required to adhere to the City's tree replacement policy. Therefore, the project is consistent with this control measure (refer to Section 2.4, Biological Resources for further discussion of tree replacement).

Source: BAAQMD. 2017.

The project would be consistent with applicable control measures and with the San José General Plan by developing a high-density, transit-oriented infill development, installing energy efficient features, and planting trees on site. The project by itself, therefore, would not result in a significant impact related to consistency with the Bay Area 2017 CAP. In addition, the project would not exceed the BAAQMD thresholds for operational criteria air pollutant emissions, as discussed below. Therefore, this impact would be less than significant.

b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under federal or state ambient air quality standard?

This air quality analysis conforms to the methodology recommended in the BAAQMD's 2017 CEQA Air Quality Guidelines to Evaluate Air Quality. The California Emissions Estimator Model (CalEEMod) version 2016.3.2 was used to calculate the project's construction and operational emissions.[8] Refer to **Appendix A** for more information on air quality modeling and methodology.

Construction

***Less than Significant*.** Emissions from construction-related automobiles, trucks, and heavy equipment are a primary concern due to release of diesel particulate matter (an air toxic contaminant due to its potential to cause cancer), TACs from all vehicles, and $PM_{2.5}$, which is a regulated air pollutant. A detailed air quality assessment was completed to address construction air quality impacts from the proposed project.

The California Emissions Estimator Model (CalEEMod) was used to predict emissions from project construction and operation at full buildout. The project land use type and size were used as data points in the CalEEMod model.

[8] CalEEMod is a statewide land use emissions computer model designed to provide a uniform platform for government agencies, land use planners, and environmental professionals to quantify potential criteria pollutant and GHG emissions associated with both construction and operations from a variety of land use projects. The model quantifies direct emissions from construction and operation activities (including vehicle use), as well as indirect emissions, such as GHG emissions from energy use, solid waste disposal, vegetation planting and/or removal, and water use.

Construction period emissions were modeled based on a CalEEMod default construction schedule of approximately 13 months, starting in January 2019.[9] The assessment assumed the use of standard construction equipment including industrial saws, rubber-tired dozers, tractors, graders, scrapers, cranes, forklifts, welders, cement and mortar mixers, and paving equipment. **Table 3** summarizes the estimated maximum daily emissions of pollutants during project construction.

Table 3 Project Construction Emissions

Year	Estimated Emissions			
	ROG	NO_X	PM_{10} (exhaust)	$PM_{2.5}$ (exhaust)
Total construction emissions (tons)	0.9 tons	2.8 tons	0.1 tons	0.1 tons
Average daily emissions (lbs/day)[1]	6.4 lbs./day	21 lbs./day	1.1 lbs/day	1.0 lbs./day
BAAQMD Thresholds (average daily emissions)	54 lbs./day	54 lbs./day	82 lbs./day	54 lbs./day
Threshold Exceeded?	No	No	No	No

Source: Illingworth & Rodkin, Inc. 2018.

[1]Assumes 269 workdays.

As shown in **Table 3**, project emissions for all criteria pollutants would not exceed BAAQMD project-level construction thresholds. However, BAAQMD determined that a significant air quality impact would occur if project construction does not incorporate measures to control emissions during construction. Per General Plan policy MS-13.1, the project would include the following best management practices for construction, in conformance with the current *BAAQMD CEQA Guidelines*. Implementation of these standard permit conditions would reduce any temporary impact from fugitive dust and other particulate matter.

Standard Permit Conditions:

The following best management practices shall be implemented during all phases of construction to control dust at the project site:

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.

2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered and maintain at least two feet of freeboard.

3. 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.

4. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.

[9] An estimated construction timeline was not available in December 2018, when the Air Quality and GHG Assessment was prepared. However, CalEEMod default values provide a conservative estimate for construction emissions and are regularly used in the preparation of Air Quality and GHG Assessments.

5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

6. enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.)

7. Replant vegetation in disturbed areas as quickly as possible.

8. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

9. 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.

10. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

Operation

Less than Significant. Long-term emissions associated with project operation, as shown in **Table 4**, would be generated primarily from vehicles driven by future employees, customers, and vendors. Evaporative emissions from consumer products are typical emissions from these types of uses. CalEEMod was used to estimate emissions from operation of the proposed project assuming full build-out in year 2021.[10] Refer to **Appendix A** for more details about the modeling, data inputs, and assumptions. As shown below, emissions associated with the project would not exceed BAAQMD criteria pollutant thresholds for ROG, NO_X, PM_{10}, or $PM_{2.5}$. Therefore, this impact would be less than significant.

[10] CalEEMod generates operational emissions estimates using inputs including on-road mobile vehicle traffic generated by the project, fugitive dust associated with nearby roads, architectural coating activities, landscaping equipment, emergency generators, and electricity usage. Where project-specific estimates for these inputs are not available, CalEEMod provides conservative default values based on project type and size.

Table 4 Project Operational Emissions

Sources	Average Daily Emissions (lbs/day)			
	ROG	NO_X	PM_{10}	$PM_{2.5}$
2021 Project Operational Emissions (tons/year)	0.7 tons	1.0 tons	0.7 tons	0.2 tons
2021 Existing Use Emissions (tons/year)	0.2 tons	0.5 tons	0.3 tons	0.1 tons
Net Annual Emissions (tons/year)	0.5 tons	0.5 tons	0.4 tons	0.1 tons
BAAQMD Thresholds (tons /year)	10 tons	10 tons	15 tons	10 tons
Threshold Exceeded?	No	No	No	No
2021 Project Operational Emissions (lbs/day) [1]	2.8 lbs.	2.7 lbs.	2.4 lbs.	0.7 lbs.
BAAQMD Thresholds (lbs/day)	54 lbs.	54 lbs.	82 lbs.	54 lbs.
Threshold Exceeded?	No	No	No	No

Source: Illingworth & Rodkin, Inc. 2018.

[1] Assumes 365-day operation.

c) Expose sensitive receptors to substantial pollutant concentrations?

***Less than Significant with Mitigation*.** CARB has identified diesel particulate matter (DPM) as the primary airborne carcinogen in the state. A primary source of DPM is exhaust from vehicle traffic on highways. In addition, BAAQMD recommends analyzing permitted stationary sources. In order to assess potential exposure to TACs for new residents near highways and stationary sources, BAAQMD recommends a risk and hazard screening analysis using BAAQMD's screening tools if the project would subject residents to substantial sources of TACs.

Although the project would not introduce new sensitive receptors, the project would generate automobile traffic and infrequent truck traffic and introduce a diesel generator. Residential uses, considered sensitive receptors, are located adjacent to the project's western property line. Sensitive receptors located near the project site are shown in **Figure 9**.

The following analysis describes existing conditions compared to BAAQMD thresholds for exposure to TACs and $PM_{2.5}$. Results of the screening analyses compare each existing source's estimated cancer risk, $PM_{2.5}$, and hazard values to applicable BAAAQMD thresholds. As discussed above, the BAAQMD has established health risk thresholds; a potential health risk would occur if there is an excess cancer risk level of more than 10 in one million, an increased non-cancer (chronic or acute) hazard risk greater than 1.0, or if sensitive receptors would be exposed to an incremental increase of greater than 0.3 $\mu g/m^3$ annual average $PM_{2.5}$ for single-source. In addition, a cumulative health risk would occur if there is an excess cancer risk level of more than 100 in one million, an increase in non-cancer hazard risk greater than 10, or if sensitive receptors would be exposed to 0.8 $\mu g/m^3$. Potential exposure of the project to operational traffic and stationary sources are discussed below.

Locations of Off-Site Sensitive Receptors and Maximum TAC Impacts

Figure **9**

Source: Illingworth and Rodkin, 2018

Construction Emissions

Less than Significant with Mitigation. Construction equipment and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC. Although construction exhaust air pollutant emissions would not be considered to contribute substantially to existing or projected air quality violations, construction exhaust emissions may still pose health risks for sensitive receptors such as surrounding residents and day care facilities. The primary community risk impact issues associated with construction emissions are cancer risk and exposure to $PM_{2.5}$. Diesel exhaust poses both a potential health and nuisance impact to nearby receptors. A health risk assessment of the project construction activities was conducted that evaluated potential health impacts to nearby sensitive receptors from construction emissions of DPM and $PM_{2.5}$.[11] This assessment included dispersion modeling to predict the off-site concentrations resulting from project construction, so that lifetime cancer risks and non-cancer health impacts could be evaluated.

Results of this assessment indicate that the maximum excess residential cancer risks would be 66.5 in one million for an infant exposure and 1.2 in one million for an adult exposure, occurring at the second-floor level of the construction MEI. For child exposure at the daycare, the maximum increased cancer risk would be 0.3 in one million. The maximum residential excess cancer risk would exceed the BAAQMD significance threshold for single-source of 10.0 in one million. The maximum-modeled annual $PM_{2.5}$ concentration, which is based on combined exhaust and fugitive dust emissions, was 0.44 $\mu g/m^3$ at the residential MEI and 0.01 $\mu g/m^3$ at the daycare. The residential maximum annual $PM_{2.5}$ concentration would exceed the BAAQMD significance threshold for single -source of 0.3 $\mu g/m^3$. Combined source pollutants would create a $PM_{2.5}$ concentration of 1.21 $\mu g/m^3$, which would also exceed the BAAQMD significance threshold for combined-source of 0.8 $\mu g/m^3$. Therefore, implementation of **Mitigation Measure AQ-1** would be required.

Impact AQ-1: Project construction would expose sensitive receptors to pollution concentrations in excess of BAAQMD standards.

Mitigation Measure AQ-1: Selection of equipment during construction to minimize emissions.

Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs first), the project applicant shall prepare a construction operations plan that includes specifications of the equipment to be used during construction. The plan shall demonstrate that the off-road equipment used on-site to construct the project would achieve a fleet-wide average 85 percent reduction in particulate matter exhaust emissions or more. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth below:

- Mobile diesel-powered off-road equipment, larger than 25 horsepower and operating on the site for more than two days continuously (or 20 hours in total) shall meet, at a minimum, one of the following:
    - Engines meeting United States EPA particulate matter emissions standards for Tier 3 engines equipped with CARB-certified Level 3 Diesel Particulate Filters (or equivalent);
    - Equipment that meets U.S. EPA Tier 4 standards for particulate matter (or equivalent);

[11] DPM is identified by California as a TAC due to the potential to cause cancer.

- Use of alternatively-fueled equipment (i.e., non-diesel) would meet this requirement; or
- Other measures may be the use of added exhaust devices; or a combination of measures, provided that these measures are demonstrated to reduce community risk impacts to less than significant.

The construction operations plan shall be submitted to the Director of the City of San José Department of Planning, Building, and Code Enforcement or Director's designee for review and approval.

With implementation of **Mitigation Measure AQ-1**, the computed maximum increased lifetime residential cancer risk from construction, assuming infant exposure, would be 7.4 in one million or less and the maximum annual $PM_{2.5}$ concentration would be reduced to 0.06 µg/m^3 for single source and 0.83 µg/m^3 for combined sources. This would be within the BAAQMD single-source significance thresholds of excess cancer risk (less than 10 per one million), hazard index (less than 1.0), and incremental annual $PM_{2.5}$ (0.3 µg/m^3) and combined-source significance thresholds of excess cancer risk (less than 100 per one million), hazard index (less than 10.0), and incremental annual $PM_{2.5}$ (0.8 µg/m^3).[12] Therefore, with mitigation, this impact would be less than significant.

Operational Traffic

***Less than Significant*.** The project is located along Winchester Boulevard. DPM is the major TACs of concern for local traffic and roadway sources. The impact of local traffic generated by the project was computed through use of the BAAQMD's Roadway Screening Analysis Calculator with input of the project's daily traffic on Winchester Boulevard. This would be the roadway closest to sensitive receptors that carries the most project traffic.

According to the Transportation Impact Analysis (see **Appendix E** of this Initial Study), Winchester Boulevard currently has 558 daily trips under existing conditions. The project would generate 477 net new vehicle trips per day. DPM and $PM_{2.5}$ concentrations were calculated at nearby sensitive receptor locations using the maximum annual modeled DPM concentration, the maximum increased cancer risk at the location of the maximally exposed individual (MEI) was calculated using BAAQMD recommended methods. The cancer risk calculations are based on applying the BAAQMD recommended age sensitivity factors to the TAC concentrations. Results of this assessment indicate that the maximum excess residential cancer risks would result in cancer risk of 0.1 chance per million and annual $PM_{2.5}$ concentrations of 0.01 µg/m3. Therefore, impacts from operational traffic would be less than significant.

Stationary Sources

In order to analyze existing stationary sources, the BAAQMD's Stationary Source Screening Analysis Tool was used to assess associated health risks at the project site. Per BAAQMD methodology, a 1,000-foot radius was drawn around the project site, and stationary sources within the perimeter were considered. A list of all stationary sources within 1,000-feet of the site is shown in **Table 5**.

[12] Standard industry practice is to round emissions measurements to the same number of significant figures used for the threshold. Therefore, the combined source maximum annual $PM_{2.5}$ concentration of 0.83 µg/m^3 would be within the BAAQMD threshold of 0.8 µg/m^3.

Table 5 Stationary Sources within 1,000 Feet of the Project Site

BAAQMD Source ID Number	Type	Distance to Project Site (feet)	Cancer Risk (in 1 million)	$PM_{2.5}$ Concentration ($\mu g/m^3$)	Increased Non-Cancer Risk (Chronic Hazard Index)[1]
111422	Gasoline Dispensing Facility	300	1.2	N/A	0.01
16255	Generator	940	1.3	<0.01	<0.01
19361	Generator	940	<0.01	<0.01	<0.01
13040	Generator	215	0.2	0.01	<0.01
Combined Total			**2.71**	**0.01**	**0.01**
BAAQMD Individual Source Screening Threshold			10	0.3	1
Individual Threshold Exceeded?			No	No	No
BAAQMD Cumulative Screening Threshold			100	0.8	10
Cumulative Threshold Exceeded?			No	No	No

Notes: $PM_{2.5}$ data not available for Source ID G7394; BAAQMD's Distance Adjustment Multiplier Tool for Diesel Internal Combustion Engines does not include an adjustment for increased non-cancer risk.

[1] The BAAQMD Stationary Source Screening Analysis Tool does not estimate acute hazards since the levels were found to be extremely low.

Source: Illingworth & Rodkin Inc, 2018.

As shown in **Table 5,** associated cancer risk, non-cancer risk, and $PM_{2.5}$ concentrations would not exceed BAAQMD individual or cumulative thresholds for all stationary sources. The nearest source identified in the Stationary Source Screening Analysis tool (ID: 13040) is approximately 215 feet southeast of the project site. Considering BAAQMD's Distance Adjustment Multiplier Tool for Diesel Internal Combustion (IC) Engines, the permitted source would result in cancer risk of 0.2 in one million, and $PM_{2.5}$ concentration of 0.01 $\mu g/m^3$ at the project site. To estimate the health risk from the gasoline dispensing facility (GDF) BAAQMD's Adjustment Multiplier Tool for GDFs was used to estimate cancer risk at 290 meters (951 feet). At 290 meters the GDF would result in cancer risk of 0.15 in one million and an increased non-cancer risk of 0.01.

The project would introduce an emergency back-up generator powered by a diesel engine at the project site. The generator would be operated for testing and maintenance purposes, with a maximum of 50 hours per year of non-emergency operation under normal conditions. During testing periods, the engine would typically be run for less than 1 hour under light engine loads. The generator engine would be required to meet U.S. EPA emission standards and consume commercially available California low sulfur diesel fuel. The emissions from the operation of the generator were calculated using the CalEEMod model.

This diesel engine would be subject to CARB's Stationary Diesel Airborne Toxics Control Measure (ATCM) and require permits from the BAAQMD, since it will be equipped with an engine larger than 50 hp. As part of the BAAQMD permit requirements for toxics screening analysis, the engine emissions will have to meet Best Available Control Technology for Toxics (TBACT) and pass the toxic risk screening level of less than ten in a million. The risk assessment would be prepared by BAAQMD. Depending on results,

BAAQMD would set limits for DPM emissions (e.g., more restricted engine operation periods). Sources of air pollutant emissions complying with all applicable BAAQMD regulations generally will not be considered to have a significant air quality community risk impact.

BAAQMD provides a Risk and Hazards Emissions Screening Calculator (Beta Version) to conduct health risk and $PM_{2.5}$ screening analysis of stationary sources of air pollutant emissions. This tool was used to compute cancer risk and annual $PM_{2.5}$ concentrations from the project generator use. Annual emissions of PM_{10} computed by CalEEMod (i.e., 0.0028 tons or 5.6 pounds) were converted to average daily emissions and entered into the calculator. Distances to the nearest sensitive receptors were also used to compute the screening levels. The exact location of the generator has not been determined; therefore, the source risk and $PM_{2.5}$ levels computed using the calculator were used to describe impacts (there are sensitive receptors within 50 feet of the project site).

The screening computations indicate that with infant exposure, the maximum cancer risk would be 22.4 chances per million at the property line. These are conservative screening computations and the risk would likely be lower had a refined modeling analysis been conducted. Annual concentrations of $PM_{2.5}$ would be 0.03 $\mu g/m^3$ or less. Since there is a potential for cancer risk associated with testing and maintenance of the generator to exceed 10 chances per million for assumed infant exposures, the following mitigation measure will be implemented.

Impact AQ-2: The operation of an emergency back-up generator would expose nearby residential sensitive receptors to a maximum cancer risk that exceeds the BAAQMD threshold of 10 chances per million for assumed infant exposure.

Mitigation Measure AQ-2: Selection of diesel equipment and proper placement to minimize health risk impacts to sensitive receptors.

The applicant shall develop an operations plan demonstrating that emissions from the generator operation will not cause significant cancer risk exposures over 10 chances per million at the closest sensitive receptor. Possible methods available to reduce these emissions include:

- Placement of the generator and stack that minimizes exposure;
- Use of CARB-certified Level 3 Diesel Particulate Filters or equivalent to reduce diesel particulate matter emissions or use of generator engines that meet U.S. EPA Tier 4 standards for particulate matter (or equivalent);
- Limiting the annual hours of testing to less than 50 hours per year

The operation plan submitted to the City shall also account for project construction impacts in the analysis. The total cancer risk and annual $PM_{2.5}$ concentrations associated with the generator and construction shall be shown to be less than 10 chances per million cancer risk. The operations plan shall be signed off by a qualified air quality specialist and submitted to the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of a building permit.

The use of Tier 4 generator engines or use of diesel particulate matter filters could reduce generator emissions by 85 percent or greater. Limiting the number of hours and proper placement of the generator would further reduce these impacts.

d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people

No Impact. During construction activities, only short-term, temporary odors from vehicle exhaust and construction equipment engines would occur. Construction-related odors would disperse and dissipate and would not cause substantial odors at the closest sensitive receptors (adjacent residences). In addition, construction-related odors would be short-term and would cease upon completion of construction. The project would not include any uses that generate substantial objectionable odors as listed on Table 3-3 in the BAAQMD *CEQA Air Quality Guidelines*[13] or site a new odor source or receptor. No Impact would occur.

[13] Such uses include wastewater treatment plants, wastewater pumping facilities, sanitary landfills, transfer stations, composting facilities, petroleum refineries, asphalt batch plants, chemical manufacturing facilities, fiberglass manufacturing facilities, painting/coating operations, rendering plants, coffee roasters, food processing facilities, confined animal facilities/feed lots/dairies, green waste and recycling operations, and metal smelting plants.

2.4 Biological Resources

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as candidate, sensitive, or special status species in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☒	☐	☐
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☒
c) Have a substantial adverse impact on federally protected wetlands (including but not limited to: marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with an established resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☒	☐	☐
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☒	☐	☐
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?	☐	☐	☒	☐

Environmental Setting

The project site is located in a developed commercial area just south of the Winchester Shopping Center and across the street from Santana Row, an outdoor shopping center. The project site does not feature, nor connect to areas of natural habitat or areas of natural open space. The project site is developed with an existing two-story restaurant, a surface parking lot, and landscaping along Winchester Boulevard.

An Arborist Report was prepared for the project site in February 2019 (see **Appendix B**). The report evaluated all 22 trees located on the project site, as well as 24 off-site trees that may be affected by the

project. Of the 46 trees evaluated, 25 are ordinance sized.[14] The City's Tree Ordinance is defined below in the Regulatory Setting.

Regulatory Setting

Federal

Federal Endangered Species Act

The U.S. Fish and Wildlife Service (USFWS) Endangered Species Act protects listed wildlife species from harm or "take" which is broadly defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt to engage in any such conduct. Take can also include habitat modification or degradation that directly results in death or injury to a listed wildlife species.

Federal Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA; 16 U.S.C., §703, Supp. I, 1989) prohibits killing, possessing, or trading of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. Migratory birds protected under this law include all native birds and certain game birds (e.g., turkeys and pheasants). The MBTA encompasses whole birds, parts of birds, and bird nests and eggs. The MBTA protects active nests from destruction and all nests of species protected by the MBTA, whether active or not, cannot be possessed. An active nest under the MBTA, as described by the Department of the Interior in its April 15, 2003 Migratory Bird Permit Memorandum, is one having eggs or young. Nest starts, prior to egg laying, are not protected from destruction. All native bird species in the City are protected under the MBTA.

State

California Endangered Species Act and California Native Plant Protection Act

The California Endangered Species Act (CESA) prohibits the take of any plant or animal listed or proposed for listing as rare (plants only), threatened, or endangered (California Fish and Game Code, Chapter 1.5, Sections 2050-2116). In accordance with the CESA, the California Department of Fish and Wildlife (CDFW) has jurisdiction over State-listed species. The CDFW regulates activities that may result in "take" of individuals listed under the Act (i.e., "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill"). Habitat degradation or modification is not expressly included in the definition of "take" under the Fish and Game Code. The CDFW, however, has interpreted "take" to include the "killing of a member of a species which is the proximate result of habitat modification." The California Native Plant Protection Act (CNPPA) preserves, protects, and enhances endangered and rare plants in California. It specifically prohibits the importation, take, possession, or sale of any native plant designated by the CDFW as rare or endangered, except under specific circumstances identified in the Act.

[14] The City of San José designates trees 12" and larger in diameter as "Ordinance-Sized Trees."

California Fish and Game Code

The California Fish and Game Code includes regulations governing the use of, or impacts to, many of the State's fish, wildlife, and sensitive habitats. The CDFW exerts jurisdiction over the bed and banks of rivers, lakes, and streams according to provisions of Sections 1601 - 1603 of the Fish and Game Code. The Fish and Game Code requires a Streambed Alteration Agreement for the fill or removal of material within the bed and banks of a watercourse or waterbody and for the removal of riparian vegetation. Provisions of these sections may apply to modifications of sensitive aquatic habitats and riparian habitats within the City.

Other regulations in the Fish and Game Code provide protection for native birds, including their nests and eggs (Sections 3503, 2513, and 3800). These regulations prohibit all forms of take, including disturbance that causes nest abandonment and/or loss of reproductive effort. Raptors (i.e., eagles, falcons, hawks, and owls) are specifically protected under Fish and Game Code Section 3503.5.

Local

City of San José General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating biological resources impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the biological resources policies listed in the General Plan, including the following:

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

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

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

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

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

Policy CD-1.24 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.

City of San José Tree Ordinance

The City of San José Tree Removal Controls (San José Municipal Code, Sections 13.31.010 to 13.32.100) serve to protect all trees having a trunk that measures 38 inches or more in circumference at the height of 4.5 feet above ground. The ordinance protects both native and non-native tree species. A tree removal permit is required from the City for the removal of ordinance-sized trees. On private property, tree removal permits are issued by the Department of Planning, Building and Code Enforcement. Tree removal or modifications to all trees on public property (e.g., street trees within a parking strip or the area between the curb and sidewalk) are handled by the City Arborist (with the City's Department of Transportation). In addition, any tree found by the City Council to have special significance can be designated as a heritage tree, regardless of tree size or species.

Santa Clara Valley Habitat Plan/Natural Communities Conservation Plan

The project site is located within the boundaries of the Santa Clara Valley Habitat Plan and designated as Urban Development. The Santa Clara Valley Habitat Plan was developed through a partnership between Santa Clara County; the cities of San José, Morgan Hill, and Gilroy; Santa Clara Valley Water District; Santa Clara Valley Transportation Authority (VTA); USFWS; and CDFW. The Santa Clara Valley 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.

Impact Discussion

e) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as candidate, sensitive, or special status species in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

Less than Significant with Mitigation. The trees on and near the project site provide potential nesting habitat for bird species protected by the Migratory Bird Treaty Act (MBTA) and the California Fish and Game Code (CFGC). The loss of an active bird nest protected by the MBTA and/or CFGC would be considered a potentially significant impact. Implementation of **Mitigation Measures BIO-1.1, -1.2, -1.3, and -1.4** would protect active bird nests that could occur in the disturbance area. This impact would be less than significant with implementation of the following mitigation measures.

Mitigation Measures BIO-1.1, -1.2, -1.3, -1.4: Removal of trees on and near the project site would result in the loss of nesting bird habitat.

Mitigation Measure BIO-1.1: Avoidance.

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

Mitigation Measure BIO-1.2: Nesting Bird Surveys.

If demolition and construction activities cannot be scheduled between September 1st and January 31st (inclusive), pre- construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.

Mitigation Measure BIO-1.3: Buffer Zones.

If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife (CDFW), shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

Mitigation Measure BIO-1.4: Reporting.

Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the City's Director of Planning, Building and Code Enforcement or Director's designee.

f) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

No Impact. There are no aquatic, wetland, or riparian habitat, or other sensitive natural communities on the project site. The nearest riparian site is Los Gatos Creek, located 2.03 miles southeast of the site. Therefore, the project would not impact any riparian habitat or other sensitive natural community as identified at the local, state, or federal level and no impact would occur.

g) Have a substantial adverse impact on federally protected wetlands (including but not limited to: marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

No Impact. No jurisdictional wetlands or Waters of the U.S. are present on the project site. As discussed above, the nearest water feature to the project site is Los Gatos Creek, located 2.03 miles

southeast of the project site. Therefore, no impact would occur to federally protected wetlands and other waters.

h) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with an established resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

Less than Significant with Mitigation. Wildlife corridors are pathways or habitat linkages that connect discrete areas of natural open space otherwise separated or fragmented by topography, changes in vegetation, other natural obstacles, or man-made obstacles such as urbanization. As stated above, the project site is developed, is surrounded by commercial development, and does not connect areas of natural open space. The project site is not part of or contribute to a wildlife movement corridor, nor would the project impede the uses of native wildlife nursery sites. However, migratory birds could be nesting in trees located within the boundaries of the project sites and could be harmed or displaced if construction activities/ tree removal occur during the nesting season when active nests are present. Implementation of the previously discussed **Mitigation Measures BIO-1.1, -1.2, -1.3, and -1.4** would ensure impacts on nesting migratory birds would be less than significant.

i) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Less than Significant with Mitigation. The project would not conflict with applicable City biological resource policies:

- Policy ER-5.1 and Policy ER-5.2: With Implementation of the Mitigation Measure BIO-1.1, -1.2, -1.3, and -1.4, the project would not result in the loss of active native birds' nests and nesting migratory birds.
- Policy MS-21.4, Policy MS-21.5, Policy MS-21.6, and Policy CD-1.24: As discussed below, the project would comply with applicable tree protection policies.

The project may result in the removal of 40 trees located on or near the project site, 24 of which would be subject to the City's Tree Removal Controls (City Code Section 13.32.010 to 13.32.100).[15] There are no City-designated Heritage Trees on the project site.[16] The project would comply with City Code Section 13.32.010 to 13.32.100 by obtaining the appropriate permits prior to tree removal. Furthermore, the project would plant 124 replacement trees, in compliance with General Plan Policy CD-1.24.

Standard Permit Conditions:

The removed trees would be replaced according to tree replacement ratios required by the City, as provided in **Table 6** below, as amended.

[15] HortScience/Bartlett Consulting. 2019. *Arborist Report 335 S Winchester Boulevard, San José, CA.*

[16] City of San José, Department of Transportation. 2017. *Heritage Tree Map.* http://www.sanJoséca.gov/index.aspx?NID=3435. Accessed September, 2018.

Table 6 Tree Replacement Ratios

Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more	5:1	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon

x:x = tree replacement to tree loss ratio
Note: Trees greater than or equal to 38-inch 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 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.
Source: City of San José. 2019f.

- The total number of replacement trees to be planted would be 118 trees.[17] The species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.
- In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage:
- The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site, at the development permit stage.
- Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance to the City Council approved Fee Resolution. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

Because the project would comply with the above City of San José tree replacement requirements, this impact would be less than significant.

j) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan?

Less than Significant. The Santa Clara Valley Habitat Plan (Habitat Plan) is both a habitat conservation plan (HCP) intended to fulfill the requirements of the federal Endangered Species Act and a natural community conservation plan to fulfill the requirements of the California Natural Community Conservation Planning Act.[18] The Habitat Plan provides a framework for promoting the

[17] Per Table 6: (24 removed trees with circumference 38" or greater)(4:1 replacement ratio) = 96 trees; (6 removed trees with circumference between 19" and 38")(2:1 replacement ratio) = 12 trees; (10 trees with circumference less than 19")(1:1 replacement ratio) = 10 trees; 96 trees + 12 trees + 10 trees = 118 total trees replaced.

[18] ICF International. 2012. *Final Santa Clara Valley Habitat Plan*. August. Prepared for: City of Gilroy, City of Morgan Hill, City of San José, County of Santa Clara, Santa Clara Valley Transportation Authority, and Santa Clara Valley Water District. Available http://scv-habitatagency.org/178/Final-Habitat-Plan.

protection and recovery of natural resources, including endangered species, while streamlining the permitting process for planned development, infrastructure, and maintenance activities.

Standard Permit Condition:

The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at www.scv-habitatplan.org.

Implementation of the project would not have a significant impact on any special status plant or animal species or wetlands and would not conflict with adopted conservation plans, local policies, or local ordinances. This impact would be less than significant.

2.5 Cultural Resources

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource pursuant to 15064.5?	☐	☐	☐	☒
b) Cause a substantial adverse change in the significance of an archaeological resource, pursuant to Section 15064.5?	☐	☐	☒	☐
c) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☒	☐

Environmental Setting

According to the General Plan EIR, areas around the West Valley Planning area are archaeologically sensitive, and there are several known archaeological sites within the area that may be eligible for the California Register or the National Register. In addition, the Winchester Mystery House, an architectural City and State Landmark, is located 0.24 miles south of the project site and may be eligible for the California Register or the National Register. A non-confidential California Historic Resources Information System (CHRIS) records search from the Northwest Information Center at Sonoma State University was received in August 2018 for the project site and vicinity. The results of the records search concluded that the project site has a low potential of uncovering unrecorded Native American resources, and a low potential of uncovering-historic period archaeological resources.

Figure 3.11-1 in the General Plan EIR identifies the potentially sensitive areas for the presence of paleontological resources within the city based on the underlying geologic formation. Areas with the highest sensitivity are those where geologic formations known to contain fossils are found close to the ground surface. According to Figure 3.11-1, the project site is identified as having a high sensitivity for the presence of paleontological resources at depth but is not within an area of high paleontological sensitivity at the ground surface.

The City of San José Historic Preservation Office evaluated the existing structure at the project site and determined that the property does not appear to be eligible as a Local Landmark or qualify as a Structure of Merit. Additionally, the Historic Preservation Office noted the poor overall architectural integrity of the existing structure. Given this, the structure on the project site is not eligible for listing in the National Register of Historic Place (NRHP) or the California register. No further review or analysis was deemed necessary.[19]

[19] Kara Hawkins, City of San José. Personal Communication. 2018.

Regulatory Setting

Federal

The National Historic Preservation Act established the NRHP to recognize resources associated with local, state, and national history and heritage. Structures and features must be at least 50 years old to be considered for listing on the NRHP, barring exceptional circumstances. Criteria for listing on the NRHP (see 36 CFR Part 63), are significance in American history, architecture, archaeology, engineering, and culture as present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and that:

(1) are associated with events that have made a significant contribution to the broad patterns of our history;

(2) are associated with the lives of persons significant in our past;

(3) embody the distinctive characteristics of a type, period, or method of construction; represent the work of a master; possess high artistic values, represent a significant and distinguishable entity whose components may lack individual distinction; or,

(4) have yielded, or may be likely to yield, information important in prehistory or history.

State

California Public Resources Code

Archaeological, paleontological, and historical sites are protected by a wide variety of State policies and regulations under the California Public Resources Code. Under the Public Resources Code, the State Historical Resources Commission is responsible for oversight of the California Register of Historical Resources (California Register) and designation of State Historical Landmarks and Historical Points of Interest. Key provisions of the Public Resources Code that provide protection to cultural and paleontological resources are outlined below.

- California Public Resources Code Sections 5097.9–5097.991 provides protection to Native American historical and cultural resources and sacred sites and identifies the powers and duties of the Native American Heritage Commission (NAHC). It also requires notification of discoveries of Native American human remains and provides for treatment and disposition of human remains and associated grave goods.
- California Public Resources Code Sections 5097.98 provides that in the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation until the coroner has determined that the remains are not subject to provisions of law concerning investigation of the circumstances, manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible. The coroner shall make his or her determination within two working days from the time the person responsible for the excavation, or his or her authorized representative, notifies the coroner of the discovery or recognition of the human remains. If the coroner determines that the remains are not subject to his or her authority and has reason to believe that they are those of a Native American, he or she shall contact, by telephone within 24 hours, the NAHC.

- California Public Resources Code Section 5097.5 prohibits "knowing and willful" excavation, removal, destruction, injury, and defacement of any paleontological feature on public lands (lands under State, county, City, district, or public authority jurisdiction, or the jurisdiction of a public corporation), except where the agency with jurisdiction has granted permission.

California Environmental Quality Act

Historical Resources

The CEQA Guidelines define a significant resource as any resource listed in or determined to be eligible for listing in the California Register of Historical Resources (California Register) [see Public Resources Code, Section 21084.1 and CEQA Guidelines Section 15064.5 (a) and (b)]. The California Register includes resources listed in or formally determined eligible for listing in the NRHP, as well as some California State Landmarks and Points of Historical Interest. The criteria are nearly identical to those of the NRHP, which includes resources of local, state, and region or national levels of significance. In general, the California Register defines historical resources as any object, building, structure, site, area, place, record, or manuscript that is historically or archaeologically significant; or is significant in the architectural, engineering, scientific, economic, agricultural educational, social, political, or cultural annals of California; and meets the criteria for listing on the California Register including the following:

1) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
2) Is associated with the lives of persons important in our past;
3) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
4) Has yielded, or may be likely to yield, information important in prehistory or history.

Archeological Resources

CEQA also requires lead agencies to consider whether projects will affect "unique archaeological resources" (Public Resources Code, Section 21083.2(g)) which are defined as an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:

- Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information.
- Has a special and particular quality such as being the oldest of its type or the best available example of its type.
- Is directly associated with a scientifically recognized important prehistoric or historic event or person.

Treatment options for unique archaeological resources include preservation in place in an undisturbed state; excavation and curation or study in place without excavation and curation (if the study finds that the artifacts would not meet one or more of the criteria for defining a "unique archaeological resource").

Paleontological Resources

Treatment of paleontological resources under CEQA is generally similar to treatment of cultural resources, requiring evaluation of resources in a project's area of potential affect, assessment of potential impacts on significant or unique resources, and development of mitigation measures for potentially significant impacts, which may include monitoring combined with data recovery and/or avoidance.

Native American Burials

California law protects Native American burials, skeletal remains, and associated grave goods regardless of their antiquity and provides for the sensitive treatment and disposition of those remains (Section 7050.5(b) of the California Health and Safety Code). CEQA Guidelines section 15064.5(e) requires that excavation activities be stopped whenever human remains are uncovered, and that the county coroner or medical examiner be contacted to assess the remains. If the county coroner or medical examiner determines that the remains are those of Native Americans, the NAHC must be contacted within 24 hours. The property owner is required to consult with the appropriate Native Americans identified by the NAHC as a "most likely descendant" to develop an agreement for the treatment and disposition of the remains. These requirements are also contained in the County Codes for the County of Santa Clara (Sections B6-19 and B6-20).

Local

City of San José General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating impacts to cultural resources resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the cultural resource policies listed in the General Plan, including the following:

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

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

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

Policy LU-13.15 Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.

Municipal Code – Historic Preservation Ordinance

The City's Historic Preservation Ordinance, contained in Chapter 13.48 of the Municipal Code, is designed to identify, protect, and encourage the preservation of significant resources and foster civic pride in the City's cultural resources. Section 13.48.020 of the Municipal Code defines structures of historical value based on the following criteria:

1) Identification or association with persons, eras or events that have contributed to local, regional, State or national history, heritage or culture in a distinctive, significant or important way;
2) Identification as, or association with, a distinctive, significant or important work or vestige:
   a) Of an architectural style, design or method of construction;
   b) Of a master architect, builder, artist or craftsman;
   c) Of high artistic merit;
   d) The totality of which comprises a distinctive, significant or important work or vestige whose component parts may lack the same attributes;
   e) That has yielded or is substantially likely to yield information of value about history, architecture, engineering, culture or aesthetics, or that provides for existing and future generations an example of the physical surroundings in which past generations lived or worked; or
   f) That the construction materials or engineering methods used in the proposed landmark are unusual or significant of uniquely effective.

The factor of age alone does not necessarily confer a special historical, architectural, cultural, aesthetic, or engineering significance, value or interest upon a structure or site, but it may have such effect if a more distinctive, significant or important example thereof no longer exists.

Impact Discussion

a) Cause a substantial adverse change in the significance of a historical resource pursuant to 15064.5?

No impact. As previously discussed, research conducted by the City of San José Historic Preservation Officer determined that the existing structure on the project site is not eligible for listing in the NRHP or the California Register because it does not meet the criteria that define a historical resource per California Code of Regulations Section 15064.5 (listed above). In addition, the structure is not eligible for designation as a Historic Landmark or a Structure of Merit. No impact would occur.

b) Cause a substantial adverse change in the significance of an archaeological resource, pursuant to Section 15064.5?

Less than Significant. California Code of Regulations Section 15064.5 defines archeological sites as "historical resources", as defined in **Section 2.5, Cultural Resources,** Regulatory Setting. A Sacred Lands File Search conducted in August 2018concluded that the results were negative. However, the absence of specific site information does not preclude the presence of cultural resources in any project area. The CHRIS search determined that the site has low potential to yield an archeological

resource, although the General Plan EIR identified the project area as archeologically sensitive. Redevelopment of the project site could result in the exposure or destruction of unknown archaeological resources. Implementation of the Standard Permit Condition outlined below would reduce this impact to a less-than-significant level.

Standard Permit Condition:

If 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 Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist shall examine the find. 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 building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to Director of PBCE or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

c) Disturb any human remains, including those interred outside of formal cemeteries?

Less than Significant. As previously discussed, the project site is currently developed, and no known cultural resources are located at the project site. Although unlikely, it is possible that unmarked burials may be unearthed during project construction. In the event that human remains are discovered during construction, the project applicant would be required to implement the Standard Permit Condition outlined below. Implementation of the Standard Permit Condition Below would reduce this impact to a less-than-significant level.

Standard Permit Condition:

If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and a qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner shall make determine whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the NAHC within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the

Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

- The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 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.

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2.6 Energy

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
Would the project:				
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	☐	☐	☒	☐
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	☐	☐	☒	☐

Environmental Setting

Energy consumption is considered under CEQA because of the environmental impacts associated with its production and usage. Such impacts can include the depletion of nonrenewable resources (e.g., oil, natural gas, coal, etc.) and emissions of pollutants during both the production and consumption phases of energy use.

Total energy usage in California was approximately 7,830 trillion Btu in the year 2016 (the most recent year for which this specific data was available).[20] The breakdown by sector was approximately 18 percent for residential uses, 19 percent for commercial uses, 24 percent for industrial uses, and 40 percent for transportation.[21]

Existing energy use associated with operation of development on the project site primarily consists of fuel for vehicle trips to and from the site, electricity for lighting and cooling, and natural gas for operations within the building. Given the nature of land uses proposed as part of the project, the remainder of this discussion will focus on the three most relevant sources of energy: electricity, natural gas, and gasoline for vehicle trips.

Electricity

Pacific Gas and Electric Company (PG&E) is San José's energy utility, providing both natural gas and electricity for residential, commercial, industrial, and municipal uses. PG&E generates or buys electricity from hydroelectric, nuclear, renewable, natural gas, and coal facilities. In 2016, renewable resources

[20] United States Energy Information Administration. Energy Consumption Estimates by End-Use Sector, Ranked by State, 2016. Accessed: March 2019. Available: https://www.eia.gov/state/seds/sep_fuel/html/pdf/fuel_te.pdf.

[21] United States Energy Information Administration. California Energy Consumption by End-Use Sector, 2016. Accessed: March 2019. Available: https://www.eia.gov/state/?sid=CA#tabs-2.

produced 33 percent of PG&E's electricity portfolio, followed by nuclear (24 percent), natural gas (17 percent), unspecified (14 percent), and large hydrological sources (12 percent).[22]

Electricity usage for differing land uses varies substantially by the type of uses in a building, the type of construction materials used, and the efficiency of the electricity-consuming devices used. Electricity in Santa Clara County in 2017 was consumed primarily by the commercial sector (76 percent), the residential sector consuming 24 percent. In 2017, approximately 17,190 GWh of electricity were consumed in Santa Clara County.[23]

Natural Gas

As with electricity usage, natural gas usage depends on the type of uses in a building, the type of construction materials used, and the efficiency of gas-consuming devices. In 2017, Santa Clara County consumed approximately 445 million therms of natural gas. Of this, approximately 54 percent was consumed by the residential sector.

Gasoline for Motor Vehicle Trips

According to the traffic modeling conducted for the proposed Envision San José 2040 General Plan, the City's 2008 base case average daily vehicle miles traveled (VMT) is 19,806,977.[24] Assuming an average fuel economy of 20 miles per gallon, approximately 360,000,000 gallons of gasoline (approximately 44.5 trillion BTUs) are consumed yearly for San José automobile travel.

Regulatory Setting

Many federal, state, and local statutes and policies address energy conservation. At the federal level, energy standards set by the U.S. EPA apply to numerous products (e.g., the EnergyStar™ program). The EPA also sets fuel efficiency standards for automobiles and other modes of transportation.

State of California

Renewable Energy Standards

In 2002, California established its Renewables Portfolio Standard (RPS) Program, with the goal of increasing the percentage of renewable energy in the state's electricity mix to 20 percent of retail sales by 2010. In 2006, California's 20 percent by 2010 RPS goal was codified under Senate Bill 107. Under the provisions of SB 107 (signed into law in 2006), investor-owned utilities were required to generate 20 percent of their retail electricity using qualified renewable energy technologies by the end of 2010. In 2008, Executive Order S-14-08 was signed into law and required that retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. As described previously, PG&E's (the electricity provider to the project site) 2015 electricity mix was 30 percent renewable.

[22] PG&E. 2017. PG&E's Power Mix. Available: https://www.pge.com/pge_global/local/assets/data/en-us/your-account/your-bill/understand-your-bill/bill-inserts/2017/november/power-content.pdf.

[23] California Energy Commission. Electricity Consumption by Entity. Accessed: March 2019. Available: http://ecdms.energy.ca.gov/elecbyutil.aspx.

[24] City of San José. 2011. Draft Environmental Impact Report for the Envision San José 2040 General Plan. Available: http://www.sanjoseca.gov/DocumentCenter/View/2184.

In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 for retail sellers and publicly owned utilities, requires them to procure 50 percent of the state's electricity from renewable sources by 2030.

Building Codes

At the state level, the Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6, of the California Code of Regulations, was established in 1978 in response to a legislative mandate to reduce California's energy consumption. These energy efficiency standards are updated approximately every three years; the 2013 standards have been adopted and became effective July 1, 2014. The 2016 Code will be published on or before July 1, 2016 and will go into effect on January 1, 2017. Compliance with these standards is mandatory at the time new building permits are issued by City and County governments.

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. In 2013, the code was subsequently updated. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality.

City of San José

At the local level, the City of San José sets green building standards for municipal development. All projects are required to submit a Leadership in Energy and Environmental Design (LEED),[25] GreenPoint,[26] or Build It Green checklist with the development proposal. Private developments are required to implement green building practices if they meet the Applicable Projects criteria defined by Council Policy 6-32 and shown in **Table 7** below.

Table 7 Private Sector Green Building Requirements

Applicable Project	Minimum Green Building Requirement
Commercial/Industrial – Tier 1 (Less than 25,000 Square Feet)	LEED Applicable New Construction Checklist
Commercial/Industrial – Tier 2 (25,000 Square Feet or greater)	LEED Silver
Residential – Tier 1 (Less than 10 units)	GreenPoint or LEED Checklist
Residential – Tier 2 (10 units or greater)	GreenPoint Rated 50 points or LEED Certified
High Rise Residential (75 feet or higher)	LEED Certified

Source: City of San José. 2019b.

[25] Created by the U.S. Green Building Council, LEED is a certification system that assigns points for green building measures based on a 110-point rating scale.

[26] Created by Build It Green, GreenPoint is a certification system that assigns points for green building measures based on a 381-point scale for multi-family developments and 341-point scale for single-family developments.

Impact Discussion

a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

and

b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

Construction

Less than Significant. Construction of the project would begin in February 2020 and would last until approximately February 2022, when the project is anticipated to be operational. The excavation and grading period would last 4.5 months and would require the use of standard construction equipment including dozers, graders, tractors, generators, and a tower crane. While this machinery would require the use of fossil fuels, such use would be typical of similar construction projects and would not be unnecessary or wasteful.

The project would be required to comply with CARB On-Road and Off-Road Vehicle Regulations to limit vehicle idling. While intended to reduce construction criteria pollutant emissions, compliance with this anti-idling regulation would also result in efficient use of construction-related energy and the minimization or elimination of wasteful and unnecessary energy consumption. The project would utilize construction contractors that demonstrate compliance with applicable CARB regulations governing the accelerated retrofitting, repowering, or replacement of heavy-duty diesel equipment. Furthermore, energy demands from project construction would mostly be associated with equipment and transportation fuels, construction of the project would not increase demands on the electric power network during peak or base demand periods. As a result, construction energy impacts would be less than significant.

Operation

Less than Significant. Operation energy consumption would result from the proposed commercial and industrial uses, as well as transportation fuels (e.g., diesel and gasoline) used for vehicles traveling to and from the site. As discussed in **Section 2.16 Transportation**, the project as proposed is estimated to generate a total of 7.88 VMT per employee, which is lower than the average VMT per employee in this area due to the project proposing a reduction in the on-site vehicle parking supply. The estimated VM per employee generated by the project (7.88) is less than the City's significance threshold of 12.22 VMT per employee. While this threshold is intended to reduce GHG emissions associated with transportation, fewer VMT translates to less wasteful, inefficient, and unnecessary consumption of transportation fuels.

Based on the proposed land uses, CalEEMod conservatively estimates that the project would use approximately 1.8 million kilowatt hours of electricity per year and approximately 1.4 million kBTUs of natural gas. For context, residential uses in San José consumed approximately 1.5 billion kilowatt hours of electricity and approximately 10 billion kBTUs of natural gas in 2016.[27] As a Tier 2 Commercial/Industrial project, the project would comply with San José's Private Sector Green Building regulations (**Table 7**). The project will utilize power from PG&E, which is the electricity provider for the

[27] DOE. 2016. Electricity and Natural Gas Summary for San José, California. Available: https://www.eere.energy.gov/sled/#/results/elecandgas?city=San%20Jose&abv=CA&section=electricity&currentState=California&lat=37.3382082&lng=-121.88632860000001

entire city of San José. As of 2017, PG&E complies with California's RPS program, with a full third of their current energy portfolio coming from renewable resources. Additionally, approximately 70 percent of PG&E's electricity comes from sources that emit no greenhouse gases.

PG&E is also on track to reach 50 percent renewable goal by 2030.[28] Therefore, project operation would not result in the wasteful, inefficient, or unnecessary use of energy, nor would it conflict with any state or local plan for renewable energy or energy efficiency. This impact would be less than significant.

[28] PG&E. 2017. PG&E Renewable Energy Deliveries Grow; GHG-Free Portfolio is Nearly 70 Percent. Available: https://www.pge.com/en/about/newsroom/newsdetails/index.page?title=20170316_pge_renewable_energy_deliveries_grow_ghg-free_portfolio_is_nearly_70_percent.

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2.7 Geology and Soils

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
Would the project:				
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated 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?	☐	☐	☐	☒
ii) Strong seismic ground shaking?	☐	☐	☒	☐
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒
iv) Landslides?	☐	☐	☐	☒
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☐	☒
d) Be located on expansive soil, as defined in table 18-1b of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	☐	☐	☒	☐
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?	☐	☐	☐	☒
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature	☐	☐	☒	☐

Environmental Setting

The project site is located in the Santa Clara Valley, a relatively flat alluvial basin south of the San Francisco Bay, north and northeast of the Santa Cruz Mountains, and west of the Diablo Mountain Range. The project site is located on a flat, developed surface and is primarily underlain by marine and nonmarine Pleistocene sedimentary rocks.[29]

Seismicity and Seismic Hazards

The Alquist-Priolo Earthquake Zoning Act (1972) and the Seismic Mapping Act (1990) direct the State Geologist to delineate regulatory zones to assist cities and counties in preventing the construction of buildings used for human occupancy on the surface trace of active faults. The project site is not located within the Alquist-Priolo Earthquake Zone,[30] and no active faults have been mapped on the project site. However, the following active faults are located nearby: Calaveras Fault (10.7 miles from the project site), Hayward Fault (9.5 miles from the project site), San Andreas (8.9 miles from the project site), Greenville Fault (25.5 miles from the project site), and Mount Diablo Fault (31.9 miles from the project site).[31] These faults are capable of generating earthquakes generating ground shaking at the project site.

Liquefaction

Liquefaction occurs when water-saturated soils lose structural integrity due to seismic activity. Typically, liquefaction is associated with soils near the ground surface. Factors that contribute to liquefaction include soil age, type, cohesion, density, and depth to groundwater. Soils that are saturated, uniformly graded, and loose are more susceptible to liquefaction. According to General Plan EIR Figure 3.6-1 (Geologic and Seismic Hazards), the project site is not located within a liquefaction hazard zone.

Landslides

Landslides result from the downgradient movement of earthen material along a slope or hillside. Landslides can result from a variety of causes such as steepness of slope, type of material, water content of slope soils, amount and type of vegetation, and major natural hazards such as earthquakes, volcanic eruptions, wildfires, and floods. Landslides can occur as rapid deterioration or slow, progressive movements over time. The project site and its surroundings are highly urbanized and flat and do not have any steep slopes or hillsides that would be susceptible to landslides. According to the Santa Clara County Hazard Zone Map, the project site is not located within a landslide hazard zone.[32] Further, according to General Plan EIR Figure 3.6-1 (Geologic and Seismic Hazards), the project site is not located within a landslide hazard zone.

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[29] Department of Conservation. 2010. *Geologic Map of California.* Available: http://maps.conservation.ca.gov/cgs/gmc/. Accessed: July, 2018.

[30] California Department of Conservation. *Geological Hazard Zones Map*. Available: https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf. Accessed: July, 2018.

[31] United States Geological Survey. 2018. *USGS Earthquake Hazards of the Bay Area Today*. Available: https://earthquake.usgs.gov/earthquakes/events/1906calif/virtualtour/modern.php. Accessed: July, 2018.

