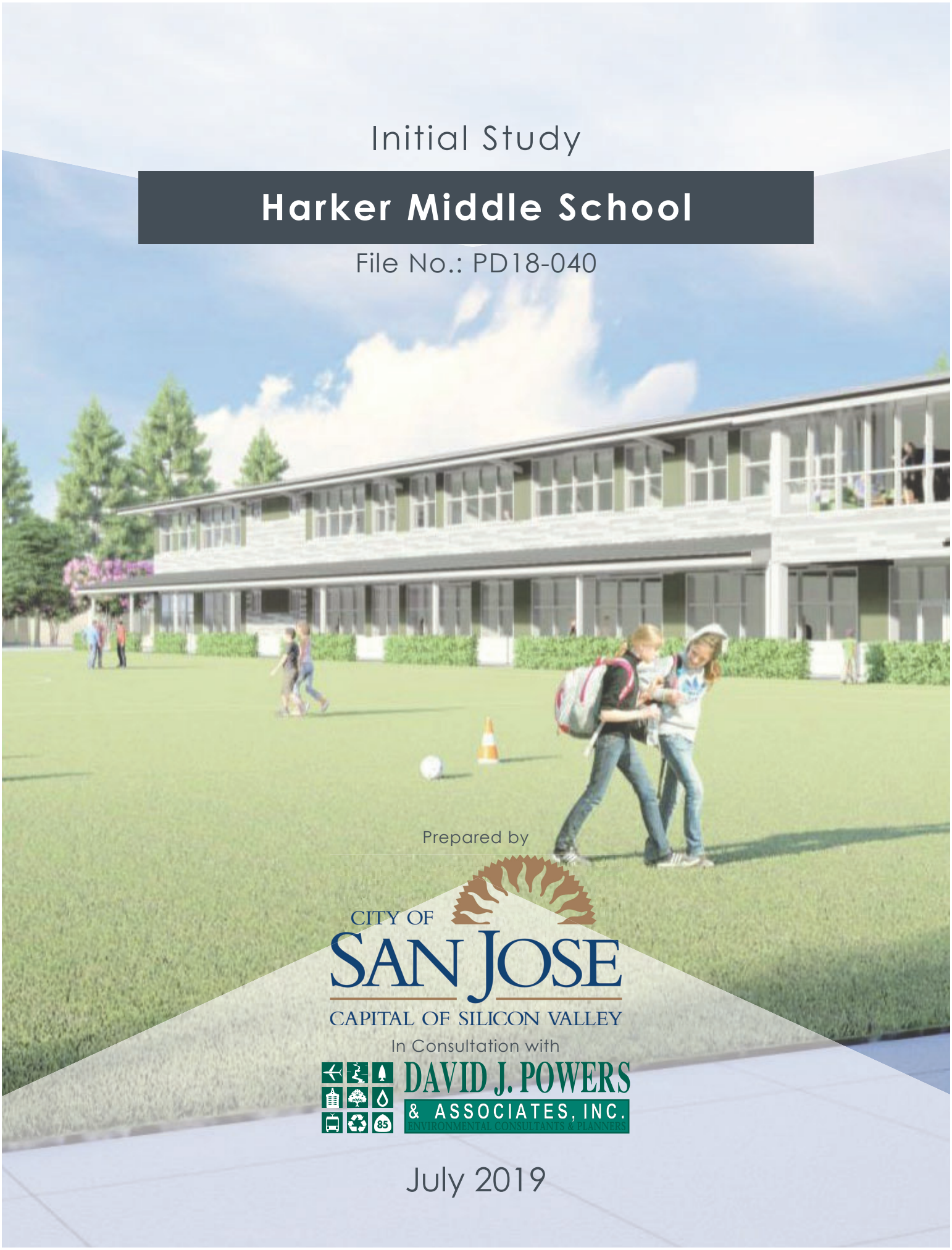
Initial Study

Harker Middle School

File No.: PD18-040



Prepared by

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

In Consultation with

DAVID J. POWERS & ASSOCIATES, INC.
ENVIRONMENTAL CONSULTANTS & PLANNERS

July 2019

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: Harker Middle School Expansion Project