[32] Santa Clara County. 2012. *Santa Clara County Geologic Hazard Zone*s. Available: https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf. Accessed: July, 2018.

Expansive Soils

Expansive soils have a high shrink-swell potential and occur where a sufficient percentage of certain clay materials are present in the soil. These soil conditions can impact the structural integrity of buildings and other structures. Much of the soil in the City is moderately to highly expansive. Moderately to highly expansive soils are found both on the Santa Clara Valley floor and in hillside areas. Potentially collapsible soils are located in isolated areas around the City; and potentially liquefiable soils occur throughout much of the lands of the City.

Regulatory Setting

City of San José General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating geological impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the policies listed in the General Plan, including the following:

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

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

Policy EC-4.5: Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of 1 acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 30.

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

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

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

Alquist-Priolo Earthquake Fault Zoning Act

The primary purpose of the Alquist-Priolo Earthquake Fault Zoning Act is to prevent the construction of buildings used for human occupancy on the surface trace of active faults. The law requires the State Geologist to establish regulatory zones (known as Earthquake Fault Zones) around the surface traces of active faults and to issue appropriate maps. The maps are distributed to all affected cities, counties, and State agencies for their use in planning and controlling construction. Local agencies must regulate most development projects within the zones. Projects include all land divisions and most structures for human occupancy. Single-family wood-frame and steel-frame dwellings up to two stories not part of a development of four units or more are exempt. However, local agencies can be more restrictive than State law requires. Pursuant to this act, a structure for human occupancy cannot be placed over the trace of the fault and must be set back from the fault (generally at least 50 feet).

California Building Code (CBC)

The Building Standards Commission is authorized by California Building Standards Law (1953) (Health and Safety Cody sections 18901 through 18949.6) to administer the process related to the adoption, approval, publication, and implementation of California's building codes. These building codes serve as the basis for the design and construction of buildings in California including within the City. The State of California establishes and updates building standards and every local agency enforcing building regulations, must adopt the provisions of the California Building Code (in Title 24, California Code of Regulations) within 180 days of its publication. Currently, the 2016 California Building Code contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, the strength of the ground, and distance to seismic sources.

City of San José Municipal Code

Title 24 of the Municipal Code includes the City adopted 2007 California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes under ordinance No. 28166 (2007). These regulations are based upon the 2007 California Building Code and include requirements for building foundations, walls, and seismic resistant design. 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 City's Municipal Code. Requirements for grading and excavation permits and erosion control are included in Chapter 17.10 (Building Code, Part 6 Excavation and Grading).

Geologic hazards regulations in Chapter 17.10 of the Municipal Code restrict the ability to issue grading and building permits within defined geologic hazard zones until the Director of Public Works has issued a Certificate of Geologic Hazard Clearance. The areas of the City affected by these requirements include identified areas with very high landslide susceptibility, high or moderate/high landslide susceptibility zones, designated State Seismic Hazard Zones for Liquefaction and Earthquake-Induced Landslides, and mapped fault hazard zones.

Impact Discussion

a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:

i. Rupture of a known earthquake fault, as delineated 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?

No Impact. The project site is not located within the Alquist-Priolo Earthquake Faults Zone, and no active faults cross the project site. No impact would occur.

ii. Strong seismic ground shaking?

Less than Significant. Earthquakes along active faults in the region could cause moderate to strong ground shaking at the project site, which could directly endanger the project through ground shaking and associated hazards, including liquefaction. The intensity of the earthquake ground motions and the resulting damage would depend on the characteristics the distance to the fault rupture zone, earthquake magnitude, earthquake duration, and site-specific geologic conditions.

With implementation of the below standard permit condition, the proposed project would not expose people or structures to substantial adverse effects. Impacts related to seismic ground shaking and associated ground failure, including liquefaction, would be less than significant.

Standard Permit Condition:

To avoid or minimize potential damage from seismic shaking, the project shall be built using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved design-level geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on-site and off-site to the extent feasible and in compliance with the Building Code.

iii. Seismic-related ground failure, including liquefaction?

No Impact. According to General Plan EIR Figure 3.6-1 (Geologic and Seismic Hazards), the project site is not located within a liquefaction hazard zone. Therefore, no impact would occur.

iv. Landslides?

No Impact. The project site and its surroundings are highly urbanized and flat and do not have any steep slopes or hillsides that would be susceptible to landslides. Further, the project site is not located in a landslide hazard zone. Therefore, no impact would occur.

b) Result in substantial soil erosion or the loss of topsoil?

Less than Significant. Project construction involves ground disturbing activities such as excavation, grading, and trenching. Such activities would expose soils and increase the potential for soil erosion

from wind or stormwater runoff. As discussed in **Section 2.10, Hydrology and Water Quality**, project would be subject to the City's National Pollutant Discharge Elimination System (NPDES) General Permit, urban runoff policies, and the Grading Ordinance enforcing erosion control measures.

The project would be required as a condition of approval to implement the following measures, consistent with the regulations identified in the General Plan EIR), for avoiding and reducing construction related erosion impacts.

Standard Permit Condition:

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

Adherence to these requirements would minimize erosion or topsoil loss. This impact would be less than significant.

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

No Impact. As previously discussed under **Section 2.7, Geology and Soils, Impact (a)**, the project would not pose potential risks from seismically induced liquefaction and would not pose potential risks from landslides on or offsite. Therefore, no impacts related to soil stability would occur as a result of the project.

d) Be located on expansive soil, as defined in table 18-1b of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?

Less than Significant. Many soils throughout the City exhibit expansive characteristics; the project site could be located on expansive soil. Through the process of acquiring building, utility, conditional use, and special use permits from the City, a geotechnical report will be required by the City and the project would be required to conform to the standards set forth in the most recently approved CBC.[33] Implementation of the standards set forth in the most recently approved CBC, along with compliance with City's Geologic Hazards Ordinance,[34] would reduce the potential risks associated with expansive soils to a less-than-significant level.

[33] General Plan Police EC-4.1 establishes the following: All new or remodeled habitable structures shall be designed and built 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.

[34] The following excerpt is taken from Appendix F, Section 5.2.6 of the General Plan EIR, which discusses feasible engineering approaches to minimize expansive soil hazards:

"*Building areas with moderate to highly expansive soils are typically "pre-saturated" to a moisture content and depth specified by the geotechnical engineer, thereby "pre-swelling" the soil prior to constructing the structural foundation or hardscape. This method is often used in conjunction with a layer of imported non-expansive fill material placed directly below foundations and slabs to control seasonal moisture fluctuations. In addition, stronger foundations are often utilized, such as rigid mat or grid footing foundations, which can resist small ground movements without cracking. Good surface*

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?

No Impact. The project site is located within an urbanized area of the city where sanitary sewer lines are available to dispose wastewater from the project site. The project does not propose septic tanks. No impact would occur.

f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

Less than Significant. Although the project site is located in an area of high paleontological sensitivity at depth, soil on the project site has been previously disturbed during construction of the existing restaurant structure. Redevelopment of the site under the project is not expected to encounter paleontological resources. Although not anticipated, construction activities associated with the project could significantly impact paleontological resources, if they are encountered. Implementation of the standard permit condition outlined below would avoid or reduce impacts to paleontological resource s.

Standard Permit Condition:

If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement (PBCE) shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, 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 applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning or Director's designee of the PBCE.

drainage control is essential for all types of improvements, both new and old. Property owners should be educated about the importance of maintaining relatively constant moisture levels in their landscaping. Excessive watering or alternating wetting and drying can result in distress to improvements and structures."

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2.8 Greenhouse Gas Emissions

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☒	☐

Environmental Setting

Unlike emissions of criteria and toxic air pollutants, which have local or regional impacts, emissions of 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 most common GHGs contributing to global warming and associated climate change are carbon dioxide (CO_2) perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6), methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6). Emissions of GHGs contributing to global climate change are attributable to a variety of natural processes and human activities. Emissions of GHGs by human activities are associated with the transportation, industrial and manufacturing, utility, residential, commercial, and agricultural sectors. The project site is currently occupied by a restaurant. Estimated GHG emissions from the existing restaurant is approximately 422 MT/CO2e/year.

Applicable Regulations

State

Assembly Bill 32 and CEQA

The Global Warming Solutions Act (also known as "AB 32") codified the State's GHG emissions target by directing CARB to reduce the State's global warming emissions to 1990 levels by 2020. AB 32 was signed and passed into law by Governor Schwarzenegger on September 27, 2006. Since that time, the CARB, CEC, California Public Utilities Commission (CPUC), and Building Standards Commission have all been developing regulations that will help meet the goals of AB 32 and Executive Order S-3-05.

A Scoping Plan for AB 32 was adopted by CARB in December 2008. It contains the State's main strategies to reduce GHGs from business-as-usual emissions projected in 2020 back down to 1990 levels. Business-as-usual (BAU) is the projected emissions in 2020, including increases in emissions caused by growth, without any GHG reduction measures. The Scoping Plan has a range of GHG reduction actions, including direct regulations, alternative compliance mechanisms, monetary and non-monetary incentives,

voluntary actions, and market-based mechanisms such as a cap-and-trade system. Per AB 32, the Scoping Plan must be updated every five years to evaluate the mix of AB 32 policies to ensure that California is on track to achieve the 2020 GHG reduction goal. The first update to the Scoping Plan was approved by CARB in May, 2014. Additional State law and regulations related to the reduction of GHG emissions includes Senate Bill (SB) 375, the Sustainable Communities and Climate Protection Act, the State's Renewables Portfolio Standard for Energy Standard (SB 2X) and fleet-wide passenger car standards (Pavley Regulations).

The California Natural Resources Agency, as required under State law (Public Resources Code Section 21083.05) has amended the State Guidelines to address the analysis and mitigation of GHG emissions. In these changes to the Guidelines, Lead Agencies, such as the City, retain discretion to determine the significance of impacts from GHG emissions based upon individual circumstances. Neither CEQA nor the Guidelines provide a specific methodology for analysis of GHGs and under the amendments to the Guidelines, a Lead Agency may describe, calculate, or estimate GHG emissions resulting from a project and use a model and/or qualitative analysis or performance-based standards to assess impacts.

Senate Bill 375

Senate Bill (SB) 375 was enacted to expand the efforts of AB 32 by controlling indirect GHG emissions caused by urban sprawl. SB 375 provides incentives for local governments and applicants to implement new conscientiously planned growth patterns. This includes incentives for creating attractive, walkable, and sustainable communities and revitalizing existing communities. The legislation also allows applicants to bypass certain environmental reviews under CEQA if they build projects consistent with the new sustainable community strategies. Development of more alternative transportation options that would reduce vehicle trips and miles traveled, along with traffic congestion, would be encouraged. SB 375 enhances CARB's ability to reach the AB 32 goals by directing the agency in developing regional GHG emission reduction targets to be achieved from the transportation sector for 2020 and 2035. CARB works with the metropolitan planning organizations (e.g. Association of Bay Area Governments [ABAG] and Metropolitan Transportation Commission [MTC]) to align their regional transportation, housing, and land use plans to reduce vehicle miles traveled and demonstrate the region's ability to attain its GHG reduction targets. A similar process is used to reduce transportation emissions of ozone precursor pollutants in the Bay Area.

SB 350 Renewable Portfolio Standards

In September 2015, the California Legislature passed SB 350, which increases the states Renewables Portfolio Standard (RPS) for content of electrical generation from the 33 percent target for 2020 to a 50 percent renewables target by 2030.

Executive Order EO-B-30-15 (2015) and SB 32 GHG Reduction Targets

In April 2015, Governor Brown signed Executive Order which extended the goals of AB 32, setting a greenhouse gas emissions target at 40 percent of 1990 levels by 2030. On September 8, 2016, Governor Brown signed SB 32, which legislatively established the GHG reduction target of 40 percent of 1990 levels by 2030. In November 2017, CARB issued *California's 2017 Climate Change Scoping Plan*. While the State is on track to exceed the AB 32 scoping plan 2020 targets, this plan is an update to reflect the enacted SB 32 reduction target.

The new Scoping Plan establishes a strategy that will reduce GHG emissions in California to meet the 2030 target (note that the AB 32 Scoping Plan only addressed 2020 targets and a long-term goal). Key features of this plan are:

- Cap and Trade program places a firm limit on 80 percent of the State's emissions;
- Achieving a 50-percent Renewable Portfolio Standard by 2030 (currently at about 29 percent statewide
- Increase energy efficiency in existing buildings
- Develop fuels with an 18-percent reduction in carbon intensity;
- Develop more high-density, transit-oriented housing;
- Develop walkable and bikeable communities
- Greatly increase the number of electric vehicles on the road and reduce oil demand in half
- Increase zero-emissions transit so that 100 percent of new buses are zero emissions;
- Reduce freight-related emissions by transitioning to zero emissions where feasible and near-zero emissions with renewable fuels everywhere else; and
- Reduce "super pollutants" by reducing methane and hydrofluorocarbons or HFCs by 40 percent.

In the updated Scoping Plan, CARB recommends statewide targets of no more than 6 metric tons CO_{2e} per capita (statewide) by 2030 and no more than 2 metric tons CO_{2e} per capita by 2050. The statewide per capita targets account for all emissions sectors in the State, statewide population forecasts, and the statewide reductions necessary to achieve the 2030 statewide target under SB 32 and the longer-term State emissions reduction goal of 80 percent below 1990 levels by 2050.

Regional

BAAQMD CEQA Guidelines and 2010 Bay Area Clean Air Plan

BAAQMD identifies thresholds of significance for operational GHG emissions from land-use development projects in its guidelines. These guidelines include recommended significance thresholds, assessment methodologies, and mitigation strategies for GHG emissions. Under the Guidelines, if a project would result in operational-related GHG emissions of 1,100 metric tons (MT) (also called the "bright line" threshold), or 4.6 metric tons per service population of carbon dioxide equivalents (CO_{2e}) per year or more, it would make a cumulatively considerable contribution to GHG emissions and result in a cumulatively significant impact to global climate change.[35] In jurisdictions where a qualified Greenhouse Gas Reduction Strategy has been reviewed under CEQA and adopted by decision-makers, compliance with the Greenhouse Gas Reduction Strategy would reduce a project's contribution to cumulative GHG emission impacts to a less than significant level. The Guidelines also outline a methodology for estimating GHGs.

The Clean Air Plan is a multi-pollutant plan that addresses GHG emissions along with other air emissions in the San Francisco Bay Area Air Basin. One of the key objectives in the Clean Air Plan is climate protection. The Clean Air Plan includes emission control measures in five categories: Stationary Source Measures, Mobile Source Measures, Transportation Control Measures, Land Use and Local Impact

[35] The term "service population" refers to the total number of energy consumers for a project (i.e. the total number of residents and employees).

Measures, and Energy and Climate Measures. Consistency of a project with current control measures is one measure of its consistency with the Clean Air Plan. The current Clean Air Plan also includes performance objectives, consistent with the state's climate protection goals under AB 32 and SB 375, designed to reduce emissions of GHGs to 1990 levels by 2020 and 40 percent below 1990 levels by 2035.

Post-2020 Impact Thresholds

Development of the project would occur beyond 2020, so the project would not be covered under the City's Greenhouse Gas Reduction Plan and therefore a threshold that addresses a future target is appropriate. CARB has completed a Scoping Plan, which will be utilized by BAAQMD to establish the 2030 GHG efficiency threshold. BAAQMD has yet to publish a quantified GHG efficiency threshold for 2030. The City of San José has developed updated GHG thresholds reflecting statewide goals beyond 2020. GHG emissions resulting from operation of the project at maximum build out have been compared to a bright-line threshold consistent with state goals detailed in SB 32 EO B-30-15 and EO S-3-05 to reduce GHG emissions by 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050, respectively. Though BAAQMD has not published a quantified threshold for 2030 yet, this assessment uses a bright-line threshold of 660 MTCO2e/year, which is 40 percent below 2020 bright-line threshold of 1,100 MT CO2e. This was calculated for 2030 based on the GHG reduction goals of SB32 EO B-30-15. The service population metric of 2.6 is calculated for 2030 based on the 1990 inventory and the projected 2030 statewide population and employment levels.[36] The 2030 bright-line threshold is a 40 percent reduction of the 2020 1,100 MT CO_{2e}/year threshold.

Local

City of San José General Plan

The General Plan includes strategies, policies, and action items that are incorporated in the City's GHG Reduction Strategy to help reduce GHG emissions.[37] Multiple policies and actions in the General Plan have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings. The GHG Reduction Strategy is intended to meet the mandates outlined in the CEQA Statue and Guidelines Section 15183.5, which specifically addresses Greenhouse Gas Reduction Plans, as well as the BAAQMD requirements for Qualified GHG Reduction Strategies.

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

The primary test for consistency with the City's GHG Reduction Strategy is conformance with the General Plan Land Use/Transportation Diagram and supporting policies. CEQA clearance for development proposals are required to address the consistency of individual projects with the goals and

[36] Association of Environmental Professionals, 2016. *Beyond 2020 and Newhall: A Field Guide to New CEQA Greenhouse Gas Thresholds and Climate Action Plan Targets for California.* April.

[37] City of San José, 2011. *Greenhouse Gas Reduction Strategy for the City Of San José*. Updated 2015.

policies in the General Plan designed to reduce GHG emissions. Compliance with the mandatory measures and voluntary measures (if required by the City) would ensure an individual project's consistency with the GHG Reduction Strategy. Projects that are consistent with the GHG Reduction Strategy would have a less than significant impact related to GHG emissions through 2020 and would not conflict with targets in the currently adopted Climate Change Scoping Plan through 2020.

The environmental impacts of the GHG Reduction Strategy were analyzed in the General Plan EIR. Beyond 2020, the emission reductions in the GHG Reduction Strategy are not large enough to meet the City's identified 3.04 metric tons (MT) CO_{2e} (carbon dioxide equivalent)/SP (Substantial Progress) efficiency metric for 2035. An additional reduction of 5,392,000 MT CO_{2e} per year would be required for the projected service population to meet the City's target for 2035.[38]

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

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

City of San José Municipal Code

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

- Green Building Ordinance (Chapter 17.84)
- Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10)

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

- Construction and Demolition Diversion Deposit Program (Chapter 9.10) Wood Burning Ordinance (Chapter 9.10)

Private Sector Green Building Policy (City Council Policy 6-32)

This policy establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. This policy is intended to enhance the public health, safety and welfare of 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. The green building standards required by this policy are intended to advance GHG reduction and other sustainability strategies outlined in the City's Green Vision. Green building reduces per capita energy use, provides energy from renewable sources, diverts waste from landfills, uses less water and encourages the use of recycled wastewater. Green building also encourages buildings to be located close to public transportation and services and provide amenities that encourage walking and bicycling and therefore offer further potential to achieve a healthy, environmentally sustainable City.

Impact Discussion

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

and

b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

Construction

Less than Significant. The project would result in minor increases in GHG emissions associated with on-site operation of construction equipment, vendor and hauling truck trips, and from construction workers' personal vehicles traveling to and from the site. Construction-related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel. Neither the City nor BAAQMD has established a quantitative threshold or standard for determining whether a project's construction-related GHG emissions are significant. However, GHG emissions from project construction would be temporary. Through the process of acquiring building, utility, conditional use, and special use permits from the City, the project would be required to comply with the City's Construction and Demolition Diversion Program, which ensures that at least 75 percent of the construction waste is diverted from landfills. Per General Plan policy MS-13.1,[39] the project would also implement all basic BAAQMD BMPs (listed in **Section 2.3, Air Quality, Impact (c)**) to reduce short-term construction-related diesel emissions. As a result, construction-period GHG emissions would be less than significant.

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

Operation

Less than Significant. The CalEEMod model, along with the project vehicle trip generation rates, was used to estimate daily emissions associated with operation of the fully developed site under the proposed project. As shown in **Table 8**, annual net emissions resulting from operation of the proposed project are predicted to be 684 MT of CO_{2e} in 2021 and 527 MT of CO_{2e} in 2030. The service population emission for the year 2021 and 2030 are predicted to be 3.0 and 2.6 MT/CO_{2e}/year/service population, respectively. The project would not exceed the 2030 operational annual emissions bright-line threshold of 660 MT CO_{2e}/year and would not exceed the service population emissions "Substantial Progress" efficiency metric of 2.6 MT CO_{2e}/year/service population. Additionally, the project has been designed in accordance with San José's Green Building Ordinance, Transportation Demand Management Ordinance, Santana Row/Valley Fair Urban Village Plan, General Plan land use designation, and zoning designation, all of which incorporate GHG criteria measures outlined in the City's GHG Reduction Strategy.[40] Thus, the project would not conflict with any applicable land use plans, policies, or regulations. the project would be consistent with the General Plan

Therefore, this impact would be less than significant.

Table 8 Annual Project GHG Emissions (CO_{2e}) in Metric Tons

Source Category	Existing in 2021	Proposed Project in 2021	Proposed Project in 2030
Area	<0.01	<0.01	<0.01
Energy Consumption	104	320	320
Mobile	274	706	549
Stationary	--	9	9
Solid Waste Generation	40	46	46
Water Usage	4	25	25
Total	422	1,106	949
Net New Emissions		684	527
Bright-Line Significance Threshold		**1,100**	**660**
Service Population Emissions		3.0	2.6
Significance Threshold		**4.6**	**2.6**
Significant?		*No*	*No*

Source: Illingworth & Rodkin, 2018.

[40] Because the project would not be completed until after the GHG Reduction Strategy's horizon year of 2020, consistency with this plan cannot be used to justify a less-than-significant determination. Discussion of the GHG Reduction Strategy is included for informational purposes only.

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2.9 Hazards and Hazardous Materials

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐
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?	☐	☒	☐	☐
c) Be located on a site which is included on a list of hazardous materials sites complied pursuant to Government Code Section 65962.5 and as a result, would it create a significant hazard to the public or the environment?	☐	☐	☒	☐
d) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	☐	☐	☐	☒

Environmental Setting

The project site is currently developed with a two-story restaurant originally constructed in 1973, a surface parking lot, and landscaping.[41] While improvements have been made to the restaurant building, the project site has maintained a restaurant use since 1973.[42] Prior to construction of the restaurant, historical aerial photography suggests that the project site contained agriculture-related uses associated with orchards once located directly east and west of the site.[43] The project site itself did not contain an orchard or other agricultural land.

[41] Property Shark. 2018. *335 S Winchester Boulevard, San José, CA 95128*. Available: https://www.propertyshark.com/mason/Property/38005490/335-S-Winchester-Blvd-San-Jose-CA-95128/

[42] City of San José. 2019d. *Permit Information by Property Address or Assessors Parcel Number.* Available: https://sjpermits.org/permits/general/generalfolders.asp

[43] NETR. 2019. *Historical Aerials Viewer*. Available: https://www.historicaerials.com/viewer

A search of available environmental records and associated report were prepared by Environmental Data Resources, Inc (EDR) (See **Appendix C**). The results of the search indicated that the project site is not listed in any of the databases searched by EDR. The EDR search identified a total of 40 listed sites within 0.125 mile of the project site, however many of the cases have been completed or closed. No active leaking underground storage tank (LUST) sites are located within 0.125 mile of the project site. One active Cortese list site is located approximately 0.2 mile from the project site on Santana Row. The closest potential off-site contamination source to the project is an underground storage tank located directly south of the project site at 369 South Winchester Boulevard. However, no leakage has been detected at this site. [44]

A Geotracker online search was also conducted to determine the presence of hazardous materials or Clean-Up Sites in August 2018.[45] The Geotracker search revealed no presence of hazardous materials on the project site, but across Winchester Boulevard, there was a Leaking Underground Storage Tank (LUST) Cleanup Site. This area was flagged as LUST cleanup from the previous presence of Courtesy Chevrolet, and the potential contaminant of concern was gasoline. The case was closed 1996 and the site has been cleared of any remaining contaminants. The project site is not within 0.25 mile of any schools. The closest school is Orion Montessori School, located more than 0.5 mile southwest of the project site. The Norman Y. Mineta San José International Airport (SJC) is located approximately 2.6 miles away from the project site, and there are no private airstrips anywhere near the project site. The project site does not lie within the airport's area of influence (AIA); the nearest border of the AIA to the project site lies approximately 1.5 miles northeast.

Since the EDR and Geotracker searches were conducted, a Tetrachloroethylene (PCE) case at 3135 Stevens Creek Boulevard has been opened. However, this site is located downgradient from the project site and would be an unlikely source of contamination on the project site.

Regulatory Setting

In California, the U.S. EPA has granted most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (Cal/EPA). In turn, local agencies including the San José Fire Department and the SCCDEH have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program.

Department of Toxic Substances Control and Regional Water Quality Control Board

The Department of Toxic Substances Control (DTSC) regulates hazardous waste and remediation of existing contamination and evaluates procedures to reduce the hazardous waste produced in California. DTSC regulates hazardous waste in California primarily under the authority of the federal RCRA and the California Health and Safety Code. The San Francisco Bay RWQCB also provides regulatory oversight for sites with contaminated groundwater or soils.

[44] Environmental Data Resources Inc. *The EDR Radius Map Report*. *335 South Winchester Boulevard, San José, CA, 95117*.Inquiry Number 5382582.2s. August 2018.

[45] County of Santa Clara Local Oversight Program. 1996. *Hazardous Material Incident Report, Courtesy Chevrolet, San José CA*. Available: https://geotracker.waterboards.ca.gov/case_summary?global_id=T0608525806. Accessed: August, 2018.

Government Code §65962.5 (Cortese List)

Section 65962.5 of the Government Code requires the CalEPA to develop and annually update a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by State and local agencies and developers to comply with CEQA requirements. The Cortese List includes hazardous substance release sites identified by DTSC and the State Water Resources Control Board (SWRCB). The project site is not located on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

City of San José General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating hazards and hazardous materials impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the hazards and hazardous materials policies listed in the General Plan, including the following:

Action EC-6.8 The City will use information on file with the County of Santa Clara Department of Environmental Health under the California Accidental Release Prevention (CalARP) Program as part of accepted Risk Management Plans to determine whether new residential, recreational, school, day care, church, hospital, seniors or medical facility developments could be exposed to substantial hazards from accidental release of airborne toxic materials from CalARP facilities.

Action EC-6.9 Adopt City guidelines for assessing possible land use compatibility and safety impacts associated with the location of sensitive uses near businesses or institutional facilities that use or store substantial quantities of hazardous materials by September 2011. The City will only approve new development with sensitive populations near sites containing hazardous materials such as toxic gases when feasible mitigation is included in the projects.

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

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

Policy EC-7.3 Where a property is located near proximity of known groundwater contamination with volatile organic compounds or within 1,000 feet of an active or inactive landfill, the potential for indoor air intrusion of hazardous compounds shall be evaluated and mitigated to the satisfaction of the City's Environmental Compliance Officer and

appropriate regional, state and federal agencies prior to approval of a development or redevelopment project.

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

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

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

Action EC-7.9: Ensure coordination with the County of Santa Clara Department of Environmental Health, RWQCB, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.

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

Action EC-7.11 Require sampling for residual agricultural chemicals, based on the history of land use, on sites to be used for any new development or redevelopment to account for worker and community safety during construction. Mitigation to meet appropriate end use such as residential or commercial/industrial shall be provided.

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

Impact Discussion

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Less than Significant. The project would involve the use of potentially hazardous materials such as paints, oils, absorbents, cleaners, and pesticides for landscaping. All potentially hazardous materials used on the project site would be contained, stored, and used in accordance with manufacturer's

instructions and handled in compliance with applicable standards and regulations. In accordance with federal and State law, the project would be required to disclose hazardous materials handled at reportable amounts. Additionally, the project applicant would be required to prepare an emergency response and evacuation plan, conduct hazardous materials training (including remediation of accidental releases), and notify employees who work in the vicinity of hazardous materials, in accordance with OSHA and Cal OSHA requirements. Therefore, impacts related to the routine transport, use, or disposal of hazardous materials would be less than significant.

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?

Hazardous Building Materials

Less than Significant with Mitigation. As discussed in the environmental setting above, the project likely contained agriculture-related uses prior to 1973. While no crops appear to have been grown on the project site, it is still possible that pesticides or fertilizers left over from nearby orchards could be present in the soil. While unlikely, the presence of the underground storage tank at 369 South Winchester Boulevard also represents a potential source of offsite contamination. The unearthing of any such contaminants during project construction would represent a significant environmental impact. Implementation of **Mitigation Measures HAZ-1 and HAZ-2** would be required to reduce this impact to a less-than-significant level.

> **Impact HAZ-1:** Construction workers and adjacent residences could be exposed to undocumented contaminants during soil disturbing activities.
>
> **Mitigation Measure HAZ-1:**
>
> Prior to the issuance of a demolition or grading permit, the applicant shall contact the Santa Clara County Department of Environmental Health (SCCDEH), or equivalent, to discuss the proposed redevelopment project and perform any other necessary investigations and studies to address the potential residual contamination as deemed necessary. The regulatory agency may require a Site Management Plan (SMP), or similar document, to manage the cleanup of potentially contaminated soils. If applicable, a SMP shall be prepared prior to construction to reduce or eliminate exposure risk to human health and the environment, specifically, potential risks associated with the presence of contaminated soils. If required, the SMP shall include, but is not limited to, the following elements to mitigate potential risks associated with environmental conditions:
>
> - A detailed discussion of the site background;
> - Proper mitigation as needed for demolition of existing structures;
> - Management of stockpiles, including sampling, disposal, and dust and runoff control including implementation of a stormwater pollution prevention program;
> - Management of underground structures encountered, including utilities and/or underground storage tanks;
> - Procedures to follow if evidence of an unknown historic release of hazardous materials (e.g., underground storage tanks, polychlorinated biphenyls [PCBs], asbestos containing materials, lead-based paint, etc.) is discovered during excavation or demolition activities.

- A health and safety plan (HSP) for each contractor working at the site that addresses the safety and health hazards of each site operation phase, including the requirements and procedures for employee protection. The HSP shall outline proper soil handling procedures and health and safety requirements to minimize work and public exposure to hazardous materials during construction.

The SMP, or similar document, shall be submitted to the Santa Clara County Department of Environmental Health (SCCDEH), or equivalent, for review and approval if required. A copy of the documentation or correspondence from the SCCDEH shall be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee and Municipal Compliance Officer of the City of San José Environmental Services Department for approval prior to the issuance of any grading permits.

Impact HAZ-2: Construction workers and adjacent residences could be exposed to residual agricultural contaminants.

Mitigation Measure HAZ-2.1:

After demolition but prior to the issuance of grading permits, shallow soil samples shall be taken from the near surface soil and tested for organochlorine pesticides and pesticide-based metals arsenic and lead to determine if contaminants from previous agricultural operations occur at concentrations above established construction worker safety and commercial/industrial environmental screening levels. The result of soil sampling and testing shall be provided to the Director of Planning, Building, and Code Enforcement or the Director's designee and the City's Municipal Compliance Officer of the Environmental Services Department for review.

Mitigation Measure HAZ-2.2:

If contaminated soils are found in concentrations above established regulatory environmental screening levels, the project applicant shall enter into the Santa Clara County Department of Environmental Health's (SCCDEH) Voluntary Cleanup Program (VCP), or equivalent, to formalize regulatory oversight of the mitigation of contaminated soil to ensure the site is safe for construction workers and the public after development. The project applicant must remove contaminated soil to levels acceptable to the SCCDEH (or equivalent oversight agency). The SCCDEH (or equivalent oversight agency) may also approve leaving in-place some of the contaminated soil if the contaminated soil will be buried under hardscape and/or several feet of clean soil.

A Removal Action Plan, Site Management Plan or other similarly titled report describing the remediation must be prepared and implemented to document the removal and /or capping of contaminated soil. A copy of any reports prepared shall be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee and the Municipal Compliance Officer of the City of San José Environmental Services Department. All work and reports produced shall be performed under the regulatory oversight and approval of the SCCDEH (or equivalent oversight agency).

Hazardous Building Materials

Given the age of the existing structure on the project site, it is also possible that asbestos-containing materials (ACMs) or lead-based paint materials are present. The project would demolish the existing structure which could release asbestos particles and expose construction workers and nearby residents to harmful levels of asbestos. As a result, an asbestos survey must be conducted under the National Emission Standards for Hazardous Air Pollutants (NESHAP) guidelines. The project would be required to remove all potentially friable ACMs prior to building demolition that may disturb the ACMs.

If lead-based paint is still bonded to the building materials, its removal is not required prior to demolition. It will be necessary to follow the requirements outlined by CalOSHA Lead in Construction Standard, Title 8, CCR 1532.1 during demolition activities; these requirements include employee training, employee air monitoring, and dust control. If lead based paint is peeling, flaking, or blistered, it will be removed prior to demolition. It is assumed that such paint will become separated from the building components during demolition activities and must be managed and disposed of as a separate waste stream. Any debris or soil containing lead paint or coating must be disposed of at landfills that are permitted to accept such waste.

The General Plan EIR concluded that conformance with regulatory requirements will result in a less than significant impact from ACMs and lead.

The project applicant would be required to implement the following standard permit condition to reduce the potential impacts from ACMs and lead.

Standard Permit Conditions:

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

c) Be located on a site which is included on a list of hazardous materials sites complied pursuant to Government Code Section 65962.5 and as a result, would it create a significant hazard to the public or the environment?

Site Contamination

Less than Significant. As discussed above, an EDR database search was conducted and indicated that the project site is not listed on hazardous material site lists compiled pursuant to Government Code Section 65962.5. Although there are listed sites that have not been remediated located within the vicinity of the project site, the project site itself is not listed. Therefore, the project would not result in a hazard to the public. This impact would be less than significant.

d) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

No Impact. The project site is not within 0.25 mile of any schools. The closest school is Orion Montessori School, located more than half a mile away southwest. Therefore, no impact would occur.

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

No Impact. The project site is located 2.6 miles southwest of SJC. The project site does not lie within the airport's area of influence (AIA); the nearest border of the AIA to the project site lies approximately 1.5 miles northeast.[46] Therefore, the project would not result in a safety hazard for people residing or working in the project site. No impact would occur.

f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

No Impact. The San José Fire Department serves the project site (**Section 2.15, Public Services**, provides information regarding fire and emergency services provided to the site). The project is located within a developed area with no formal evacuation routes or emergency response plans near the project site that would be impacted. No impact would occur.

g) Expose people or structures either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?

No Impact. The project site is located in a developed urban area and is not adjacent to natural areas that would be subject to wildland fires. According to the California Department of Forestry and Fire Protection (CAL FIRE), the project site is not located within a Very High Fire Hazard Severity Zone.[47] No impact would occur.

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[46] Santa Clara County. Updated November 2016. *Norman Y. Mineta San José International Airport Comprehensive Land Use Plan.* May 2011. Available: https://www.sccgov.org/sites/dpd/DocsForms/Documents/ALUC_SJC_CLUP.pdf. Accessed: August, 2018.

[47] California Department of Forestry and Fire Protection. 2012. *San José Fire Hazard Severity Zones*. Available: http://www.fire.ca.gov/fire_prevention/fhsz_maps_santaclara. Accessed: August, 2018.

2.10 Hydrology and Water Quality

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
Would the project:				
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality?	☐	☐	☒	☐
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin	☐	☐	☒	☐
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:	☐	☐	☒	☐
i) Result in substantial erosion or siltation on- or off-site;	☐	☐	☒	☐
ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite;	☐	☐	☒	☐
iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff;	☐	☐	☒	☐
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☒	☐
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☒	☐

Environmental Setting

The project site is located within the San Thomas Watershed and approximately 400 feet east from San Thomas Aquino Creek. The San Thomas Aquino Creek follows the San Tomas Expressway, flowing north underneath the expressway. The San Thomas Aquino Creek continues under the Alum Rock Bridge, and eventually flows north and west into Coyote Creek and the San Francisco Bay. Ground water levels were measured during a field investigation at 46.7 and 49 feet below ground surface.[48] According to the General Plan EIR, the project site is located within the dam inundation zone for the Anderson, Elsman,

[48] Verse Design, 2018.

and Lexington dams. All of the dams potentially affecting San José fall under the jurisdiction of the California Division of Safety of Dams (DSOD) and some also fall under Federal Energy Regulatory Commission (FERC) jurisdiction. DSOD inspects each dam on an annual basis to ensure the dam is safe, performing as intended, and not developing problems. All of the upstream dams are classified as high hazard dams, because their failure would result in a significant loss of life and property damage.

Stormwater runoff within the urbanized areas of the City is discharged into local storm drains, which, in turn, flow into local creeks and the San Francisco Bay. The City owns and maintains municipal storm drainage facilities throughout the City. Storm drain lines are inspected and maintained by the Department of Transportation and are installed, rehabilitated, or replaced by the Department of Public Works. The project site is developed with an existing building and parking area and is completely paved. The existing drainage pattern of the project site is influenced by the predominance of impervious, paved surfaces on the site. As stated above, excess stormwater is discharged into local storm drains. Under existing conditions, the developed project site contains 26,403 square feet of impervious surface areas and 3,951 square feet of pervious areas. Project construction would replace and create 26,403 square feet of new impervious area, equal to the existing amount. Project construction would reduce the total pervious surface area to 3,438 square feet.

Regulatory Setting

Federal Emergency Management Agency

The FEMA administers the National Flood Insurance Program (NFIP) to provide subsidized flood insurance to communities that comply with FEMA regulations protecting development in floodplains. As part of the NFIP, FEMA publishes Flood Insurance Rate Maps (FIRMs) that identify flood hazard zones within a community. Firm Maps designate 100-year floodplain zones and delineate other flood hazard areas. A 100-year floodplain zone is the area that has a one in one hundred (1 percent) chance of being flooded in any one year based on historical data. Areas subject to the 1 percent flood are designated as Zone AE, A, AH, or AO on the FEMA flood maps. The project site is located in Flood Zone D, which is an area of undetermined but possible flood hazard.[49]

National Pollutant Discharge Elimination System (NPDES) Permit Program

The National Pollutant Discharge Elimination System (NPDES) permit program controls sources that discharge pollutants into waters of the United States (e.g., streams, lakes, bays, etc.). For the City, these regulations are implemented at the regional level by the San Francisco Bay RWQCB. The RWQCB is responsible for protecting the quality of surface water and groundwater by issuing and enforcing compliance with the NPDES permits and by preparation and revision of the relevant Regional Water Quality Control Plan, also known as the Basin Plan.

The San Francisco Bay RWQCB also has issued a Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008). Under the Municipal Regional Stormwater NPDES Permit, development projects that create, add, or replace 10,000 square feet or more of impervious surface area are required to

[49] FEMA. 2009. *FEMA Flood Map Service Cente*r. Available: https://msc.fema.gov/portal/search?AddressQuery=1936%20alum%20rock%20avenue%20san%20Jos%C3%A9#searchresultsanchor. Accessed: August, 2018.

control post-development stormwater runoff through source control, site design, and treatment control BMPs. Additional requirements must be met by certain large projects that create 1 acre or more of impervious surfaces.

In addition to water quality controls, the Regional Municipal NPDES permit has hydromodification[50] controls as defined in the Hydromodification Management Plan. The NPDES permit requires all new and redevelopment projects that create or replace 1 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.

Statewide Construction General Permit

The SWRCB has implemented a NPDES General Construction Permit for the State of California. Projects that would disturb more than one acre of land are required to submit a Notice of Intent (NOI) and a Storm Water Pollution Prevention Plan (SWPPP) to the SWRCB to apply for coverage under the NPDES Construction and Land Disturbance General Permit. Construction activities subject to this permit include grading, clearing, or any activities that cause ground disturbance such as stockpiling or excavation. The SWPPP will include the site-specific best management practices (BMPs) to control erosion and sedimentation and maintain water quality during the construction phase. The SWPPP also contains a summary of the structural and non-structural BMPs to be implemented during the post-construction period.

Groundwater Management Plan

The 2016 Groundwater Management Plan for the Santa Clara and Llagas Subbasins (GWMP) describes the district's groundwater sustainability goals, and the strategies, programs, and activities that support those goals. The Groundwater Management Plan satisfies the objectives of the Sustainable Groundwater Management Act enacted by the state legislature in 2014. The 2016 GWMP covers the Santa Clara and Llagas subbasins, located entirely in Santa Clara County.

City of San José General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating hydrology and water quality impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the hydrology and water quality policies listed in the General Plan, including the following:

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

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

[50] Hydromodification is a change in stormwater runoff characteristics from a watershed caused by changes in land use conditions (i.e., urbanization) that alter the natural cycling of water. Changes in local land use can cause runoff volumes and velocity to increase which can result in a decrease in natural vegetation, changing of river/creek bank grades, soil compaction, and the creation of new drainages.

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

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

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

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

The City of San José's Post-Construction Urban Runoff Management Policy 6-29 requires all new and redevelopment projects to implement post-construction BMPs and Treatment Control Measures (TCMs). This policy also established specific design standards for post-construction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

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

The City of San José's Post-Construction Hydromodification Management Policy 8-14 requires all new and redevelopment projects that create or replace 1 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 are not required to include hydromodification controls for peak runoff under this policy if they do not create an increase in impervious surface over pre-project (existing) conditions.

Impact Discussion

a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface groundwater quality?

The RWQCB oversees certain discharges to land, groundwater, or from diffused sources by applying waste discharge requirements and permits. This requirement applies to projects that:

- Would not discharge into a community sewer system
- Would not fall under a General NPDES permits that use a Notice of Intent (NOI)[51]

The project would connect to existing sewer and stormwater systems, and (as described below) would not be subject to the NPDES General Construction Permit which would require submittal of a NOI. Therefore, the project would not violate waste discharge requirements.

Construction

Less than Significant. Construction of the project would include excavation, grading, trenching, and other activities across the project site. Construction activities have the potential to result in runoff that

[51] An NOI for a general permit is notice to the NPDES permitting authority of the operator's intent to be covered under the general permit. An NOI typically contains basic information about the site and the proposed discharge.

contains sediment and other pollutants (i.e., chemical substances from construction materials and hazardous or toxic materials, such as fuels) that could degrade water quality if not properly controlled. Because project construction would not disturb over 1 acre, the project would not be subject to a NPDES General Construction Permit. As the project does not meet the requirements of a NPDES permit, it is assumed that the project is below the threshold for projects that would substantially degrade water quality.

Under existing conditions, the developed project site contains 26,403 square feet of impervious surface areas and 3,951 square feet of pervious areas. Project construction would replace and create 26,403 square feet of new impervious area, equal to the existing amount. Project construction would reduce the total pervious surface area to 3,438 square feet. As the project would replace more than 10,000 square feet of impervious surface, it would be subject to the requirements of Provision C.3 of the Municipal Regional Stormwater Permit and the City's Post-Construction Urban Runoff Policy 6-29. In order to meet these requirements, the project would include landscaping that promotes surface infiltration where possible and utilize a media filter (such as sand, compost or propriety media) as a treatment system.

The potential for impacts to groundwater quality during construction is unlikely due to the impervious nature of the project site and because excavation depths are only expected to reach a maximum of 25 feet below ground surface. As stated in the Environmental Setting, the ground water table exists between 46.7 and 49 feet below ground surface. Water from construction would be treated using a media filter (sand, compost, or proprietary media). Additionally, through compliance with the provisions of the Municipal Regional Stormwater Permit and the City's Post-Construction Urban Runoff Policy 6-29, impacts to water quality would be considered less than significant.

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

Standard Permit Conditions:

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- Vegetation in disturbed areas shall be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system shall be installed if requested by the City.

- The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

Development of the project would result in the replacement/creation of more than 10,000 square feet of impervious surface area; therefore, the project would be required to comply with the runoff treatment control requirements of the City of San José Post-Construction Urban Runoff Policy 6-29 and Provision C.3 of the MRP.

The MRP requires that post-construction stormwater runoff be treated using numerically sized Low Impact Development (LID) treatment controls, such as biotreatment facilities, unless the project is granted Special Project LID Reduction Credits, which would allow the project to implement non-LID measures for all or a portion of the site depending on the project characteristics. The Stormwater Control Plan prepared for the project proposes the use of a non-LID measure (media filter) to treat all of the project site. Source control measures proposed include beneficial landscaping, the use of water efficient irrigation systems, pavement sweeping, catch basin cleaning, storm drain labeling, and the connection of parking garage floor drains to the sanitary sewer system.

With implementation of a Stormwater Control Plan consistent with RWQCB 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.

Operation

Less than Significant.

The project would not generate wastewater that would impact water quality standards during the operation of the project. The project would accumulate small quantities of heavy metals, oil and grease, as well as an increase in other chemicals used by motor vehicles that may be mobilized into the watershed. The amount of runoff generated by the project would not increase compared to existing conditions. Stormwater runoff would drain into the treatment areas prior to entering the storm drainage system. Given the above, operational stormwater impacts would be less than significant.

b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

Less than Significant. The project site does not presently contribute to groundwater recharge, as it is largely made up of impervious areas. Implementation of the project would add and replace 26,403 square feet of impervious surfaces, which is equal to the existing impervious surfaces on the project site and would decrease the project site's existing pervious surfaces by 513 square feet. However, the project would include landscape that promotes surface infiltration where possible. Excavation at the project site would reach depths of 25 feet below the surface and would not encounter the groundwater table, which lies at 46.7 and 49 feet below ground surface. The proposed project would not change the existing groundwater recharge of the project area, and therefore would not have an adverse impact on aquifer volume. This impact would be less than significant.

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:

and

i. Result in substantial erosion or siltation on- or off-site;

and

ii. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite;

and

iii. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff;

Less than Significant. The project site is flat, and project implementation would not substantially alter the existing drainage pattern or the course of a stream or river on the site. However, construction would include excavation, grading, trenching and other activities that would result in ground disturbance.

The project has been designed to not increase the rate or amount runoff flow that would exceed the capacity of existing or planned stormwater drainage systems. As described above in **Section 2.10, Hydrology and Water Quality, Impact (a)**, the project would also be required to complete a Stormwater Evaluation Form[52] in compliance with Provision C.3 of the Municipal Regional Stormwater Permit, as the project involves a restaurant and would replace more than 10,000 sq. feet of impervious surface. Project construction would involve the replacement and creation of 26,403 square feet of new impervious area, equal to the existing amount, and would reduce the total pervious surface area to 3,438 square feet. Therefore, the project would implement design, source control, and treatment system measures as stipulated of Provision C3. This would include landscaping that promotes surface infiltration and utilizing a media filter for water treatment. Therefore, the project would not contribute substantial amounts of sediment to storm drainage systems. This impact would be less than significant.

d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?

Less than Significant. The project site is located in Flood Zone D, which is an area of undetermined but possible flood hazard. The proposed project does not involve housing, as it would be a commercial development. The proposed project meets the criteria for flood drainage as development assumed under the General Plan. This impact would be less than significant.

The project site is located within the dam inundation zone for the Anderson, Elsman, and Lexington dams. As mentioned above, these dams are under the jurisdiction of the California Division of Safety of Dams (DSOD) and the Federal Energy Regulatory Commission (FERC). According to the General Plan, the risks of dam failure are reduced by several regulatory inspection programs and risks to people and property in the San José area are reduced by local hazard mitigation planning. DSOD inspects each dam on an annual basis to ensure the dam is safe, performing as intended, and not developing problems. The

[52] City of San José Planning Division. StormWater Evaluation Form. Form #120. 6/14/17

project site, similar to the surrounding area, would be at risk of flooding as a result of the failure of one of the above-mentioned dams. This impact would be less than significant.

The project site is located approximately 30 miles east of the Pacific Ocean and approximately 7 miles south of the San Francisco Bay. Because of the project site's distance from these two bodies of water, there are no potential impacts related to a tsunami.[53] Additionally, the project site is not susceptible to impacts resulting from seiche because of its distance from the San Francisco Bay and the Pacific Ocean. Finally, the flat topography of the project site and its immediate surroundings reduce the likelihood of mudflows. This impact would be less than significant.

e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

Less than Significant. As mentioned above in **Section 2.10, Hydrology and Water Quality, Impact (a)**, project construction would require compliance with the provisions of the Municipal Regional Stormwater Permit, and the City's Post-Construction Urban Runoff Policy 6-29 in order to ensure water quality control standards are met. The project also complies with the Groundwater Management Plan for the Santa Clara Subbasin. This impact would be less than significant.

[53] Association of Bay Area Governments. *Tsunami Inundation Emergency Planning Map for the San Francisco Bay Region.* Available: http://quake.abag.ca.gov/tsunamis. Accessed: September, 2018.

2.11 Land Use and Planning

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
Would the project:				
a) Physically divide an established community?	☐	☐	☐	☒
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☒	☐

Environmental Setting

Existing and Surrounding Land Uses

The project site is located in an urbanized area and is surrounded by commercial and retail land uses. This includes the mixed-use development of Santana Row, which is located across Winchester Boulevard to the east of the project, and is comprised of retail, office, parking and residential spaces. Northeast of the project on Stevens Creek Boulevard, though not visible from the project site, is Westfield Valley Fair Shopping Mall. Bordering the western boundary of the project site there is a neighborhood of single-family homes. Immediately west of the project site is a single-story residential home, obscured from the project site only by the tall trees that border the west end. North and northwest of the project site are retail developments with surface parking lots. Directly south of the project site are several restaurants.

Existing Land Use Designations and Zoning

The project site's land use designation is Mixed Use Commercial, and the project is zoned Commercial Neighborhood (CN). Per the City's General Plan and Code of Ordinances, the Mixed-Use Commercial designation and CN zoning code support a variety of commercial and residential land uses. The City's Code of Ordinances defines the CN Commercial Neighbor Zone's intended uses as a district intended to provide for neighborhood serving commercial uses without an emphasis on pedestrian orientation except within the context of a single development. Developments under CN zoning have no limit on the size of the stores. The type of development allowed in CN zones includes neighborhood centers, multi-tenant commercial development along City connectors and main streets, and small corner commercial establishments.

The project site is located within the Santana Row/Valley Fair Urban Village Plan Area, which was approved on August 8, 2017. Urban villages are walkable, bicycle-friendly, transit-oriented, mixed use settings that provide both housing and jobs, thus supporting the General Plan's environmental goals. Under the Santana Row/Valley Fair Urban Village Plan, the project site is designated a Mixed-Use Commercial land use. This designation is intended to accommodate a mix of commercial and residential uses with an emphasis on multistory commercial developments and allows development that only

includes commercial uses. According to the Santana Row/Valley Fair Urban Village Plan and the City's Code of Ordinances, Mixed Use Commercial developments have an allowable height of up to 65 feet.

Regulatory Setting

Santa Clara Valley Habitat Plan

The City is under the jurisdiction of the Santa Clara Valley Habitat Plan (Habitat Plan), a collaborative effort intended to protect and enhance ecological diversity and function within a large section of Santa Clara County, while allowing for currently planned development and growth. The Habitat Plan provides a framework for the protection of natural resources while streamlining and improving the environmental permitting process for both private and public development, including activities such as road, water, and other infrastructure construction and maintenance work. The Habitat Plan is intended to provide environmental benefit by resulting in the creation of a number of new habitat reserves larger in scale and more ecologically valuable than the fragmented, piecemeal habitats yielded by mitigating projects on an individual basis.

City of San José General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating land use impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the policies listed in the General Plan, including the following:

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

Policy CD-1.18: Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent, and to the extent feasible, avoid impacts of headlights on adjacent land uses.

Policy 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.