PROJECT FILE NUMBER: PD18-040

PROJECT DESCRIPTION: The project proposes the demolition of three of the five existing classroom buildings, a portion of the existing auditorium/gymnasium, removal of the existing vehicle turnaround area, and removal of 46 trees, including 15 ordinance-sized trees. The project would allow the construction of a new two-story classroom building of approximately 38,900 square feet and a new addition to the existing auditorium/gymnasium of approximately 15,300 square feet for a total of 20,542 square feet to facilitate the operation of a middle school on the site with a maximum enrollment of 600 students. The project also includes construction of five new basketball courts, reconfiguration of the existing turf play field, a new student drop-off/pick-up area, and an emergency vehicle access road. The existing administration building, music/drama building, and two academic buildings would remain in place. Upon completion of the project, the total building square footage on the campus would be approximately 107,170 square feet.

PROJECT LOCATION: 4525 Union Avenue, San José.
ASSESSORS PARCEL NO.: 421-07-003 **COUNCIL DISTRICT:** 9

APPLICANT CONTACT INFORMATION: Mike Bassoni, Facilities Director of The Harker School; P.O. Box 9067, San Jose, CA 95157; 408-553-0377

FINDING

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

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

A. **AESTHETICS** – The project would not have a significant impact on 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 AIR-3: Construction activities associated with the proposed project would expose infants in proximity to the project site to temporary toxic air contaminant emissions in excess of acceptable thresholds.

MM AIR-3.1: The project applicant shall ensure that all diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet U.S. EPA particulate matter emissions standards for Tier 3 engines with electric portable equipment (e.g. welders for this project). Alternatively, equipment that meets Tier 4 engines, equipment equipped with verified diesel emission control devices or the use of alternatively fueled equipment would meet this requirement. If any of these alternative measures are proposed, the project applicant shall include them in the construction operations plans (as stated in MM AIR-3.2, below) which includes specifications of the equipment to be used during construction prior to the issuance of any demolition, grading, or building permits, whichever occur the earliest.

MM AIR-3.2: Prior to the issuance of any demolition, grading and/or building permits (whichever occurs first), the project applicant shall submit a construction operations plan that includes specifications of the equipment to be used during construction prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest) to the Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement. 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 in these mitigation measures.

D. BIOLOGICAL RESOURCES.

Impact BIO-1: Construction activities associated with the proposed project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment.

MM 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).

MM BIO-1.2: Nesting Bird Surveys. If demolition and construction 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.

MM 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, 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.

MM 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 or Director's designee of the Department of Planning, Building and Code Enforcement.

Impact BIO-5: Construction activities could result in impacts to the health and longevity of the trees to be preserved.

MM BIO-5.1: Prior to the issuance of any tree removal, demolition, grading, or building permits (whichever occur first), the project applicant shall retain a certified arborist throughout the construction period of the project to:

- Review all future project submittals including grading, utility, drainage, irrigation, and landscape plans.
- Meet and schedule with contractors working in the vicinity of trees proposed for preservation to review all work procedures, access routes, storage areas and tree protection measures.
- Monitor all work (any grading, construction, demolition or other ground disturbance work) that is expected to encounter roots of trees to be preserved.
- Evaluate appropriate treatments if injury occurs to any tree during any ground-moving activities.