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

a. Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian scale lighting, pedestrian oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways.

b. Strongly discourage drive-up services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas. Uses that serve the vehicle, such as car washes and service stations, may be considered appropriate in these areas when they do not disrupt pedestrian flow, are not concentrated in one area, do not break up the building mass of the streetscape, are consistent with other policies in this Plan, and are compatible with the planned uses of the area.

c. Provide pedestrian connections as outlined in the Community Design Connections Goal and Policies.

d. Locate retail and other active uses at the street level.

e. Create easily identifiable and accessible building entrances located on street frontages or paseos.

f. Accommodate the physical needs of elderly populations and persons with disabilities.

g. Integrate existing or proposed transit stops in project designs.

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).

Santana Row Valley Fair Urban Village Plan Policies

Policy 3-3 Within the Mixed-Use Commercial, Mixed Use Neighborhood, or Urban Village land use designations, existing commercial or industrial square footage shall be replaced with an equivalent commercial square footage in the new residential or residential mixed-use development.

Policy 3-9 Ensure that proposals for redevelopment or significant intensification of existing land uses on a property conform to the Land Use Plan. Because the Land Use Plan identifies the City's long-term planned land use for a property, non-conforming uses should transition to the planned use over the time. Allow improvements or minor expansion of existing, nonconforming land uses provided that such development will contribute to San José's and this Plan's employment growth goals or advance a significant number of other goals of this Plan.

DS-8 Projects must comply with the SRVF Urban Village Height Limits.

DS-10 Projects must comply with the Building Placement Standards

Impact Discussion

a) Physically divide an established community?

No Impact. Projects that have the potential to physically divide an established community include new freeways and highways, major arterials streets, and railroad corridors. The project would be located in a developed area surrounded by residential and commercial land uses. The project would be compatible with the pattern of surrounding land uses and would not physically divide an established community. No impact would occur.

b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

Less than Significant. The project site's land use designation is Mixed Use Commercial, and the project is zoned Commercial Neighborhood (CN). The project site is located in an urbanized area and is surrounded by commercial and retail land uses. Moreover, the project site is located in the Santana Row/Valley Fair Urban Village Plan Area which encourages multistory commercial developments in the area.

As discussed above, the project site is also located within the Habitat Plan Area, which allows for planned development and growth while protecting natural resources. The Habitat Plan designates project site as Urban Development, as it is located within the Greenline/Urban boundary. According to the Habitat Plan, indirect impacts of increased nitrogen deposition on natural communities and covered species are anticipated to result from urban development and rural development covered under the plan. The Habitat Plan requires projects greater than 2 acres to pay the nitrogen deposition fee. However, the project site is less than two acres, and therefore, is not a covered project under the Habitat Plan. The project would not conflict with any applicable habitat conservation plan or natural community conservation plan.

The building plan has been designed in accordance with applicable City regulations and the approved Santana Row/Valley Fair Urban Village Plan. The General Plan designation and zoning designation for the project site would not be changed. Thus, the project would not conflict with any applicable land use plans, policies, or regulations. This impact would be less than significant.

2.12 Mineral Resources

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒
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?	☐	☐	☐	☒

Environmental Setting

According to the General Plan EIR, the Communications Hill area, located approximately 5 miles from the project site, is the only area in the City designated by the State Mining and Geology Board under the Surface Mining and Reclamation Act of 1975 (SMARA) as containing mineral deposits which are of regional significance. The Communications Hill area is designated by the State Mining and Geology board as a regional resource of construction aggregate materials. No other areas of the City have been designated mineral deposits subject to SMARA.

Impact Discussion

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

and

b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

No Impact. The project site is located approximately 5 miles away from the nearest known mineral resource of statewide, regional, or local value. Given this, implementation of the project would not disturb protected mineral resources. No impact would occur.

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2.13 Noise and Vibration

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
Would the project result in:				
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☒	☐	☐
b) Generation of excessive groundborne vibration or groundborne noise levels?	☐	☒	☐	☐
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels ?	☐	☐	☐	☒

Environmental Setting

Illingworth and Rodkin, Inc., prepared a Noise Assessment (**Appendix D**) in March 2019. The report was subsequently revised in July 2019 to reflect the removal of a 10-foot rooftop wall from the project design. The Noise Assessment includes background information on acoustics, noise standards applicable to the project, the existing noise environment of the project site, construction-period and operational noise impacts. Traffic assumptions used in this assessment derive from the Transportation Analysis TA (**Appendix E**). The existing noise levels at the site and nearby land uses results primarily from vehicular traffic alone South Winchester Boulevard.

The noise monitoring survey was performed at the project site on Wednesday, September 26, 2018 through Monday, October 1, 2018. The survey includes one long-term and one short-term noise measurement on opposite ends of the site. Long-term noise measurement was made about 60 feet from the centerline of South Winchester Boulevard, and short-term noise made at the setback of residences adjoining west to the site, about 210 feet from the centerline of South Winchester Boulevard. According to the Noise Assessment, residences adjacent to the site are currently exposed to ambient noise levels of about 59 dBA L_{dn} with maximum noise levels in the range of 60-65 dBA L_{max}.

Principles of Acoustics

Noise is defined as unwanted sound. Airborne sound is a rapid fluctuation of air pressure above and below atmospheric pressure. Sound levels are usually measured and expressed in decibels (dB) with 0 dB corresponding roughly to the threshold of hearing. Noise is usually objectionable because it is disturbing or annoying.

The objectionable nature of sound could be caused by its *pitch* or its *loudness*. *Pitch* is the height or depth of a tone or sound, depending on the relative rapidity (frequency) of the vibrations by which it is produced. Higher pitched signals sound louder to humans than sounds with a lower pitch. *Loudness* is intensity of sound waves combined with the reception characteristics of the ear. Intensity may be compared with the height of an ocean wave in that it is a measure of the amplitude of the sound wave.

Most of the sounds which we hear in our normal environment do not consist of a single frequency, but rather a broad range of frequencies. As humans do not have perfect hearing, environmental sound measuring instruments have an electrical filter built in so that the instrument's detector replicates human hearing. This filter is called the "A-weighting" network and filters out low and very high frequencies. All environmental noise is reported in terms of A-weighted decibels, notated as “dBA”. All sound levels used in this Initial Study are A-weighted unless otherwise noted. This scale gives greater weight to the frequencies of sound to which the human ear is most sensitive.

Although the A-weighted noise level may adequately indicate the level of noise at any instant in time, community noise levels vary continuously. Most environmental noise includes a mixture of noise from distant sources that create a relatively steady background noise from which no particular source is identifiable. To describe the time-varying character of environmental noise, the statistical noise descriptors, L_1, L_{10}, L_{50} and L_{90} are often used. They are the A-weighted noise levels exceeded for 1 percent, 10 percent, 50 percent, and 90 percent of a stated time period. The continuous equivalent-energy level (L_{eq}) is that level of a steady state noise which has the same sound energy as a time-varying noise. It is often considered the average noise level and is used to calculate the Day-Night Levels (DNL) and the Community Noise Equivalent Level (CNEL) described below.

In determining the daily level of environmental noise, it is important to account for the difference in response of people to daytime and nighttime noises. Since the sensitivity to noise increases during the evening and at night -- because excessive noise interferes with the ability to sleep -- 24-hour descriptors have been developed that incorporate artificial noise penalties added to quiet-time noise events. The Community Noise Equivalent Level (CNEL) is a measure of the cumulative noise exposure in a community, with a 5 dB penalty added to evening (7:00 pm - 10:00 pm) and a 10 dB addition to nocturnal (10:00 pm - 7:00 am) noise levels. The Day/Night Average Sound Level (DNL or L_{dn}) is essentially the same as CNEL, with the exception that the evening time period is dropped and all occurrences during this three-hour period are grouped into the daytime period.

Principals of Groundborne 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 method is the Peak Particle Velocity (PPV). The PPV is defined as the maximum instantaneous positive or negative peak of the vibration wave. In this report, a PPV descriptor with units of mm/sec or in/sec is used to evaluate construction generated vibration for building damage and human complaints. **Table 9** displays the reactions of people and the impacts on buildings that continuous or frequent intermittent vibration levels produce.

Table 9 Reaction of People and Damage to Buildings from Continuous or Frequent Intermittent Vibration Levels

Velocity Level, PPV (in/sec)	Human Reaction	Effect on Buildings
0.01	Barely perceptible	No impact
0.04	Distinctly perceptible	Vibration unlikely to cause damage of any type to any structure
0.08	Distinctly perceptible to strongly perceptible	Recommended upper level of the vibration to which ruins and ancient monuments should be subjected
0.1	Strongly perceptible	Threshold at which there is a risk of damage to fragile buildings with no risk of damage to most buildings
0.25	Strongly perceptible to severe	Threshold at which there is a risk of damage to historic and some old buildings.
0.3	Strongly perceptible to severe	Threshold at which there is a risk of damage to older residential structures
0.5	Severe - Vibrations considered unpleasant	Threshold at which there is a risk of damage to new residential and modern commercial/industrial structures

Source: Illingworth &Rodkin, 2018

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 groundborne vibration levels. Because of the impulsive nature of such activities, the use of the PPV descriptor has been routinely used to measure and assess groundborne vibration and almost exclusively to assess the potential of vibration to cause 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. 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.

Structural damage can be classified as cosmetic only, such as paint flaking or minimal extension of cracks in building surfaces; minor, including limited surface cracking; or major, which may threaten the structural integrity of the building. Safe vibration limits that can be applied to assess the potential for damaging a structure vary by researcher. The damage criteria presented in **Table 9** include several categories for the types of structures most at risk to damage. 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.

The annoyance levels shown in **Table 9** depend on the level of activity or the sensitivity of the individual. To sensitive individuals, vibrations approaching the threshold of perception can be annoying. Low-level

vibrations frequently cause irritating secondary vibrations and can give rise to exaggerated vibration complaints, even though there is very little risk of actual structural damage. Construction activities, train operations, and street traffic are some of the most common external sources of vibration that can be perceptible inside residences.

Regulatory Setting

State of California Code of Regulations, Title 24

The State of California Code of Regulations, Title 24 (CBC), Ref. (c), specify an interior noise exposure limit of 45 dB DNL from exterior noise sources. The Title 24 standards also specify minimum sound insulation ratings for common partitions separating different dwelling units and dwelling units from interior common spaces.

2016 California Green Building Standards Code (Cal Green Code)

The State of California established exterior sound transmission control standards for new non-residential buildings as set forth in the 2016 California Green Building Standards Code (Section 5.507.4.1 and 5.507.4.2). Section 5.507 states that either the prescriptive (Section 5.507.4.1) or the performance method (Section 5.507.4.2) shall be used to determine environmental control at indoor areas. The prescriptive method is very conservative and not practical in most cases; however, the performance method can be quantitatively verified using exterior-to-interior calculations. For the purposes of this report, the performance method is utilized to determine consistency with the Cal Green Code. The sections that pertain to this project are as follows:

> **5.507.4.1 Exterior noise transmission, prescriptive method.** Wall and roof-ceiling assemblies exposed to the noise source making up the building envelope shall meet a composite STC rating of at least 50 or a composite OITC rating of no less than 40, with exterior windows of a minimum STC of 40 or OITC of 30 when the building falls within the 65 dBA L_{dn} noise contour of a freeway or expressway, railroad, industrial source or fixed-guideway noise source, as determined by the local general plan noise element.
>
> **5.507.4.2 Performance method.** For buildings located, as defined by Section 5.507.4.1, wall and roof-ceiling assemblies exposed to the noise source making up the building envelope shall be constructed to provide an interior noise environment attributable to exterior sources that does not exceed an hourly equivalent noise level (L_{eq} (1-hr)) of 50 dBA in occupied areas during any hour of operation.

The performance method, which establishes the acceptable interior noise level, is the method typically used when applying these standards.

City of San José General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating noise impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the noise policies listed in the General Plan, including the following:

Policy EC-1.1: Locate new development in areas where noise levels are appropriate for the proposed uses [as outlined in **Table 10** below]. Consider federal, State, and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include:

- Exterior Noise Levels: The City's acceptable exterior noise level objective is 70 dBA DNL or less for office buildings, business commercial, and professional offices.

Table 10 Land Use Compatibility Guidelines for Community Noise in San José

Land Use Category	Normally Acceptable (dBA)	Conditionally Acceptable (dBA)	Unacceptable (dBA)
Residential, Hotels and Motels, Hospitals and Residential Care[1]	<60	60-75	>75
Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds	<65	65-80	>80
Schools, Libraries, Museums, Meeting Halls, Churches	<60	60-75	>75
Office Buildings, Business Commercial, and Professional Offices	<70	70-80	>80
Sports Arena, Outdoor Spectator Sports	<70	70-80	>80
Public and Quasi-Public Auditoriums, Concert Halls, Amphitheaters	N/A	<70	>70

[1]Noise mitigation to reduce interior noise levels pursuant to Policy EC-1.1 is required.
N/A = Not applicable

Policy EC-1.2: Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would:

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

Policy EC-1.3 Mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.

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

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

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

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

Policy EC-2.3 Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or building that are documented to be structurally weakened, a continuous 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 continuous vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Equipment or activities typical of generating continuous vibration include but are not limited to: excavation equipment; static compaction equipment; vibratory pile drivers; pile-extraction equipment; and vibratory compaction equipment. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of historical buildings, or buildings in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction. Transient vibration impacts may exceed a vibration limit of 0.08 in/sec PPV only when and where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

City of San José Municipal Code – Hours of Construction within 500 Feet of a Residential Unit

The City's Municipal Code contains a Zoning Ordinance that limits noise levels at adjacent properties. Chapter 20.30.700 states that sound pressure levels generated by any use or combination of uses on a property shall not exceed 55 dBA at any property line shared with land zoned for residential use and to 60 dBA at commercial property lines, except upon issuance and in compliance with a Conditional Use Permit. No specific limits are given for industrial property lines.[54]

[54] These standards are mainly established as a means of evaluating development permits and are described here for informational purposes. The General Plan dBA DNL thresholds outlined above are more applicable to this CEQA analysis.

Chapter 20.100.450 of the Municipal Code establishes allowable hours of construction within 500 feet of a residential unit 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.

Impact Discussion

a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

Construction Equipment

Less than Significant with Mitigation. Project construction could impact residences and businesses adjacent to the project site. Chapter 20.100.450 of the City's Municipal Code establishes allowable hours of construction within 500 feet of a residential unit between 7:00 am and 7:00 pm Monday through Friday unless permission is granted with a development permit or other planning approval. Neither the City of San José nor the State of California specify quantitative thresholds for the impact of temporary increases in noise due to construction. Rather, the City considers significant noise impacts to have occurred if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would involve substantial noise-generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months, according to Policy EC-1.7 of the General Plan. Construction noise impacts depend on the noise generated by various pieces of construction equipment, the timing and duration of noise-generating activities, and the distance between construction noise sources and noise sensitive receptors.

To quantify "substantial noise-generating activities", this analysis considers the threshold for speech interference indoors, which is 45 dBA. Assuming a 15 dB exterior-to-interior reduction for standard residential construction with windows open and a 25 dB exterior-to-interior reduction for standard commercial construction, assuming windows closed, this would correlate to an exterior threshold of 60 dBA L_{eq} at residential land uses and 70 dBA L_{eq} at commercial land uses. Therefore, substantial noise generating activities would be defined as any construction activities exceeding 60 dBA L_{eq} at nearby residences or exceeding 70 dBA L_{eq} at nearby commercial land uses and exceeding the ambient noise environment by 5 dBA L_{eq} or more for a period longer than one year.

The magnitude of temporary noise increases resulting from construction depend upon the noise levels generated by various pieces of construction equipment, the timing and duration of noise-generating activities, the distance between construction noise sources and noise-sensitive areas, and the presence of intervening shielding features such as buildings or terrain. 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 for individual projects are typically carried out in stages. During each stage of construction, there would be a different mix of equipment operating, and noise levels would vary by stage and vary within stages, based on the amount of equipment in operation and the location at which the equipment is operating. Average noise level ranges, by construction phase, at a distance of 50 feet

are shown in **Table 11,** and **Table 12** shows the maximum noise level ranges for different construction equipment. Most demolition and construction noise falls with the range of 80 to 90 dBA at a distance of 50 feet from the source. Construction-generated noise levels drop off at a rate of about 6 dBA per doubling of the distance between the source and receptor.

Table 11 Typical Ranges of Construction Noise Levels at 50 Feet, L_{eq} (dBA)

	Domestic Housing		Office Building, Hotel, Hospital, School, Public Works		Industrial Parking Garage, Religious Amusement & Recreations, Store, Service Station		Public Works Roads & Highways, Sewers, and Trenches	
	I	II	I	II	I	II	I	II
Ground Clearing	83	83	84	84	84	83	84	84
Excavation	88	75	89	79	89	71	88	78
Foundations	81	81	78	78	77	77	88	88
Erection	81	65	87	75	84	72	79	78
Finishing	88	72	89	75	89	74	84	84

I - All pertinent equipment present at site.

II - Minimum required equipment present at site.

Source: Illingworth & Rodkin, 335 South Winchester Environmental Noise and Vibration Assessment. December 2018.

Table 12 Construction Equipment 50-foot Noise Emission Limits

Equipment Category	L_{max} Level (dBA)[1,2]	Impact/Continuous
Arc Welder	73	Continuous
Auger Drill Rig	85	Continuous
Backhoe	80	Continuous
Bar Bender	80	Continuous
Boring Jack Power Unit	80	Continuous
Chain Saw	85	Continuous
Compressor[3]	70	Continuous
Compressor (other)	80	Continuous
Concrete Mixer	85	Continuous
Concrete Pump	82	Continuous
Concrete Saw	90	Continuous

Equipment Category	L_{max} Level (dBA)[1,2]	Impact/Continuous
Concrete Vibrator	80	Continuous
Crane	85	Continuous
Dozer	85	Continuous
Excavator	85	Continuous
Front End Loader	80	Continuous
Generator	82	Continuous
Generator (25 KVA or less)	70	Continuous
Gradall	85	Continuous
Grader	85	Continuous
Grinder Saw	85	Continuous
Horizontal Boring Hydro Jack	80	Continuous
Hydra Break Ram	90	Impact
Impact Pile Driver	105	Impact
Insitu Soil Sampling Rig	84	Continuous
Jackhammer	85	Impact
Mounted Impact Hammer (hoe ram)	90	Impact
Paver	85	Continuous
Pneumatic Tools	85	Continuous
Pumps	77	Continuous
Rock Drill	85	Continuous
Scraper	85	Continuous
Slurry Trenching Machine	82	Continuous
Soil Mix Drill Rig	80	Continuous
Street Sweeper	80	Continuous
Tractor	84	Continuous
Truck (dump, delivery)	84	Continuous
Vacuum Excavator Truck (vac-truck)	85	Continuous
Vibratory Compactor	80	Continuous
Vibratory Pile Driver	95	Continuous
All other equipment with engines larger than 5 HP	85	Continuous

Notes:

[1] Measured at 50 feet from the construction equipment, with a “slow” (1 sec.) time constant.

[2] Noise limits apply to total noise emitted from equipment and associated components operating at full power while engaged in its intended operation.

[3] Portable Air Compressor rated at 75 cfm or greater and that operates at greater than 50 psi.

Source: Illingworth & Rodkin, 335 South Winchester Environmental Noise and Vibration Assessment. December 2018.

As shown in **Table 11** and **Table 12**, construction activities generate considerable amounts of noise, especially during earth-moving activities when heavy equipment is used. The highest noise levels are typically generated during grading, excavation, and foundation construction. The hauling of excavated materials and construction materials would generate truck trips on local roadways, as well. The erection of large buildings from steel structures could also cause considerable noise for fairly long durations.

Specific project construction information is unavailable at this time; however, based on the construction of similar projects in San José, it is anticipated that the construction of the proposed project would involve demolition of existing site improvements, site preparation, foundation work, and new building framing and finishing. Pile driving is not planned as a method of construction. In total, the construction period would last approximately 24 months. The excavation and grading period would last 4.5 months.

Noise sensitive uses surround the site include a residence located 15 feet to the west of the shared property line, a retail building (DXL) located about 15 feet to the north, and a restaurant building located about 95 feet to the south. As detailed in **Appendix D**, a noise monitoring survey was performed to evaluate the existing noise environment at the project site. A long-term noise measurement was made at a setback of approximately 60 feet from the centerline of South Winchester Boulevard, on the eastern edge of the project site. Existing weekday hourly average noise levels at the project site ranged from 67 to 73 dBA L_{eq} during the day, and 54 to 67 dBA L_{eq} at night for a long-term noise measurement. Weekend hourly average noise levels at this location ranged from 62 to 73 dBA L_{eq} during the day, and from 55 to 68 dBA L_{eq} at night.

Noise levels due to construction activities would well exceed 60 dBA L_{eq} at nearby residences and 70 dBA L_{eq} at nearby commercial buildings and ambient levels by more than 5 dBA L_{eq} over a period exceeding one year. Construction-generated noise levels drop off at a rate of about 6 dBA per doubling of the distance between the source and receptor. Unshielded construction activities would be anticipated to exceed 60 dBA L_{eq} within 500 feet of unshielded construction and 70 dBA L_{eq} within 200 feet. Noise levels in shielded areas would be anticipated to be 5 to 20 dB lower. Therefore, construction could result in an increase in ambient noise level in the project vicinity, making this impact potentially significant.

Policy EC-1.7 of the City's General Plan states that for large or complex projects within 500 feet of residential land uses or within 200 feet of commercial land uses or offices involving substantial noise-generating activities lasting more than 12 months, 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.[55] Implementation **Mitigation Measure NOI-1** outlined below would reduce this impact to a less-than-significant-level.

> **Impact NOI-1:** Construction noise would reach as high as 89 dBA l_{eq} at a distance of 50 feet during the excavation phase, which would exceed the highest measured ambient noise level of 73 dBA L_{eq} by 16 dBA.
>
> **Mitigation Measure NOI-1:**
>
> - Prior to the issuance of any grading permits, the project applicant shall prepare a noise logistics plan, consistent with General Plan Policy EC-1.7. The noise logistics plan shall include but is not limited to the following standard measures: Construction activities shall be limited to the hours between 7:00 am and 7:00 pm, Monday through Friday, unless

[55] Chapter 20.100.450 of the City's Municipal Code establishes allowable hours of construction within 500 feet of a residential unit between 7:00 am and 7:00 pm Monday through Friday unless permission is granted with a development permit or other planning approval. Construction would occur during allowable hours.

permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends.

- Construct temporary solid plywood fences around ground level construction sites adjacent to operational businesses, hotels, and other noise-sensitive land uses to remain for the duration of demolition and construction activities.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines should be strictly prohibited.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
- If conflict with neighboring noise-sensitive receptors occurs during project construction that cannot be resolved by proper scheduling, a temporary noise control blanket shall be installed near the property line along the residential receptors immediately west of the project site, accounting for existing trees and other permanent structures along the property line.
- Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will 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 noise logistics plan shall be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee for review and approval prior to the issuance of any grading permits.

Implementation of the above measures would reduce construction noise levels emanating from the site, limit construction hours, and minimize disruption and annoyance. With the implementation of these measures and recognizing that noise generated by construction activities would occur over a temporary period, the temporary increase in ambient noise levels would be less than significant.

Operational Noise

Less than Significant. Under the City's Noise Element and Municipal Codes, noise levels produced by the operation of the mechanical equipment and parking lot activities would be limited to 55 dBA DNL at residential property lines and 60 dBA DNL at commercial property lines in accordance with General Plan policies EC-1.1 and EC-1.3.

Commercial office and retail buildings typically include various mechanical equipment such as air conditioners, exhaust fans, chillers, pumps, and air handling equipment. A generator is proposed for the

below grade parking level. The most substantial noise-generating equipment would be exhaust fans and building air conditioning units. All mechanical equipment would be located within the basement level and in the center of the rooftop. The basement equipment would be located in the parking level, with intake and exhaust vents opening on the eastern side of the roof. Equipment located inside or in a fully enclosed room with a roof would not be anticipated to be audible at off-site locations.

Rooftop mechanical equipment noise levels for commercial office and retail buildings typically range from 60 to 70 dBA L_{eq} at a distance of 15 feet, assuming direct line-of-site between the receiver and the mechanical equipment. The rooftop equipment, as shown in the plans, would be located as close as about 85 feet from the nearest residential property line and 30 feet from the nearest commercial property line.

Not considering any noise reduction due to shielding, mechanical equipment would be anticipated to generate noise levels of 45 to 55 dBA L_{eq} at the residential property line and 54 to 64 dBA L_{eq} at the commercial property line.[56] With equipment operating continuously throughout the daytime and nighttime hours, this would equate to 51 to 61 dBA DNL at the residential property line and 60 to 70 dBA DNL at the commercial property line. Noise levels from rooftop equipment are therefore anticipated to exceed the City's 55 dBA DNL residential noise limit and 60 dBA DNL commercial noise limits at adjacent properties.

In order to meet the General Plan noise objectives, the following Mitigation Measure would be required.

> **Impact NOI-2:** Rooftop mechanical equipment noise levels could exceed the City's 55 dBA DNL noise limit at the residential property line.
>
> **Mitigation Measure NOI-2:** Prior to the issuance of any building permits, a detailed acoustical study shall be prepared during building design to evaluate the potential noise generated by building mechanical equipment and to identify the necessary noise controls that are included in the design to meet the City's 55 dBA DNL noise limit at the shared property line. The study shall evaluate the noise from the equipment and predict noise levels at noise-sensitive locations. Noise control features shall be identified and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL at noise-sensitive locations, such as residences. These features could include, but would not be limited to, installation of noise barriers up to 10 feet in height between the noise source and the nearest receptors, selection of equipment that emits low noise levels, fan silencers, enclosures, and mechanical equipment screen walls. The study shall be submitted to the City of San José for review and approval prior to issuance of any building permits.

With implementation of this mitigation measure, operational mechanical equipment noise impacts would be less than significant.

[56] As of July 2019, rooftop equipment specifications were not available for analysis. The numbers presented here are conservative estimates based on default equipment assumptions.

Parking Lot and Truck Deliveries

Less than Significant with Mitigation. The majority of parking would occur in the underground parking structure and would not be anticipated to be discernable from ambient at adjacent land uses. Six at-grade level accessible parking spaces and a loading space are proposed along the western side of the site, about 25 feet from the shared residential property line. Noise sources in the at-grade parking lot would be similar and less frequent (due to the reduction in the number of spaces) than existing parking lot noise sources and would include the sounds of moving vehicles, the starting of engines, door slams, and human voices. Truck deliveries to the retail space would access the building from the center of the western side of the building, as close as 25 feet from the shared residential property line to the west. A 6-foot high sound wall is proposed along the shared property line. Maximum instantaneous noise levels generated by delivery trucks are generally in the range of 65 to 75 dBA L_{max} at a distance of 25 feet. It is anticipated that a maximum of 1 to 2 deliveries per day would occur. The proposed 6-foot high sound wall is calculated to reduce noise levels from sources located at heights of 5-feet or less above ground level by about 5 dBA. Residences adjacent to the site are exposed to existing ambient noise levels of about 59 dBA DNL with maximum noise levels in the range of 60 to 65 dBA L_{max}. Maximum instantaneous noise levels generated by truck deliveries could be 5 to 10 dBA above typical maximum instantaneous noise levels occurring at the adjacent residences. Assuming deliveries are restricted to daytime hours only, day-night average (DNL) noise levels at adjacent residences would not measurably increase with the introduction of occasional truck deliveries. Therefore, this impact would be less than significant.

The following Condition of Approval would further ensure DNL noise levels would not measurably increase with occasional truck deliveries.

> **Condition of Approval:**
>
> Ensure that noise-generating activities, such as maintenance activities and loading/unloading activities, are limited to the hours of 7:00 am and 7:00 pm.

Traffic Noise Increase

Less than Significant. A significant permanent noise increase would be identified if traffic noise generated by the project would substantially increase noise levels at sensitive receivers in the vicinity. A substantial increase would occur if: a) the noise level increase is 5 dBA DNL or greater, with a future noise level of less than 60 dBA DNL, or b) the noise level increase is 3 dBA DNL or greater, with a future noise level of 60 dBA DNL or greater.

To determine the impact of the project-generated traffic on the nearby residences, AM and PM peak hour traffic volumes for the Existing + Project condition were compared to Existing traffic volumes. Traffic volumes were provided in the traffic study conducted for the project by Hexagon Transportation Consultants, Inc. Based on these calculations, project traffic would result in traffic noise increases of less than 1 dBA L_{eq} along the roadway network. Day-night average (DNL) noise level increases would be anticipated to be similar. This increase would not typically be noticeable and would be below the 3 dBA and 5 dBA DNL thresholds of significance, therefore this impact is less than significant.

b) Generation of excessive groundborne vibration or groundborne noise levels?

Less than Significant with Mitigation. Policy EC-2.3 of the City of San José General Plan establishes a vibration limit of 0.08 in/sec PPV to minimize the potential for cosmetic damage to sensitive historic structures, and a vibration limit of 0.2 in/sec PPV to minimize damage at buildings of normal conventional construction. The vibration limits contained in this policy are conservative and designed to provide the ultimate level of protection for existing buildings in San José. Demolition and construction activities required for construction often generate perceptible vibration levels and levels that could affect nearby structures when heavy equipment or impact tools (e.g. jackhammers, pile drivers, hoe rams) are used in the vicinity of nearby sensitive land uses. Building damage generally falls into three categories. Cosmetic damage (also known as threshold damage) is defined as hairline cracking in plaster, the opening of old cracks, the loosening of paint or the dislodging of loose objects. Minor damage is defined as hairline cracking in masonry or the loosening of plaster. Major structural damage is defined as wide cracking or the shifting of foundation or bearing walls.

Project construction activities, such as 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 project construction. Construction activities associated with the project would include demolition of existing site improvements, site preparation, foundation work, and new building framing and finishing. Pile driving is not planned as a method of construction. **Table 13** presents typical vibration levels from construction equipment at various distances.

Table 13 Vibration Source Levels for Construction Equipment

Equipment		PPV at 15 ft. (in/sec)	PPV at 25 ft. (in/sec)	PPV at 35 ft. (in/sec)	PPV at 95 ft. (in/sec)	PPV at 125 ft. (in/sec)
Clam shovel drop		0.354	0.202	0.140	0.047	0.034
Hydromill (slurry wall)	In soil	0.014	0.008	0.006	0.002	0.001
	In rock	0.030	0.017	0.012	0.004	0.003
Vibratory Roller		0.368	0.210	0.145	0.048	0.036
Hoe Ram		0.156	0.089	0.061	0.020	0.015
Large bulldozer		0.156	0.089	0.061	0.020	0.015
Caisson drilling		0.156	0.089	0.061	0.020	0.015
Loaded trucks		0.133	0.076	0.052	0.018	0.013
Jackhammer		0.061	0.035	0.024	0.008	0.006
Small bulldozer		0.005	0.003	0.002	0.001	0.001

Source: Transit Noise and Vibration Impact Assessment, United States Department of Transportation, Office of Planning and Environment, Federal Transit Administration, September 2018 as modified by Illingworth & Rodkin, Inc., September 2018.

The nearest structures to project construction include residences located 15 feet west of the shared property line and about 35 feet west of the proposed building location, a retail building located about 15 feet north of the shared property line, a restaurant building located about 95 feet south of the shared property line, and a parking garage located about 125 feet east of the shared property line. There are no historic structures in the vicinity of the project site.

As indicated in **Table 13**, at a distance of 15 feet, groundborne vibration levels from construction could reach 0.368 in/sec PPV, with the majority of construction below the 0.2 in/sec PPV threshold. Heavy vibration generating construction equipment, including vibratory rollers and clam shovel drops, would have the potential to produce vibration levels of 0.2 in/sec PPV or more within about 25 feet of construction. Existing structures located within 25 feet of the project site include one residence to the west and one retail structure to the north.

Implementation of **Mitigation Measure NOI-3** would reduce this impact to a less-than-significant-level.

> **Impact NOI-3:** Construction of the project could generate vibration levels exceeding the General Plan threshold of 0.2 in/sec PPV at one residence to the west and a retail structure to the north (DXL), located within 25 feet of the project site.
>
> **Mitigation Measure NOI-3:**
>
> Prior to the issuance of any grading permits, the project applicant shall prepare a construction vibration plan. The construction vibration plan shall include but is not limited to the following standard measures: Where possible, prohibit operation of earth-moving equipment or other heavy vibration-generating equipment within distances of 25 feet of adjacent structures.
>
> - A list of all heavy construction equipment to be used for this project and the anticipated time duration of using the equipment that is known to produce high vibration levels (clam shovel drops, vibratory rollers, hoe rams, large bulldozers, caisson drillings, loaded trucks, jackhammers, etc.) shall be included within the plan.
> - A construction vibration- plan shall be implemented to document conditions at all structures located within 125 feet of construction prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry accepted standard methods. The construction vibration monitoring plan should be implemented to include the following tasks:
>   - Identification of sensitivity to groundborne vibration of all structures located within 25 feet of heavy construction.
>   - Performance of a photo survey, elevation survey, and crack monitoring survey for each structure of normal construction within 25 feet of other construction activities identified as sources of high vibration levels. Surveys shall be performed prior to any construction activity and after project completion and shall include internal and external crack monitoring in structures, settlement, and distress, and shall document the condition of foundations, walls and other structural elements in the interior and exterior of said structures.

- Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.
- Conduct a post-survey on the structure where either monitoring has indicated high levels or complaints of damage. Make appropriate repairs in accordance with the Secretary of the Interior's Standards where damage has occurred as a result of construction activities.

The construction vibration plan shall be signed off by a qualified acoustic professional/specialist and submitted to the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of a grading and building permit.

In other surrounding areas where vibration would not be expected to cause structural damage, vibration levels may still be perceptible. However, as with any type of construction, this would be anticipated and would not be considered significant, given the intermittent and short duration of the phases that have the highest potential of producing vibration (use of jackhammers and other high-power tools). By use of administrative controls, such as notifying neighbors of scheduled construction activities and scheduling construction activities with the highest potential to produce perceptible vibration during hours with the least potential to affect nearby businesses, perceptible vibration can be kept to a minimum. With implementation of **Mitigation Measure NOI-3**, this impact would be less than significant.

c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels ?

No Impact. The project site is located 2.5 miles southwest of SJC and 7.25 miles west of the private Reid Hillview Airport. The project site is not located within SJC's Comprehensive Land Use Plan nor is it within the Reid Hillview Airport Influence Area.[57,58] Therefore, the project would not result in excessive noise levels for people residing or working in the project site. No impact would occur.

[57] Santa Clara County. 2012. Norman Y. Mineta San José International Airport Comprehensive Land Use Plan. Amended 2016. Available https://www.sccgov.org/sites/dpd/DocsForms/Documents/ALUC_SJC_CLUP.pdf. Accessed December 2018.

[58] Santa Clara County. 2007. Reid-Hillview Airport Comprehensive Land Use Plan. Amended 2016. Available https://www.sccgov.org/sites/dpd/DocsForms/Documents/ALUC_RHV_CLUP.pdf. Accessed December 2018.

2.14 Population and Housing

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
Would the project:				
a) Induce substantial unplanned 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)?	☐	☐	☒	☐
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

Environmental Setting

According to the California Department of Finance, the City's population was estimated to be approximately 1,051,316 with a total of 335,164 housing units in January 2018.[59] The average number of persons per household is 3.20. With its current development and growth capacity, the City could grow to 840,000 jobs and 430,000 dwelling units in total, supporting a residential population of approximately 1.3 million people.[60]

In 2014, there were approximately 382,200 jobs in San José. The General Plan assumptions, as amended in the first Four-Year Review in 2016, envision a Jobs/Employee Resident ratio of 1.1/1 or 382,000 jobs by 2040.[61] To meet the current and projected housing needs in the City, the Envision San José 2040 General Plan identifies areas for mixed-use and residential development to accommodate 120,000 new dwelling units by 2040.

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

[59] California Department of Finance. *E-1 Population Estimates for Cities, Counties, and the State- January 1, 2017 and 2018.* Available: http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-1/. Accessed: August, 2018.

[60] California Department of Finance. Demographic Projections. Available: http://www.dof.ca.gov/Forecasting/Demographics/Projections/. Accessed: August, 2018.

[61] City of San José. 2016. *Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report and Supplemental Program Environmental Impact Report*. Available: http://www.sanjoseca.gov/DocumentCenter/View/62220

Impact Discussion

a) Induce substantial unplanned 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)?

Less than Significant. 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 (e.g., expanding capacity of a wastewater treatment plant beyond that necessary to serve planned growth).

Although implementation of the project would develop commercial space that may indirectly induce growth (through the creation of jobs that may attract people to the area), additional growth is planned for areas that fall under the Santana Row/Valley Fair Urban Village Plan Area. The General Plan establishes specific employment and residential growth capacities for all Urban Villages. The growth capacity, established by the General Plan, for the Santana Row/Valley Fair Urban Village Plan area is 8,500 jobs and 2,635 residential units. The project would accommodate approximately 610 employees, which is approximately 7 percent of the planned employment growth for the Plan area. The project is consistent with planned growth and assumptions established in the General Plan and Urban Village Plan. Furthermore, the project site is completely urbanized and would not require the extension of roads or infrastructure into previously undeveloped areas. This impact would be less than significant.

b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

No Impact. The project site is currently developed with a restaurant and a surface parking lot. No housing or residences currently reside on the project site. Therefore, the project would not displace existing housing or people, and no impact would occur.

2.15 Public Services

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
Would the project:				
a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, 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:				
i) Fire protection?	☐	☐	☒	☐
ii) Police protection?	☐	☐	☒	☐
iii) Schools?	☐	☐	☒	☐
iv) Parks?	☐	☐	☒	☐
v) Other public facilities?	☐	☐	☒	☐

Environmental Setting

Fire Protection

The San José Fire Department (SJFD) provides fire protection within the City, and currently hosts 712 sworn positions and 111.48 civilian positions.[62] The Department operates 33 active fire stations capable of providing fire protection, fire rescue, and emergency medical services. SJFD's current performance goal is to arrive within 8 minutes for 80 percent of 9-1-1 calls for serious (Priority 1) incidents. For medical emergencies and emerging fires, national best practices recommend that the first fire unit arrive within 7 minutes of a 9-1-1 call 90 percent of the time. Currently, neither of these standards are met department-wide, though five individual station areas meet the 8-minute goal. In addition, the General Plan identifies a 4-minute response time for first engine response, and 6 minutes for the second engine and first truck/urban search and rescue responses. Currently, no SJFD station meets this response time goal.

[62] Lee, Chief Ivan. SJFD. Personal Communication. August 2018.

Police Protection

The San José Police Department SJPD provides police services to the City, and currently employs 1,078 sworn officers and 497.67 civilian staff members.[63] SJPD's response target, defined as the period from when a call is received until an officer is on the scene, is under 6 minutes for Priority 1 calls and under 11 minutes for Priority 2 calls. Priority 1 calls indicate an event of immediate potential for imminent danger to life or property; Priority 2 calls indicate that an event has occurred, but the suspect is no longer at the scene and/or no imminent threat exists to life or property. For the third quarter of the 2017 fiscal year, SJPD maintained an average 9.24-minute response time for Priority 1 calls and 23.44-minute response time for Priority 2 calls. SJPD responded to 45 percent of Priority 1 calls in under 6 minutes, and 42 percent of Priority 2 calls in under 11 minutes. SJPD operates out of 201 West Mission Street headquarters, located approximately 3.10 miles northeast of the project site. This location serves the entire City.

Schools

The project site is located within the jurisdiction of the Campbell Union School District (CUSD). CUSD operated 20 schools with 7,300 students enrolled (plus more than 700 infants and preschoolers). Commercial developments, such as the project, could potentially induce growth in the area, as new jobs would attract new residents and create an increased demand on local schools. Local CUSD schools include Lynhaven Elementary School, Monroe Middle School, Boyton High School, and Castlemont Elementary School. There is also a private middle school, Orion Montessori School, located approximately a half mile southwest of the project site.

Parks

The Department of Parks, Recreation and Neighborhood Services (PRNS) provides 187 neighborhood parks and nine regional parks to residents of the City. These parks include a variety of recreational open spaces including playing fields, gardens, and trails. Frank M. Santana Park is located approximately 1,000 feet southeast of the project site.

Library Services

The San José Public Library System serves the residents in the City. The San José Public Library System consists of one main library (Dr. Martin Luther King Jr.) and 23 branch libraries. The Bascom Branch Library is located approximately 1.5 miles southeast of the project site.

Regulatory Setting

City of San José General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating impacts to public services resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the policies listed in the General Plan, including the following:

[63] Morales, Veronica. SJPD. Personal Communication. August 2018

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

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

Policy ES-11: Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.

Quimby Act – California Code Sections 66475-66478

The Quimby Act (California Government Code Sections 66475-66478) was approved by the California legislature to preserve open space and parkland in the State. 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. As described below, the City has adopted a Parkland Dedication Ordinance (PDO) and a Park Impact Ordinance (PIO), consistent with the Quimby Act.

Impact Discussion

a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, 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:

i. Fire Protection?

Less than Significant. The project site is located within Fire Station 10's first due response area. The SJFD's primary obstacles to meeting response goals include too few stations, traffic congestion, high workload rates, and movements of station companies for mandatory multi-unit training. The project site is located approximately 2,000 feet northwest from the San José Fire Department Station 10. According to the SJFD, the project would not affect service ratios, response times, or other performance objectives to such an extent that would necessitate the construction of new or expanded SJFD facilities.[64] Further, there are no formal evacuation routes or emergency response plans near the project site that would be impacted by the project. This impact would be less than significant.

[64] Lee, Chief Ivan. SJFD. Personal Communication. August, 2018.

ii. Police Protection?

Less than Significant. The SJPD currently serves the project site. Implementation of the project would marginally increase the demand for police services at the site due to the addition of a commercial development. As of August 2018, there were no new proposed police stations. According to the SJPD, the project would not affect service ratios, response times, or other performance objectives to such an extent that would necessitate the construction of new or expanded SJPD facilities.[65] The SJPD does not foresee any interference this project would have on emergency response, plans, or evacuation routes. This impact would be less than significant.

iii. Schools?

and

iv. Parks?

and

v. Other public facilities?

Less than Significant. The project could potentially induce growth in the area and—if new jobs were to attract new residents—this could create an increased demand on local schools, parks, and other facilities. Local schools include Lynhaven Elementary School, Monroe Middle School, Boyton High School, Castlemont Elementary School, and Orion Montessori School. However, the project site is located in a highly developed commercial and retail area. The potential growth the project might induce is negligible when considering the growth created from surrounding developments. The project would serve existing members of the community and would not substantially increase the population of the City. The project would not affect the performance objectives of the local library system. Implementation of the project would not require new or expanded facilities in the immediate future, and this impact would be less than significant.

[65] Morales, Veronica. SJPD. Personal Communication. February 23, 2018

2.16 Recreation

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
Would the project:				
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☒	☐
b) Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☒	☐

Environmental Setting

The City currently maintains and operates 3,486 acres of parkland, which includes 187 neighborhood parks, 9 regional parks, 98 ballfields (baseball, softball, soccer), 6 pools, over 57 miles of trails, 18 community gardens, various civic grounds and 51 community centers.[66] Amenities within the neighborhood parks include basketball courts, exercise courses, picnic tables, playgrounds, restrooms, soccer fields, softball fields, swimming pools, and tennis courts. Planning, acquisition, and development of parks and recreational facilities in the City are the responsibility of the Parks, Recreation, and Neighborhood Services Department. The nearest park to the project site is Santana Park, located approximately 0.4 mile southeast of the project site. The second closest park to the project site is Parkway Park, located approximately 0.8-mile northwest of the project site.

Regulatory Setting

City of San José General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating recreation impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the recreation policies listed in the General Plan, including the following:

Policy PR-1.1: Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.

Policy PR-1.6: Where appropriate and feasible, develop parks and recreational facilities that are flexible and can adapt to the changing needs of their surrounding community.

[66] City of San José. 2016. Report on Parks Condition Assessment Results and Service Delivery Standards. Available http://sanJosé.granicus.com/MetaViewer.php?meta_id=556557. Accessed May 2019.

The Quimby Act (California Code Sections 66475-66478) and the City's Parkland Dedication Ordinance and Park Impact Ordinance also pertain to parkland development in the City. **Section 2.15, Public Services**, describe these regulations.

Impact Discussion

a) **Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?**

and

b) **Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?**

Less than Significant. As described in Section 2.14 Population and Housing, the project would not generate residents onsite or induce population growth. The employees of the proposed office project are not anticipated to place a physical burden or result in a substantial increase in demand on existing nearby parks and recreational facilities.

As described in Section 2.15 Public Services, development of an office building on-site would not substantially increase the use of existing neighborhood and regional recreational facilities. Furthermore, the project does not propose or require the construction, or expansion, of recreational facilities. Therefore, the project would have a less than significant impact on recreation resources.

2.17 Transportation

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
Would the project:				
a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	☐	☐	☒	☐
b) Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?	☐	☐	☒	☐
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☒	☐
d) Result in inadequate emergency access?	☐	☐	☒	☐

Environmental Setting

Hexagon prepared a Transportation Analysis (TA) in March 2019 to identify potential traffic impacts related to the project (**Appendix E**). The TA analyzed traffic impacts related to two different project scenarios: a five-story commercial development comprised of 4 levels of office space and one level of retail, and a five-story development comprised solely of office space. The TA includes an LTA (Local Transportation Analysis) and also provides peak-hour intersection operations analysis, a freeway segment level of service analysis, freeway ramp operations analysis, vehicle queueing analysis at selected intersections, an evaluation of potential impacts to bicycle, pedestrian, and transit facilities, and a review of site access, on-site circulation, and parking demand.

Existing Transportation Facilities

Regional and Local Access

Regional access to the project site is provided via Interstate 880 (I-880), I-280, and State Route 17 (SR 17). Local access to the project site is provided via Stevens Creek Boulevard and Winchester Boulevard. Stevens Creek Boulevard is a four- to six-lane, east-west arterial street that would provide access to the project site via Winchester Boulevard. Similarly, Winchester Boulevard is a four-to-six-lane north-south arterial street which would provide direct access to the proposed project via one limited-access driveway.

Vehicle Miles Traveled of Existing Land Uses

The existing VMT for employment uses in the project vicinity is 12.24 per employee. The current regional average VMT for employment uses is 14.37 per employee. Therefore, the VMT levels of existing uses in the project vicinity are less than the average VMT levels.

Existing Transit Service

Existing transit services within the project area are provided by the Santa Clara Valley Transportation Authority (VTA). The project area is served directly by two local transit routes, and one express route; local route 23, local route 60, and express route 323. The nearest bus stop is located adjacent to the project site on Winchester Boulevard, providing access to local route 60. Additional bus stops that service other routes are located at the Winchester/Stevens Creek Boulevard intersection, approximately 0.25 miles north of the project site.

Bicycle Facilities

Class II bike lanes are located along roadways and feature stripes lanes, signage, and pavement markings. Class II bike lanes within the vicinity of the project site include those along the following roadway segments:

- Winchester Boulevard, between Tisch Way/I-280 northbound on-ramp and Stevens Creek Boulevard
- Monroe Street, between Stevens Creek Boulevard and Forest Avenue
- Stevens Creek Boulevard, between Monroe Street and Di Salvo Avenue
  Moorpark Avenue, between Thornton Way and Lawrence Expressway

Pedestrian Facilities

Pedestrian facilities in the project area consist primarily of sidewalks, crosswalks, and pedestrian signals at signalized intersections. Within the vicinity of the project site, sidewalks existing along both sides of Winchester Boulevard, Stevens Creek Boulevard, and adjacent neighborhood roadways (Hanson Avenue, Spar Avenue, Olin Avenue, and Santana Row). Additionally, the Monroe/Tisch Way intersection features a pedestrian footbridge which extends over I-280 and connects to Moorpark Avenue.

Regulatory Setting

Santa Clara County's 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 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.

City of San Jose Council Policy 5-1

In adherence to State of California Senate Bill 743 (SB 743), the City of San Jose has adopted a new Transportation Analysis Policy, Council Policy 5-1. The policy replaces its predecessor (Policy 5-3) and

establishes the thresholds for transportation impacts under the CEQA based on vehicle miles traveled (VMT) instead of levels of service (LOS). The intent of this change is to shift the focus of transportation analysis under CEQA from vehicle delay and roadway auto capacity to a reduction in vehicle emissions, and the creation of robust multimodal networks that support integrated land uses.

City of San José General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating transportation and traffic impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the transportation and traffic policies listed in the General Plan, including the following:

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

Policy TR-1.4: Through the entitlement process for new development, projects shall be required to fund, or construct needed transportation improvements for all transportation modes, giving first consideration to improvement of biking, walking and transit facilities and services that encourage reduced vehicle travel demand.

Policy TR-2.8: Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.

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

Policy TR-8.6: Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive transportation demand management (TDM) program, or developments located near major transit hubs or within Villages and Corridors and other growth areas.

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

Santana Row/Valley Fair Urban Village Plan

The adopted Santana Row Valley Fair Urban Village Plan also includes policies that guide the development of the surrounding project area. The following land use policies applicable to the project:

Policy 3-20: New development should support and enhance the pedestrian and bicycle environment and provide greater connectivity to the overall network.

Policy 6-7: Development projects should create, implement, and maintain transportation demand management programs for their sites that reduce automobile traffic and parking

demand, improve traffic flow, and increase use of alternatives modes like walking, biking, transit, and ridesharing.

Policy 6-51: New developments shall provide well-located, visible bicycle parking and/or storage facilities along sidewalks, in parking garages, and building entrances and public sites as defined in San José Municipal Code Title 20.

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

Impact Discussion

a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?

Less than Significant. Transit, pedestrian, and bicycle circulation are discussed in relation to the project below.

Transit

Two local transit routes and one express route serve the vicinity of the project area. Bus stops are located adjacent to the project site along South Winchester Boulevard as well as the Winchester/Stevens Creek intersection. The nearest bus stop is located is located adjacent to the project site on Winchester Boulevard, providing access to local route 60. Additional bus stops that service other routes are located at the Winchester/Stevens Creek Boulevard intersection, approximately .25 miles north of the project site.

Due to the convenient locations of the bus stops, it is assumed that some employees of the project would utilize the existing transit service. Thus, a 9 percent reduction was applied to office trips and a 13 percent reduction was applied to retail trips generated by the project.

Pedestrians and Bicycles

Pedestrian facilities consist of sidewalks and crosswalks along the streets and intersection in the immediate vicinity of the project site. Overall, the existing network of sidewalks exhibits good connectivity and would provide new employees with safe pedestrian routes to transit services and other points of interest in the area. There are class II bikes lanes located along Winchester Boulevard, Monroe Street, Stevens Creek Boulevard, and Moorpark Avenue within the vicinity of the project site.

The projects site is located within the Santana Row/Valley Fair Urban Village Boundary and fronts South Winchester Boulevard, which has been designated as a Main Street from West Hamilton Avenue to Stevens Creek Boulevard. Main Streets are intended to support retail and service activities that serve the local neighborhood residents and provide an urban street space for social

community gathering and recreational activities. Main Street design principals indicate that sidewalks should be wide and include ample pedestrian amenities such as high-quality landscaping and street trees. The project currently proposes a 23-foot-wide private/public sidewalk along the South Winchester Boulevard property frontage.

The Bike Plan indicates several bicycle improvements planned in the project area (listed below).[67] The project would not interfere with or preclude implementation of these nearby bicycle improvements.