MM BIO-5.2: Prior to any ground disturbance activities, the project applicant shall submit a tree protection plan including the following, but not limited to, information:

- **Preconstruction Scope:**
  - Establish the horizontal and vertical elevation of all trees recommended for preservation and located within 25-feet of the project area. Include trunk locations and tag numbers on all plans.
- **Tree Protection Zone Protocol:**
  - Establish a tree protection zone around trees to be preserved. As a general guideline, the tree protection zone shall be the limit of work, as most trees recommended for preservation are outside the project area. For coast redwoods located along the western perimeter (#139 to #154) of the site, the tree protection zone shall be the edge of the existing sidewalk. The tree protection zone shall be installed prior to demolition, grubbing, or grading.
  - No materials, equipment, soil, waste or wash-out water may be deposited, stored, or parked within the tree protection zone (fenced area).
  - No entry is permitted into a tree protection zone without permission of the project superintendent.
  - Trees to be removed shall be cut down so as to fall away from tree protection zones and avoid pulling and breaking of roots of trees to remain. If roots are entwined, the consultant may require first severing the major woody root mass before extracting the trees, or grinding the stump below ground.
  - Fenced areas shall remain in place until all site work has been completed. Fences may not be relocated or removed without permission of the project superintendent.
  - Construction trailers, traffic and storage areas shall remain outside fenced areas at all times.
- **Maintenance During Construction:**
  - Any additional tree pruning needed for clearance during construction shall be

performed by a qualified arborist and not by construction personnel. Any roots damaged during grading or construction shall be exposed to sound tissue and cut cleanly with a saw.

- Trees to be preserved shall be irrigated on a regular basis. Use only herbicides safe for use around trees and labeled for that use, even below pavement.
- Trees proposed for preservation may require pruning to clean the crown and to provide clearance. All pruning shall be completed by an ISA Certified Arborist or Tree Worker and adhere to the latest editions of the American National Standards for tree work (Z133 and A300) and International Society of Arboriculture Best Management Practices, Pruning.

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

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

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

H. HAZARDS AND HAZARDOUS MATERIALS.

Impact HAZ-2: Development of the proposed project could potentially expose construction workers and adjacent residents to levels of pesticides and pesticide-based metals such as arsenic and lead during ground disturbance activities

MM HAZ-2: Prior to issuance of any demolition or grading permits, the project applicant shall collect shallow soil samples in the near surface soil within the proposed project area and tested for organochlorine pesticides and pesticide-based metals such as arsenic and lead to determine if contaminants from previous agricultural operations occur at concentrations above established construction worker safety and commercial/industrial standard environmental screening levels. The results of soil sampling and testing shall be provided to the Director of Planning or Director's designee of the City of San José Department of Planning, Building, and Code Enforcement and Municipal Environmental Compliance Officer for review.

If pesticide contaminated soils are found in concentrations above the appropriate regulatory environmental screening levels for the proposed project, the project applicant shall obtain regulatory oversight from the Santa Clara County Department of Environmental Health (or Department of Toxic Substances Control) under their Voluntary Cleanup Program. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared by a qualified hazardous materials consultant. The plan shall establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future workers and visitors. The Plan and evidence of regulatory oversight shall be provided to the Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement and the Environmental Compliance Officer in the City of San José's Environmental Services Department.

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

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

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

L. **NOISE.**

Impact NOI-1: Sensitive receptors in the project area would be intermittently exposed to high noise levels during project construction

MM NOI-1.1: Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistic plan shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building, and Code Enforcement prior to the issuance of any grading or demolition permits.

The noise logistic plan shall include, but is not limited to, the following best management practices:

- Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence (San José Municipal Code Section 20.100.450).
- Pile-driving shall be prohibited.
- Construct temporary noise barriers, where feasible, to screen mobile and stationary construction equipment. The temporary noise barrier fences shall be placed such that the noise barrier interrupts the line-of-sight between the noise source and receiver and shall be constructed in a manner that eliminates any cracks or gaps.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines shall be strictly prohibited.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise source and noise-sensitive receptors nearest the project site during all project construction.
- A temporary noise control blanket barrier shall be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling.
- If impact pile driving is proposed, foundation pile holes shall be pre-drilled to minimize the number of impacts required to seat the pile Pre-drilling foundation pile holes is a standard construction noise control technique. Pre-drilling reduces the

number of blows required to seat the pile.

- Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors.
- Control noise from construction workers' radios to a point where they are not audible at residential property lines bordering the project site.
- The project applicant shall prepare a detailed construction schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
- 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.
- Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

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

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

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

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

Impact TRN-2: The project exceeds the City's Vehicle Miles Traveled (VMT) threshold of 12.21 VMT per employee/student.

MM TRN-2.1: Prior to the issuance of any public works clearances, the project applicant shall implement the following Transportation Demand Management (TDM) measures:

- Free Direct Shuttle Service. The project shall provide free shuttle service from various locations in San José and the surrounding areas to the new Harker Union Avenue campus to serve the school's students and employees.
- School Carpool/Transit Pool Program. A school carpool and transit pool program shall be open to all families of Harker school and shall include carpooling and organizing small groups to travel together via public transit.
- TDM Coordinator. Contact information for the TDM coordinator shall be posted on the school's website.
- Availability. Information regarding the TDM program shall be distributed to all families of Harker students and shall be posted on the school website prior to program implementation.
- Annual Monitoring. An annual monitoring requirement establishing a trip cap of 679 AM Peak-Hour-Trip and 315 PM Peak-Hour-Trip.

A traffic engineer shall prepare and submit the TDM plan to the Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement, and Director's designee of the City of San Jose Department of Public Works.

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

R. MANDATORY FINDINGS OF SIGNIFICANCE

The project would not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **Thursday August 22nd, 2019** any person may:

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

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

Rosalynn Hughey, Director
Planning, Building and Code Enforcement

7/30/19
Date

Deputy

Thai-Chau Le
Environmental Project Manager

Circulation period: August 2, 2019 to August 22, 2019

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SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE INITIAL STUDY

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

The project proposes to redevelop a portion of the existing Harker Preschool Campus and convert it to a middle school campus. The project would demolish three of the existing buildings and construct a new academic building and addition to the existing gymnasium building. The project also includes reconstructing and reconfiguring the outdoor play areas and constructing a new student drop-off/pick-up area and emergency vehicle access road. The proposed project would not facilitate an increase in student enrollment beyond the existing permitted capacity of 600 students. This Initial Study evaluates the environmental impacts that might reasonably be anticipated to result from implementation of the proposed project.

1.2 PUBLIC REVIEW PERIOD

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

Thai-Chau Le, Environmental Project Manager
City of San José
Department of Planning, Building & Code Enforcement
200 E. Santa Clara Street, 3rd Floor
San José, CA 95113

1.3 CONSIDERATION OF THE INITIAL STUDY AND PROJECT

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

1.4 NOTICE OF DETERMINATION

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

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

Harker Middle School Expansion Project

2.2 LEAD AGENCY CONTACT

Thai-Chau Le, Environmental Project Manager
City of San José
Department of Planning, Building & Code Enforcement
200 E. Santa Clara Street, 3rd Floor
San José, CA 95113
(408) 535-5658
Thai-Chau.Le@sanjoseca.gov

2.3 PROJECT APPLICANT

Mike Bassoni
Facilities Director
The Harker School
P.O. Box 9067
San Jose, CA 95157
mikeb@harker.org

2.4 PROJECT LOCATION

The project site is located at 4525 Union Avenue in San José and is bordered by single-family residences to the north and west, light industrial office buildings to the south, and Union Avenue to the east. The Regional Map, Vicinity Map, and Aerial Photograph with Surrounding Land Uses are shown on Figures 2.4-1, 2.4-2 and 2.4-3, respectively.

2.5 ASSESSOR'S PARCEL NUMBER

The assessor's parcel number (APN) for the project site is 421-07-003.