- Heading Street, between Winchester Boulevard and 17th Street (Class II Bike Lane)
- Williams Road, between S Winchester Boulevard and S Daniel Way (Class III Bike Lane)
- Cypress Avenue, between Stevens Creek Boulevard and Adra Avenue (Class II Bike Lane)
- Cypress Avenue, between Adra Avenue and Constance (Class III Bike Lane)
- Cypress Avenue between Moorpark Avenue and Williams Road (Class II Bike Lane)

Bicycle Parking Requirements

The City's bicycle parking requirement for ground floor active commercial is one bicycle parking space for every 3,000 square feet. For general business office, a minimum of 1 space per every 4,000 square feet is required. The project would provide 22 short-term bicycle parking spaces as required by City standards. All short-term bicycle spaces would be located on the first floor of the parking garage.

As a whole, the project would comply with the General Plan and the Santana Row/Valley Fair Urban Village Plan because it would be consistent with the planned mixed-used commercial land use designation. Additionally, the project would comply with policies listed in the Regulatory Setting by being located near a bus stop and bicycle lanes, providing bicycle parking, widening the existing sidewalk, and providing fewer parking spaces than required by the City code. Thus the project would be considered part of the cumulative solution to meet the General Plan's long-range transportation goals.

The project would not interfere with any program, plan, ordinance or policy addressing the circulation system of the project area. Operation of the project would facilitate the use of transit, pedestrian, and bicycle infrastructure without exceeding capacity such that substantial physical deterioration of said infrastructure would occur or be accelerated. Therefore, this impact would be less than significant.

b) Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?

Less than Significant. Vehicle trips generated by the project were estimated using the trip generation rates published in the Institute of Transportation Engineers (ITE) Trip general Manual, 10th Edition, for "General Office Building and Shopping Center".

The City has developed the San Jose VMT Evaluation Tool (sketch tool) to streamline the analysis for residential, office, and industrial projects with local traffic. Because the project is relatively small

[67] http://www3.sanjoseca.gov/clerk/Agenda/20091117/20091117_0602att.pdf

and would not affect existing traffic patterns, the sketch tool was used to estimate the project VMT and determine whether the project would result in a significant VMT impact.

Based on the assessor's parcel number (APN), the sketch tool identifies the existing average VMT per capita and VMT per employee for the area. Based on the project location, type of development, project description, and proposed trip reduction measures, the sketch tool calculates the project VMT. Projects located in areas where the existing VMT is above the established threshold are referred to as being in "high-VMT areas". Projects in high-VMT areas are required to include a set of VMT reduction measures that would reduce the project VMT to the extent possible.

The project-level impact analysis under CEQA uses the VMT metric to evaluate a project's transportation impacts by comparing against the VMT thresholds of significance as established in the Transportation Analysis Policy (Policy 5-1). The CEQA transportation analysis of the project includes a project-level VMT impact analysis using the City's sketch tool and a cumulative impact analysis that demonstrates the project's consistency with the Envision San Jose 2040 General Plan. The City's threshold of significance for general employment amounts to 12.22 VMT per employee.

As shown in **Figure 10**, existing VMT per job near the project site is equivalent to the regional average. Based on the City of San José's VMT Evaluation Tool, the project as proposed is estimated to generate a total of 7.88 VMT per employee. The full VMT Evaluation Tool summary report is shown in **Figure 11**. The office only alternative would have similar results. The project-generated VMT per employee is lower than the average VMT per employee in this area due to the project proposing a reduction in the on-site vehicle parking supply. The estimated VMT per employee generated by the project (7.88) is less than the City's threshold of 12.22 VMT per employee. Thus, the project would have a less than significant impact on VMT.

Not to scale

VMT Heat Map for Workers in Project Vicinity

Figure **10**

Source: Hexagon, 2018

CITY OF SAN JOSE VEHICLE MILES TRAVELED EVALUATION TOOL SUMMARY REPORT

PROJECT:

Name: South Winchester Boulevard Mixed-Use Developn
Location: 335 S. Winchester Boulevard, San Jose, Californria
Parcel: 30339047 Parcel Type: Urban Low Transit
Proposed Parking: Vehicles: 221 Bicycles: 22

Tool Version: 3/14/2018
Date: 3/22/2019

LAND USE:

Residential:	
Single Family	0 DU
Multi Family	0 DU
Subtotal	0 DU
Office:	81.22 KSF
Retail:	12.52 KSF
Industrial:	0 KSF

Percent of All Residential Units

Extremely Low Income (≤ 30% MFI)	0 % Affordable
Very Low Income (> 30% MFI, ≤ 50% MFI)	0 % Affordable
Low Income (> 50% MFI, ≤ 80% MFI)	0 % Affordable

VMT REDUCTION STRATEGIES

Tier 1 - Project Characteristics

Increase Residential Density
- Existing Density (DU/Residential Acres in half-mile buffer) 9
- With Project Density (DU/Residential Acres in half-mile buffer) 9

Increase Development Diversity
- Existing Activity Mix Index 0.87
- With Project Activity Mix Index 0.87

Integrate Affordable and Below Market Rate
- Extremely Low Income BMR units ..... 0 %
- Very Low Income BMR units ..... 0 %
- Low Income BMR units ..... 0 %

Increase Employment Density
- Existing Density (Jobs/Commercial Acres in half-mile buffer) 47
- With Project Density (Jobs/Commercial Acres in half-mile buffer) 49

Tier 2 - Multimodal Infrastructure

Tier 3 - Parking

Limit Parking Supply
- Minimum Parking Required by Municipal Code ..... 329 spaces
- Total Parking Spaces Available to Employees ..... 221 spaces
- Does the surrounding street parking have RPP, meters, or time limits? ..... Yes

End of Trip Bike Facilities
- Bicycle Parking Spaces Provided by Project ..... 22 spaces
- Project Provides Additional End-of-Trip Facilities Beyond Parking? ..... Yes

Tier 4 - TDM Programs

Commute Trip Reduction Marketing/ Education
- Percent of Eligible Employees ..... 100 %

Subsidized or Discounted Transit Program
- Percent of Transit Subsidy ..... 50 %

Ride-Sharing Programs
- Percent of Eligible Employees ..... 100 %

Source: Hexagon, 2018

c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

Less than Significant. Potentially hazardous design features, and measures to reduce such hazards are described below.

Site Access

Site access to both project scenarios would be provided via a 20-foot-wide driveway on S. Winchester Boulevard. According to the City of San José Department of Transportation Geometric Design Guidelines, the standard width for a two-way driveway is 26 feet wide measured at the throat. In lieu of compliance with the City's design requirements standard for two-way driveways, the project would require coordination with City Staff to identify a suitable alternative. Coordination with City staff would ensure a less-than-significant impact.

On-Site Circulation

On-site vehicular circulation was reviewed for the parking garage in accordance with generally accepted traffic engineering standards. Both project scenarios would provide 90-degree parking throughout the garage with 22-foot wide drive aisles. According to the City of San José Department of Transportation Geometric Design Guidelines, the standard width for a two-way drive aisle is 26 feet wide. Implementation of the following measures would ensure the project adheres to the City's minimum requirements for two-way drive aisles. Additionally, there is one dead-end drive aisle within the basement parking garage. In lieu of compliance with the City's design requirements standards for two-way drive aisles, both project scenarios would require coordination with City Staff to identify suitable alternatives and Best Management Practices (BMPs) including but not limited to the following:

- Additional space should be provided at the end of the dead-end drive aisles to allow vehicles to turn around if they fail to find an empty stall.
- Larger turning-radii and wider drive aisles should be provided at the bottom of the parking garage ramp and through the parking structure to better sever both inbound and outbound vehicles.
- The project should consider providing digital signage at the parking structure entrance indicating the number of available stalls in real-time.

Turnaround space is also provided as part of project design. The project should consider including convex mirrors at appropriate locations to assist drivers with blind turns within the parking garage. With these design elements, the impact associated with on-site circulation would be less than significant.

d) Result in inadequate emergency access?

Less than Significant. The San Jose Fire Department requires that all portions of the buildings be within 150 feet of a fire department access road and requires a minimum of 6 feet clearance from

the property line along all sides of the buildings. The project would meet the 6-foot clearance requirement and the 150-foot fire access requirement. This impact would be less than significant.

Non-CEQA Considerations

In response to SB 743, which requires jurisdictions to stop using a Level of Service (LOS) measurement for CEQA transportation analysis by July 1, 2020, the City has adopted VMT as the new metric for identifying and mitigating transportation impacts within CEQA. The following discussion of project trip generation and LOS is therefore included for informational purposes only.

Analysis Scenarios

The LTA evaluated traffic conditions under the following scenarios:

- **Existing Conditions**. Existing AM and PM peak-hour traffic volumes were obtained from new turning-movement counts conducted in November and December 2017, and the 2016 Congestion Management Plan (CMP) Annual Monitoring Report.
- **Existing Plus Project Conditions**. Existing plus project conditions reflect projected traffic volumes on the existing roadway network with completion of the project, estimated by adding project-generated traffic to Existing Conditions traffic volumes.
- **Background Conditions**. Background traffic volumes reflect traffic added by nearby approved projects that are not yet completed or occupied.
- **Background Plus Project Conditions**. Background plus project conditions reflect projected traffic volumes on the planned roadway network with completion of the project and approved developments. Background plus project traffic volumes were estimated by adding project-generated traffic to Background Conditions traffic volumes.
- **Future Growth Conditions**. Six CMP study intersections were evaluated for future growth conditions, as stipulated by the CMP guidelines. Future growth conditions reflect future traffic volumes at the estimated date of project occupancy on the planned transportation network. Traffic volumes under future growth conditions were estimated by applying a compound growth factor of 1.2 percent per year to existing traffic volumes and adding trips from approved developments and the project.

Intersection Level of Service Methodology and Standards

Traffic conditions at the study intersections were evaluated using level of service (LOS). Level of Service is a qualitative description of operating conditions ranging from LOS A, or free-flow conditions with little or no delay, to LOS F, or jammed conditions with excessive delays.

While the City of San Jose no longer uses LOS to identify significant impacts under CEQA, the City of Santa Clara level of service standard for signalized intersection is LOS D or better at City-controlled intersections and LOS E or better at expressways and designated CMP intersections. LOS D standard applies to all study intersections evaluated in this report.

Existing Intersection Levels of Service

All signalized study intersections currently operate at an acceptable LOS D or better during both AM and PM peak hours of traffic**.**

Table 14 Existing Intersection Levels of Service

#	Intersection	Peak Hour	Count Date	Traffic Control	Existing Conditions Avg. Delay (sec)	Existing Conditions LOS
1	Winchester Boulevard and Forest Avenue *(Santa Clara)*	AM PM	5/10/18 5/10/18	Signal	22.2 27.1	C C
2	Winchester Boulevard and Dorcich Street *(Santa Clara)*	AM PM	11/1/16 11/1/16	Signal	10.8 22.1	B C
3	Winchester Boulevard and Stevens Creek Boulevard *	AM PM	10/11/16 10/20/16	Signal	33.3 47.0	C D
4	Santana Row and Stevens Creek Boulevard	AM PM	5/10/18 5/10/18	Signal	14.8 26.3	B C
5	Monroe Street and Stevens Creek Boulevard	AM PM	5/10/18 5/10/18	Signal	17.5 30.6	B C
6	I-880 SB Ramps and Stevens Creek Boulevard *	AM PM	10/11/16 11/10/16	Signal	23.8 22.5	C C
7	I-880 NB Ramps and Stevens Creek Boulevard	AM PM	5/10/18 4/24/18	Signal	20.4 21.2	C C
8	Winchester Boulevard and Olin Avenue	AM PM	5/10/18 5/10/18	Signal	15.2 22.6	B C
9	Winchester Boulevard and Olsen Avenue	AM PM	5/10/18 5/10/18	Signal	16.0 22.6	B C
10	Winchester Boulevard and Moorpark Avenue	AM PM	5/10/18 5/10/18	Signal	40.1 42.9	D D

Note:
* Denotes the CMP designated Intersection

Source: Hexagon, 2018.

Existing Freeway Segment Levels of Service

The following freeway segments currently operate at an unacceptable LOS F during the AM peak hour of traffic:

- SR17 (Hamilton Avenue to I-280)
- I-280 (Meridian Avenue to I-880)
- I-280 (Winchester Boulevard to Saratoga Avenue)
- I-880 (Stevens Creek to North Bascom Avenue)
- I-880 (North Bascom Avenue to Stevens Creek Boulevard)

The following freeway segments currently operate at an unacceptable LOS during the PM peak hour of traffic:

- SR 17 (I-280 to Hamilton Avenue)
- I-280 (Saratoga Avenue to Winchester Boulevard)
- I-280 (I-880 to Meridian Avenue)
- I-880 (Stevens Creek to North Bascom Avenue)

Impact Analysis Using Levels of Service Methodology

The project site is occupied by one restaurant. Based on ITE rates, the existing use generates a total of 558 daily trips with 52 trips occurring in the PM peak hour. The project would generate 477 new daily vehicle trips, with 88 new trips occurring during the AM peak hour and 51 trips occurring during the PM peak hour (**Table 15**). The office only alternative would generate 232 new daily vehicle trips, with 88 new trips occurring during the AM peak hour and 51 trips occurring during the PM peak hour. The local transportation analysis included in the TA is based on an earlier, slightly larger project size (82,672 gross square feet of office space and 13,157 gross square feet of retail space). Thus, the local transportation analysis is somewhat conservative since it slightly overstates the trip generation associated with the current project.

Table 15 Project Trip Generation Estimates

		Daily		AM Peak Hour				PM Peak Hour			
Land Use	**Size**	**Rate**	**Trips**	**Rate**	**In**	**Out**	**Total**	**Rate**	**In**	**Out**	**Total**
Proposed Project *											
Office Space [1]	82.67 ksf	9.74	805	1.16	83	13	96	1.15	15	80	95
Location-based Adjustment (Urban Low-Transit - 9%) [3]			(72)		(7)	(1)	(8)		(1)	(8)	(9)
Subtotal			**733**		**76**	**12**	**88**		**14**	**72**	**86**
Retail Space [2]	13.16 ksf	37.75	497	0.94	7	5	12	3.81	24	26	50
Location-based Adjustment (Urban Low-Transit - 13%) [3]			(65)		(1)	(1)	(2)		(3)	(4)	(7)
Subtotal			**432**		**6**	**4**	**10**		**21**	**22**	**43**
Total Project Trips			**1,165**		**82**	**16**	**98**		**35**	**94**	**129**
Other Project Trip Adjustments											
Limited Parking Supply [4]			(57)		(8)	(2)	(10)		(3)	(9)	(12)
Retail Pass-By Reduction [5]			(73)		-	-	-		(7)	(7)	(14)
Existing Use (Khahn's Restaurant) [6]	6.65 ksf	83.84	(558)		-	-	-	7.80	(8)	(44)	(52)
Subtotal			**(688)**		**(8)**	**(2)**	**(10)**		**(18)**	**(60)**	**(78)**
Net Project Trips *			**477**		**74**	**14**	**88**		**17**	**34**	**51**

Notes:

ksf = 1,000 square feet

* The project trip estimates presented above are based on an earlier, slightly larger project size. The currently proposed office-and-retail project is estimated to generate 433 net new daily trips with 84 new trips occurring during the AM peak hour and 46 trips occurring during the PM peak hour.

[1] General Office Building (Land Use 710) average rates published in ITE's *Trip Generation Manual, 10th Edition*, 2017.

[2] Shopping Center (Land Use 820) average rates published in ITE's *Trip Generation Manual, 10th Edition*, 2017.

[3] Trip reduction percentages obtained from the City of San Jose *Transportation Analysis Handbook* (2018). Located-based Adjustment based on the *San Jose VMT Evaluation Tool*, 2018.

[4] Reduction percentage for limited parking supply (9.8%) was estimated using the *San Jose VMT Evaluation Tool*, 2018 based on an earlier project description. Based on the current project description, the limited parking supply would reduce per-employee VMT by 12.5 percent.

[5] A pass-by trip reduction of 34% was applied to the retail component of the project during the PM peak hour, based on the average Shopping Center pass-by trip percentage published in Table E.9 of ITE's *Trip Generation Manual, 10th Edition*, 2017. The daily pass-by trip reduction was assumed to be the average of the AM/PM reduction (17%).

[6] Quality Restaurant (Land Use 931) average rates published in ITE's *Trip Generation Manual, 10th Edition*, 2017.

Table 16 Office-Only Project Alternative Trip Generation Estimates

Land Use	Size	Daily Rate	Daily Trips	AM Peak Hour Rate	AM Peak Hour In	AM Peak Hour Out	AM Peak Hour Total	PM Peak Hour Rate	PM Peak Hour In	PM Peak Hour Out	PM Peak Hour Total
Proposed Project											
Office Space [1]	93.74 ksf	9.74	913	1.16	94	15	109	1.15	17	91	108
Location-based Adjustment (Urban Low-Transit - 9%) [3]			(82)		(8)	(1)	(9)		(2)	(9)	(10)
Total Project Trips			**831**		**86**	**14**	**100**		**15**	**82**	**98**
Other Project Trip Adjustments											
Limited Parking Supply [4]			(52)		(11)	(2)	(13)		(2)	(10)	(12)
Retail Pass-By Reduction [5]			0		-	-	-		0	0	0
Existing Use (Khahn's Restaurant) [6]	6.65 ksf	83.84	(558)		-	-	-	7.80	(8)	(44)	(52)
Subtotal			**(610)**		**(11)**	**(2)**	**(13)**		**(10)**	**(54)**	**(64)**
Net Project Trips			**221**		**75**	**12**	**87**		**5**	**28**	**34**

Notes:
ksf = 1,000 square feet
[1] General Office Building (Land Use 710) average rates published in ITE's *Trip Generation Manual, 10th Edition*, 2017.
[2] Shopping Center (Land Use 820) average rates published in ITE's *Trip Generation Manual, 10th Edition*, 2017.
[3] Trip reduction percentages obtained from the City of San Jose *Transportation Analysis Handbook* (2018). Proximity to transit based on the *San Jose VMT Evaluation Tool*, 2018.
[4] VMT reduction strategies obtained from the City of San Jose *Transportation Analysis Handbook* (2018). Reduction percentage for limited parking supply (12.5%) was based on the *San Jose VMT Evaluation Tool*, 2018.
[5] A pass-by trip reduction of 34% was applied to the retail component of the project during the PM peak hour, based on the average Shopping Center pass-by trip percentage published in Table E.9 of ITE's *Trip Generation Manual, 10th Edition*, 2017. The daily pass-by trip reduction was assumed to be the average of the AM/PM reduction (17%).
[6] Quality Restaurant (Land Use 931) average rates published in ITE's *Trip Generation Manual, 10th Edition*, 2017.

Table 17 Project Conditions Freeway Segment Level of Service Summary

Freeway	Segment			Direction	Peak Hour	Existing Conditions Mixed-Flow Lanes Capacity (vph)	LOS	Existing Conditions HOV Lane Capacity (vph)	LOS	Project Trips Total Volume	Mixed-Flow Volume	Mixed-Flow % Capacity	HOV Lane Volume	HOV Lane % Capacity	Impact?
SR 17	Hamilton Ave	to	I-280	NB	AM	6900	F	--	--	7	6	0.1%	1	--	NO
					PM	6900	C	1800	--	2	2	0.0%	0	--	NO
SR 17	I-280	to	Hamilton Ave	SB	AM	6900	D	1800	--	1	1	0.0%	0	--	NO
					PM	6900	E	1800	--	3	3	0.0%	0	--	NO
I-280	Saratoga Ave	to	Winchester Blvd	SB	AM	6900	D	1800	B	7	6	0.1%	1	0.0%	NO
					PM	**6900**	**F**	**1800**	**F**	**2**	**2**	**0.0%**	**0**	**0.0%**	**NO**
I-280	I-880	to	Meridian Ave	SB	AM	6900	C	1800	B	2	2	0.0%	0	0.0%	NO
					PM	**6900**	**F**	**1800**	**F**	**5**	**4**	**0.1%**	**1**	**0.0%**	**NO**
I-280	Meridian Ave	to	I-880	NB	AM	**6900**	**F**	**1800**	**F**	**11**	**10**	**0.2%**	**1**	**0.1%**	**NO**
					PM	6900	C	1800	A	3	3	0.0%	0	0.0%	NO
I-280	Winchester Blvd	to	Saratoga Ave	NB	AM	**6900**	**F**	**1800**	**F**	**2**	**2**	**0.0%**	**0**	**0.0%**	**NO**
					PM	6900	D	1800	B	3	3	0.0%	0	0.0%	NO
I-880	Stevens Cr	to	N. Bascom Ave	NB	AM	**6900**	**F**	**1800**	--	**2**	**2**	**0.0%**	**0**	--	**NO**
					PM	**6900**	**F**	**1800**	--	**5**	**4**	**0.1%**	**1**	--	**NO**
I-880	N. Bascom Ave	to	Stevens Creek Blvd	SB	AM	**6900**	**F**	**1800**	--	**11**	**10**	**0.2%**	**1**	--	**NO**
					PM	6900	D	1800	--	3	3	0.0%	0	--	NO

Notes:
[1] Source: Santa Clara Valley Transportation Authority Congestion Management Program Monitoring Study, 2016.
Bold indicates a substandard level of service.

Santa Clara Intersection Impact Discussion

Two of the study intersections are located in the City of Santa Clara. Given that Santa Clara has not adopted VMT and still uses intersection level of service to evaluate a project's CEQA transportation impact, the following two study intersections were analyzed according to the City of Santa Clara level of service standards and CEQA significance criteria: Winchester Boulevard/Forest Avenue, and Winchester Boulevard/Dorcich Street. When compared to the Santa Clara level of service standards and CEQA significance criteria, the two study intersections in the City of Santa Clara are expected to continue to operate at acceptable levels of service (LOS D or better) during the peak commute hours with the

addition of trips generated by approved developments, the proposed project, and other pending developments in the vicinity.

Freeway Segment Impact Analysis[68]

Potential impacts on freeway segments were analyzed in accordance with VTA CMP methods. The results show that the project would not cause significant increases in traffic volumes (one percent or more of freeway capacity) on any of the study freeway segments currently operating at LOS F, and none of the study freeway segments currently operating at LOS E or better would worsen to LOS F as a result of the project.

[68] The level of service analyses, including the freeway impact analysis, discussed here are based on an earlier, slightly larger project size (82,672 gross square feet of office space and 13,157 gross square feet of retail space). Thus, the reported freeway impact analysis is considered somewhat conservative given that the analysis slightly overstates the trip generation associated with both project scenarios.

2.18 Tribal Cultural Resources

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
Would the project:				
a) 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:				
i) 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)?	☐	☐	☐	☒
ii) 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 the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☐	☒	☐

Environmental Setting

Tribal cultural resources are sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a tribe that are listed, or determined to be eligible for listing, in the national, state, or local register of historical resources. Additionally, a tribal cultural resource may also be a resource that the lead agency determines, in its discretion, is a tribal cultural resource. Cultural resources are generally defined as traces of human occupation and activity that include prehistoric and historic archaeological sites, districts, and objects; standing historic structures buildings, districts, and objects; and locations of important historic events of sites of traditional and/or cultural importance to various

groups, tribal cultural resources signify the intent to protect resources specifically of cultural value to a tribe. Specifically, the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1 protect the following resources:

> (c) A resource may be listed as an historical resource in the California Register if it meets any of the following NRHP criteria:
>
> > (1) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage.
> >
> > (2) Is associated with the lives of persons important in our past.
> >
> > (3) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values.
> >
> > (4) Has yielded, or may be likely to yield, information important in prehistory or history.

The Sacred Lands File, operated by the NAHC, is a confidential set of records containing places of religious or social significance to Native Americans. Circlepoint requested a Sacred Lands File search for the project site from the NAHC on July 26, 2018. The NAHC response on August 2, 2018 indicated that that no known Native American cultural resources exist within the project vicinity.

As previously discussed in **Section 2.5, Cultural Resources**, the CHRIS records search indicated that the project would have a low potential of identify cultural resources on or near the project site. However, the Urban Village Planning Area is identified as being potentially archeologically sensitive per the Envision San José 2040 General Plan EIR.[69]

Assembly Bill (AB) 52 requires lead agencies to complete formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the lead agency. The City has only received one such request, from the Ohlone Indian Tribe. On March 8th, 2019, the City contacted this tribe to notify them of the project. ON March 14th, they responded that they had received the notification and there was no request for consultation.[70]

Regulatory Setting

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 U.S. The National Register is administered by the National Park Service and includes buildings, structures, sites, objects and

[69] City of San José. 2011. *Envision San José 2040 General Plan EIR*. Available: http://www.sanjoseca.gov/index.aspx?NID=4974

[70] City of San José. 2019b. Email correspondence with Kara Hawkins. March 15, 2019.

districts that possess historic, architectural, engineering, archaeological or cultural significance. National Register Bulletin Number 15, How to Apply the National Register Criteria for Evaluation, describes the Criteria for Evaluation as being composed of two factors. First, the property must be "associated with an important historic context," and second, the property must retain integrity of those features necessary to convey its significance.

The National Register identifies four possible context types or criteria, at least one of which must be applicable at the national, state, or local level. As listed under Section 8, "Statement of Significance," of the National Register of Historic Places Registration Form, these are:

> A. Property is associated with events that have made a significant contribution to the broad patterns
>
> of our history.
>
> B. Property is associated with the lives of persons significant in our past.
>
> C. Property embodies the distinctive characteristics of a type, period, or method of construction or
>
> represents the work of a master, or possesses high artistic values, or represents a significant and
>
> distinguishable entity whose components lack individual distinction.
>
> D. Property has yielded, or is likely to yield, information important to prehistory or history.

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. The context types to be used when establishing the significance of a property for listing on the California Register of Historical Resources are very similar, with emphasis on local and state significance. They are:

1. It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States; or
2. It is associated with the lives of persons important to local, California, or national history; or
3. It embodies the distinctive characteristics of a type, period, or method of construction or
4. represents the work of a master, or possesses high artistic values; or
5. It has yielded, or is likely to yield, information important to prehistory or history of the local area, California, or the nation.

Native American Tribal Cultural Resources

On September 25, 2014, Governor Edmund G. Brown signed Assembly Bill 52 (AB 52), creating a new category of environmental resources (tribal cultural resources), which must be considered under CEQA. The legislation includes new requirements for consultation regarding projects that may affect a tribal

cultural resource, a definition of what may be considered to be a tribal cultural resource, and a list of recommended mitigation measures. AB 52 also requires lead agencies to provide notice to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified of projects proposed within that area. Where a project may have a significant impact on a tribal cultural resource, consultation is required until the parties agree to mitigate or avoid a significant impact on a tribal cultural resource or when it is concluded that mutual agreement cannot be reached. Currently, the City has one tribal representative from the Ohlone Indian Tribe who has requested to be notified of any project that requires and IS/MND or EIR and includes ground disturbance within the City. The City contacted this representative on March 8, 2019. On March 14, the representative responded, saying that they had received the notification, and there was no request for consultation.[71]

Local

City of San José Municipal Code – Historic Preservation Ordinance

In accordance with the City of San José's Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code), a resource qualifies as a City Landmark if it has "special historical, architectural, cultural, aesthetic or engineering interest or value of an historic nature" and is one of the following resource types:

1. An individual structure or portion thereof;
2. An integrated group of structures on a single lot;
3. A site, or portion thereof; or
4. Any combination thereof.

The ordinance defines the term "historical, architectural, cultural, aesthetic, or engineering interest or value of an historic nature" as deriving from, based on, or related to any of the following factors:

1. Identification or association with persons, eras or events that have contributed to local, regional, state or national history, heritage or culture in a distinctive, significant or important way;
2. Identification as, or association with, a distinctive, significant or important work or vestige:
    a. Of an architectural style, design or method of construction;
    b. Of a master architect, builder, artist or craftsman;
    c. Of high artistic merit;
    d. The totality of which comprises a distinctive, significant or important work or vestige whose component parts may lack the same attributes;
    e. That has yielded or is substantially likely to yield information of value about history, architecture, engineering, culture or aesthetics, or that provides for existing and future generations an example of the physical surroundings in which past generations lived or worked; or
    f. That the construction materials or engineering methods used in the proposed landmark are unusual or significant of uniquely effective.

[71] City of San José. 2019a. Email Correspondence with Kara Hawkins. March 3, 2019.

3. The factor of age alone does not necessarily confer a special historical, architectural, cultural, aesthetic, or engineering significance, value or interest upon a structure or site, but it may have such effect if a more distinctive, significant or important example thereof no longer exists (Section 13.48.020 A).

The ordinance also provides a designation of a district: "a geographically definable area of urban or rural character, possessing a significant concentration or continuity of site, building, structures or objects unified by past events or aesthetically by plan or physical development (Section 13.48.020 B). Any potentially historic property can be nominated for designation as a city landmark by the City Council, the Historic Landmarks Commission or by application of the owner or the authorized agent of the owner of the property for which designation is requested.

Based upon the criteria of the City of San José Historic Preservation Ordinance, the San José Historic Landmarks Commission established a quantitative process, based on the work of Harold Kalman (1980), by which historical resources are evaluated for varying levels of significance. This historic evaluation criterion, and the related Evaluation Rating Sheets, is utilized within the Guidelines for Historic Reports published by the City's Department of Planning, Building and Code Enforcement, as last revised on February 26, 2010.

Although the criteria listed within the Historic Preservation Ordinance are the most relevant determinants when evaluating the significance of historic resources in San José, the numerical tally system is used as a general guide for the identification of potential historic resources. The "Historic Evaluation Sheet" reflects the historic evaluation criteria for the Registers as well as the City's Historic Preservation Ordinance, and analyzes resources according to the following criteria:

- Visual quality/design
- History/association
- Environment/context
- Integrity
- Reversibility

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes policies applicable to all development projects in San José. The following policies are specific to cultural resources and are applicable to development on the site:

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

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

remains are determined to be Native American, applicable state laws shall be enforced.

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

Policy LU-13.8 Ensure that new development, alterations, and rehabilitation/remodels adjacent to a designated or candidate landmark or Historic District be designed to be sensitive to its character.

Policy LU-13.15 Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.

In addition, Historic Preservation Policies (e.g., LU-13.1 through LU-15) also may apply in the event landmark buildings or districts of historic significance are located within or near new development at the time it is proposed.

Impact Discussion

a) 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:

i. 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)?

No Impact. As discussed in **Section 2.5, Cultural Resources**, the structure on-site is not eligible for listing in the California Register of Historical Resources or the San José Historic Landmarks Ordinance. No impact would occur.

ii. 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 the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

Less than Significant. The CHRIS search and NAHC Sacred Land File Search indicated a low potential of identifying paleontological and archaeological resources on-site. Although archaeological or paleontological resources may be discovered on-site, implementation of Standard Permit Conditions discussed **in Section 2.5**, **Cultural Resources**, would reduce potential impacts during construction. With implementation of these Standard Permit Conditions, this impact would be less than significant.

2.19 Utilities and Service Systems

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
Would the project:				
a) Require or result in the relocation or construction of new or expanded water or wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☒	☐
b) Have sufficient water supplies available to serve the and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☒	☐
c) 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?	☐	☐	☒	☐
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☒	☐
e) Comply with Federal, State, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☒	☐

Environmental Setting

Water Service

The City is serviced by three water retailers, the San José Water Company (SJWC), the San José Municipal Water System (SJMWS), and the Great Oaks Water Company. The project site is serviced by SJWC.[72]

[72] San José Water Company. 2018. *Service Area Address Check*. Available: https://www.sjwater.com/service-area-address-check. Accessed: August, 2018.

Wastewater/Sanitary Sewer System

The project site is serviced by the San José-Santa Clara Regional Wastewater Facility (RWF), which is located in Alviso.[73] The RWF serves eight tributary sewage collection agencies and is administered and operated by the City's Department of Environmental Services. The RWF provides primary, secondary, and tertiary treatment of wastewater and has the capacity to treat 167 million gallons of wastewater a day.[74] The RWF treats an average of 110 million gallons of wastewater per day and serves 1.4 million residents. Sanitary sewer lines in the project area are inspected and maintained by the City's Department of Transportation and rehabilitated and replaced by the Department of Public Works.[75]

Storm Drainage

The project site is developed and consists of both pervious and impervious surfaces. As described in **Section 2.10, Hydrology and Water Quality**, stormwater runoff from the site is discharged into local storm drains, which, in turn, flow into local creeks and the San Francisco Bay. The project site is currently comprised of 26,403 square feet of impervious surfaces and 3,951 square feet of pervious surfaces.

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

The City has an existing contract with Newby Island Sanitary Landfill (NISL) through December 31, 2020 with the option to extend the contract as long as the landfill is open. The City has an annual disposal allocation for 395,000 tons per year. As of October 2014, NISL has approximately 21.2 million cubic yards of capacity remaining.[77]

Regulatory Setting

City of San José General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating impacts to utilities and service systems resulting from planned development within the City. All future

[73] City of San José, 2018. *San José-Santa Clara Regional Wastewater Facility*. Available: http://www.sanjoseca.gov/index.aspx?NID=4968. Accessed: August, 2018.

[74] City of San José. 2013. *San José/ Santa Clara Water Pollution Control Plant Master Plan*. Draft Environmental Impact Report. Available: http://www.sanjoseca.gov/DocumentCenter/View/10967. Accessed: August, 2018.

[75] City of San José. Department of Environmental Services. *San José-Santa Clara Regional Wastewater Facility*. Available: https://www.sanjoseca.gov/DocumentCenter/View/34681. Accessed: August, 2018.

[76] Santa Clara County. 2016. *Five-Year CIWMP/RAIWMP Review Report*. Available: https://www.sccgov.org/sites/rwr/rwrc/Documents/Revised%20June%2022%20RWRC%20Packet.pdf. Accessed: August, 2018.

[77] CalRecycle 2018. *Newby Island Sanitary Landfill Facility/Site Summary details.* Available: http://www.calrecycle.ca.gov/SWFacilities/Directory/43-AN-0003/Detail/. Accessed: August, 2018.

development allowed by the proposed land use designations would be subject to the policies listed in the General Plan, including the following:

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

Policy MS-3.1: Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.

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

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

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

Policy 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.

Policy IN-19.1: Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a sustainable local water supply.

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

As discussed in **Section 2.10, Hydrology and Water Quality**, Policy 6-29 requires all projects to include BMPs that prevent rainwater pollution, treat polluted runoff and eliminate or control runoff from the project site.

Impact Discussion

a) Require or result in the relocation or construction of new or expanded water or wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

Less than Significant. The project is consistent with the General Plan and zoning land use designations for the project site. The General Plan EIR concluded that with the implementation of existing regulations and adopted General Plan policies, any physical impacts resulting from buildout of the General Plan would be less than significant. The project would not require the construction of new or expanded

sewer lines downstream of the project. The project would not result in the construction or expansion of existing facilities beyond what was assumed in the General Plan EIR.

The project would alter existing drainage patterns by redeveloping an underutilized lot with a commercial structure. Stormwater runoff from the site would continue to be collected by existing City drainage systems. As discussed in **Section 2.10, Hydrology and Water Quality**, implementation of the project would add and replace 26,403 square feet of impervious surfaces, which is equal to the existing impervious surfaces on the project site. Implementation of the project would decrease the project site's existing pervious surfaces by 513 square feet. However, the project would include landscape that promotes surface infiltration where possible. As the project would replace more than 10,000 square feet of impervious surface, it would be subject to the requirements of Provision C.3 of the Municipal Regional Stormwater Permit and the City's Post-Construction Urban Runoff Policy 6-29. The project would conform to the associated design, source control, and treatment system requirements of Provision C.3. Therefore, this impact would be less than significant.

b) Have sufficient water supplies available to serve the existing and reasonably foreseeable future development during normal, dry and multiple dry years?

Less than Significant. As concluded in the General Plan EIR, there is sufficient water supply to serve the buildout of the General Plan with the implementation of existing regulations and adopted General Plan policies. As previously discussed, the project would be consistent with planned growth anticipated in the General Plan and in the Santana Row/Valley Fair Urban Village Plan. This impact would be less than significant.

c) 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?

Less than Significant. The existing wastewater treatment facilities have adequate capacity to serve the project. As discussed above, the project is consistent with the General Plan and zoning development assumptions for the site. Development allowed under the General Plan would not exceed the City's allocated capacity at the City's wastewater treatment facility; therefore, implementation of the project would have a less than significant impacts on wastewater treatment capacity. This impact would be less than significant.

d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

Less than Significant. As concluded in the General Plan EIR, there is sufficient capacity at existing landfills which service the City to serve development under buildout of the General Plan. No new or expanded landfills facilities would be required due to implementation of the project. This impact would be less than significant.

e) Comply with Federal, State, and local statutes and regulations related to solid waste?

Less than Significant. As previously discussed, the project is consistent with development anticipated and analyzed in the General Plan EIR. Given this, the project complies with applicable statutes and regulations regarding solid waste generation. This impact would be less than significant.

2.20 Wildfire

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☒	☐
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☒	☐
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☒	☐
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☒	☐

Environmental Setting

The project site is located in a developed urbanized area just south of the Winchester Shopping Center and across the street from Santana Row. The project site is developed with an existing two-story restaurant, a surface parking lot, and landscaping along Winchester Boulevard. The California Department of Forestry and Fire Protection identifies fire hazards based on relevant factors such as fuels, terrain, and weather. There are no Fire Hazard Severity Zones (FHSZ) within the urbanized portion of Santa Clara County that are ranked with moderate to high fire susceptibility. The Project site is located within an area of Non-Very High Fire Hazard Severity Zone (VHFHSZ), which extends throughout most of the City.

Regulatory Setting

California Department of Forestry and Fire Protection (CAL FIRE)

The CAL FIRE FHSZ Maps includes proposed Fire Hazard Severity Zone Maps for State Responsibility Area lands and separate draft Very High Fire Hazard Severity Zone Maps for Local Responsibility Area lands. CAL FIRE allows those reviewing local responsibility area hazard zone maps to verify any adopted ordinances that may affect communities' hazard mapping and building code requirements.

City of San José General Plan

Various policies in the General Plan have been adopted for the purpose of protecting lives and property from risks associated with wildfire. As the project is not located in the vicinity of any wildland, the majority of these policies do not apply.

Policy EC-8.4 Require use of defensible space vegetation management best practices to protect structures at and near the urban/wildland interface.

Impact Discussion

a) Substantially impair an adopted emergency response plan or emergency evacuation plan?

and

b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?

and

c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

and

d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

Less than Significant. As mentioned above in **Section 2.15, Public Services,** there are no formal evacuation routes or emergency response plans near the project site that would be impacted by the project. The existing land uses local to the project preclude factors such as slopes or strong winds from exacerbating wildlife risk. The topography of the surrounding area is generally flat and dense development prevents strong winds. Similarly, post-fire impacts such as drainage changes and landslides would not occur as the project site and its surroundings are highly urbanized and flat and do not have any steep slopes or hillsides that would be susceptible to landslides or flooding. The project would not require the installation or maintenance of infrastructure that may exacerbate fire risk. Further, the project site is not located within a FHSZ.[78] This impact would be less than significant.

[78] Santa Clara County, Fire Hazard Severity Zones om SRA. Adopted by CAL FIRE November 7, 2007.

2.21 Mandatory Findings of Significance

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
a) Does the project have the potential to substantially 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, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☒	☐
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☒	☐
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☒	☐

a) Does the project have the potential to substantially 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, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

Less than Significant with Mitigation. As described in **Section 2.4, Biological Resources**, the project site would not substantially reduce suitable habitat of threaten a special-status plant or wildlife species. The trees on and near the project site provide potential nesting habitat for bird species protected by the Migratory Bird Treaty Act (MBTA) and the California Fish and Game Code (CFGC). Though the project would involve tree removal, the project would plant 124 replacement trees, in compliance with General Plan Policy CD-1.24. Most of these trees will need to be planted off-site through a contribution to a Tree Fund. Therefore, bird habitat would not be substantially reduced. Further, the loss of an active bird nest protected by the MBTA and/or CFGC would be considered a potentially significant impact.

Implementation of **Mitigation Measure BIO-1** would protect active bird nests that could occur in the disturbance area. Therefore, protected bird species would not be threatened, and this impact would be less than significant with implementation of **Mitigation Measure BIO-1.**

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

Less than Significant. A cumulative impact analysis determines whether the project, in combination with other foreseeable projects, would result in a significant cumulative impact, and, if so, whether the project's contribution to the significant cumulative impact would be considerable. The analysis of cumulative impacts can employ one of two methods to establish the impacts of foreseeable projects. A lead agency may (1) select a list of projects, including those outside the control of the agency, or (2) create a summary of projections from an adopted general plan that evaluates the regional conditions contributing to a cumulative impact.

This Initial Study evaluates cumulative impacts using the General Plan EIR. The General Plan EIR evaluated future development, as identified in the current General Plan, and concluded that the following significant environmental impacts would occur:

- Generation of GHG emissions beyond those anticipated in the region's Clean Air Plan
- Increased nitrogen oxide emissions
- Contribution to GHG emissions exceeding the City's 2035 emission reduction target
- Land use impacts related to an existing jobs/housing imbalance
- Increased localized traffic noise
- Increased roadway congestion

Aesthetic Impacts

The project is not located in the Communications Hill Specific Plan Area or the North Coyote Valley Area and would not contribute to this cumulative impact.

Conversion of Agricultural Land

As discussed in **Section 2.3, Agriculture and Forest Resources**, the project site is identified as "urban/built-up land." Project implementation would not result in the loss of agricultural land and would not contribute to this cumulative impact.

Nitrogen Oxide Emissions

As discussed in **Section 2.4, Biological Resources**, development in Santa Clara County will result in indirect impacts associated with increased nitrogen deposition on natural communities. The Santa Clara Valley Habitat Plan requires urban projects that are greater than two acres to pay a nitrogen deposition fee. The project site below this 2-acre parcel size threshold and is therefore not a covered project under the Santa Clara Valley Habitat Plan. The project's contribution to this cumulative impact would not be considerable.

Greenhouse Gas Emissions

The project's contribution to global climate change is discussed in **Section 2.8, Greenhouse Gas Emissions**. Development of the project would incorporate applicable policies of the City's adopted GHG Reduction Strategy. The project would also comply with the City's Construction and Demolition Diversion Program, which ensures that at least 75 percent of the construction waste is diverted from landfills. The project would implement all basic BAAQMD BMPs to reduce short-term construction-related diesel emissions. Therefore, the project's contribution to a cumulative impact to GHG emissions would not be considerable.

Land Use Impacts from a Jobs/Housing Imbalance

The General Plan EIR identified significant cumulative land use impacts from the build-out of the General Plan land use designations in conjunction with other regional development. The General Plan EIR concluded that regional development would create a regional jobs/housing imbalance, as workers unable to live near employment centers would commute long distances from outlying areas with available housing.

Localized Traffic Noise

As discussed in **Section 2.13, Noise and Vibration**, the Noise Assessment (**Appendix D**) analyzed roadway segments near the project site where project traffic would have the greatest impact (highest ratio of project traffic to existing traffic). The project would add less than 1 dB of traffic noise along the roadway network. Noise generated by new vehicle trips associated with the project would be below the 3-dB threshold established by General Plan Policy EC-1.2. Day-night average (DNL) noise level increases would be anticipated to be similar. This increase would not typically be noticeable and would be below the 3 dBA and 5 dBA DNL thresholds of significance. Therefore, the project's contribution to this cumulative impact would not be considerable.

Degrading Traffic Operations

Although LOS was used to evaluate impacts under CEQA in the General Plan EIR, the City has since adopted VMT as the new metric for identifying and mitigation transportation impacts within CEQA. Therefore, this discussion of project trip generation and LOS is included for information purposes only. As discussed in Section 2.17, Transportation, intersection traffic operations were evaluated against the Santa Clara standards of LOS D or better at City-controlled intersections and LOS E or better at expressways and designated CMP intersections. Both study intersections located in Santa Clara (Winchester Boulevard/Forest Avenue, and Winchester Boulevard/Dorcich Street) are expected to continue to operate at an acceptable level (LOS D or better) during both peak hours under all future scenarios including background, background plus project and cumulative plus project conditions.

The remaining eight study intersections are under the City of San José's jurisdiction. The analysis shows that all but two of the signalized study intersections in San José would operate at an acceptable level of service (LOS D or better) under all future scenarios during the AM and PM peak hours (see **Table 15**). The intersection level of service calculation sheets are included in **Appendix E**.

The Monroe Street/Stevens Creek Boulevard intersection would operate at LOS F during the PM peak hour under all future scenarios. However, the addition of project trips would cause the critical movement delay to increase by less than 4.0 seconds, and the critical volume-to-capacity ratio would increase by less than 0.01. Thus, the project would not have an adverse impact on intersection operations at this location. Similarly, the combination of trips generated by the proposed project and other pending projects in the vicinity would not result in an adverse impact on intersection operations under cumulative plus project conditions.

The intersection of Winchester Boulevard and Stevens Creek Boulevard also would operate at LOS F during the PM peak hour under all future scenarios. The addition of project-generated traffic would cause the critical movement delay to increase by more than 4.0 seconds, and the critical volume-to-capacity ratio to increase by more than 0.01. The project trips at this intersection comprise 33 percent of the increase in traffic beyond background conditions. Thus, the project is considered to have a substantial contribution to the significant impact on cumulative intersection operations. However, the project would include Transportation Demand Management (TDM) measures that would reduce project-generated vehicle trips. Therefore, the project's contribution to cumulative degradation of traffic operations would not be considerable.

The project will implement TDM measures that would avoid the adverse impact on intersection operations. Implementation of the following TDM measures combined with the limited parking supply would reduce project-generated vehicle trips by a total of 39.8% (27.3% reduction for TDM and 12.5% reduction for limited parking supply). This reduction would be sufficient to avoid the significant impact on intersection operations (i.e. the project generated trips would cause the critical movement delay to increase by less than 4 seconds and the project trips would comprise less than 25 percent of the projected cumulative traffic growth and would no longer be cumulatively considerable).

- Commute trip reduction marketing and education programs (100 percent of eligible employees),
- Ridesharing programs (100 percent of eligible employees), and
- Subsidized transit passes.
- Bike parking (22 spaces per San José's Zoning Code Section 20.90.060B),
- Showers and changing room (2 showers per San José Zoning Code Section 20.90.066)

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

Less than Significant. Implementation of the project would not result in any significant unavoidable impacts. Additionally, the implementation of the mitigation measures identified herein would reduce all potential impacts to a less-than-significant level. Therefore, the project would not result in impacts that would cause substantial adverse impacts on human begins, either directly or indirectly.

3 References

Association of Bay Area Governments. *Tsunami Inundation Emergency Planning Map for the San Francisco Bay Region.* Available: http://quake.abag.ca.gov/tsunamis. Accessed: September, 2018.

California Department of Conservation. *Santa Clara County Important Farmland Map 2016 Map*. Available: https://maps.conservation.ca.gov/dirp/cliff/. Accessed: July, 2018.

California Department of Conservation. *Santa Clara County Williamson Act 2015/2016 Map*. Available: ftp://ftp.consrv.ca.gov/pub/dlrp/wa/. Accessed: July, 2018.

California Department of Forestry and Fire Protection. 2012. *San José Fire Hazard Severity Zones*. Available: http://www.fire.ca.gov/fire_prevention/fhsz_maps_santaclara. Accessed: March, 2019

CalRecycle 2018. *Newby Island Sanitary Landfill Facility/Site Summary details.* Available: http://www.calrecycle.ca.gov/SWFacilities/Directory/43-AN-0003/Detail/. Accessed: August, 2018.

CARB. 2017. *California's 2017 Climate Change Scoping Plan.* Available: https://www.arb.ca.gov/cc/scopingplan/scoping_plan_2017.pdf.

City of San José. Department of Environmental Services. *San José-Santa Clara Regional Wastewater Facility*. Available: https://www.sanjoseca.gov/DocumentCenter/View/34681. Accessed: August, 2018.

City of San José. 2011a. *Envision San José 2040 General Plan*. Available: http://www.sanjoseca.gov/DocumentCenter/View/77588. Accessed: August, 2018

City of San José. 2011b. *Greenhouse Gas Reduction Strategy for the City of San José*. Updated 2015.

City of San José Municipal Code. 2018. Available: https://library.municode.com/ca/san_José/codes/code_of_ordinances?nodeId=TIT20ZOCH20.75PEORZODI. Accessed: July, 2018.

City of San José. 2016. *Report on Parks Condition Assessment Results and Service Delivery Standards*. Available: http://sanjose.granicus.com/MetaViewer.php?meta_id=556557. Accessed: August, 2018.

City of San José. 2013. *San José/ Santa Clara Water Pollution Control Plant Master Plan*. Draft Environmental Impact Report. Available: http://www.sanjoseca.gov/DocumentCenter/View/10967. Accessed: August, 2018.

City of San José. 2018. *San José-Santa Clara Regional Wastewater Facility*. Available: http://www.sanjoseca.gov/index.aspx?NID=4968. Accessed: August, 2018.

City of San José. 2019a. Email correspondence with Kara Hawkins. March 3, 2019.

City of San José. 2019b. Email correspondence with Kara Hawkins. March 15, 2019.

City of San José. 2019c. Park Impact and Parkland Dedication Ordinances. Available http://www.sanjoseca.gov/index.aspx?NID=562. Accessed May 2019.

City of San José. 2019d. *Permit Information by Property Address or Assessor's Parcel Number.* Available: https://sjpermits.org/permits/

City of San José. 2019e. *Private Sector Green Building*. Available: http://www.sanjoseca.gov/index.aspx?NID=3284. Accessed: March 2019

City of San José. 2019f. *Tree Removal Permits.* Available: http://www.sanjoseca.gov/index.aspx?NID=3655. Accessed: June, 2019.

County of Santa Clara Local Oversight Program. 1996. *Hazardous Material Incident Report, Courtesy Chevrolet, San José CA*. Available: https://geotracker.waterboards.ca.gov/case_summary?global_id=T0608525806. Accessed: August, 2018.

Department of Conservation. 2016. California Important Farmland Finder.

Department of Conservation. 2016. Williamson Act/Land Conservation Act. Williamson Act Status Reports: Santa Clara County.

Department of Conservation. 2010. *Geologic Map of California.* Available: http://maps.conservation.ca.gov/cgs/gmc/. Accessed: July, 2018.

Environmental Data Resources Inc. *The EDR Radius Map Report*. *335 South Winchester Boulevard, San José, CA, 95117*.Inquiry Number 5382582.2s. August, 2018.

NETR. 2019. *Historical Aerials Viewer*. Available: https://www.historicaerials.com/viewer

Property Shark. 2018. 335 S Winchester Boulevard, San José, CA 95128. Available: https://www.propertyshark.com/mason/Property/38005490/335-S-Winchester-Blvd-San-Jose-CA-95128/

San José Water Company. 2018. *Service Area Address Check*. Available: https://www.sjwater.com/service-area-address-check. Accessed: August, 2018.

San José City Council. 2017. *Santana Row/Valley Fair Urban Village Plan*. Available: https://www.sanjoseca.gov/DocumentCenter/View/73624 . Accessed: December 17, 2018.

Santa Clara County. 2016. *Five-Year CIWMP/RAIWMP Review Report*. Available: https://www.sccgov.org/sites/rwr/rwrc/Documents/Revised%20June%2022%20RWRC%20Packet.pdf. Accessed: August, 2018.

Santa Clara Valley Habitat Agency. 2012. *Final Santa Clara Valley Habitat Plan*. Available: https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan. Accessed: September, 2018.

Verse Design, 2018. 335 S. Winchester Project Plans.