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

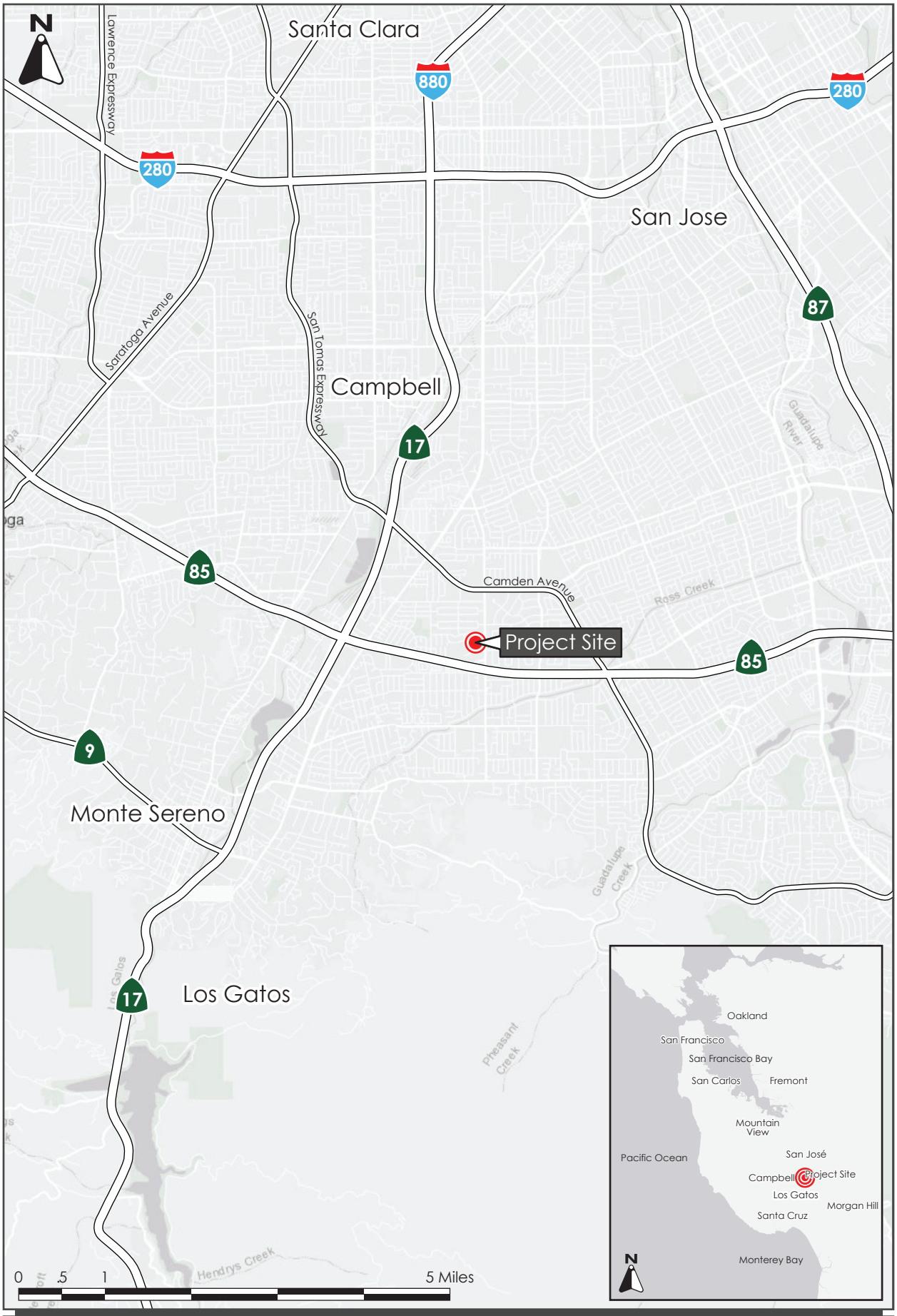
The project site is designated *Public/Quasi-Public* in the Envision San José 2040 General Plan (General Plan) and is zoned *A(PD) Planned Development District*.

2.7 HABITAT PLAN DESIGNATION

The project site is designated by the Santa Clara Valley Habitat Plan as "Urban-Suburban."

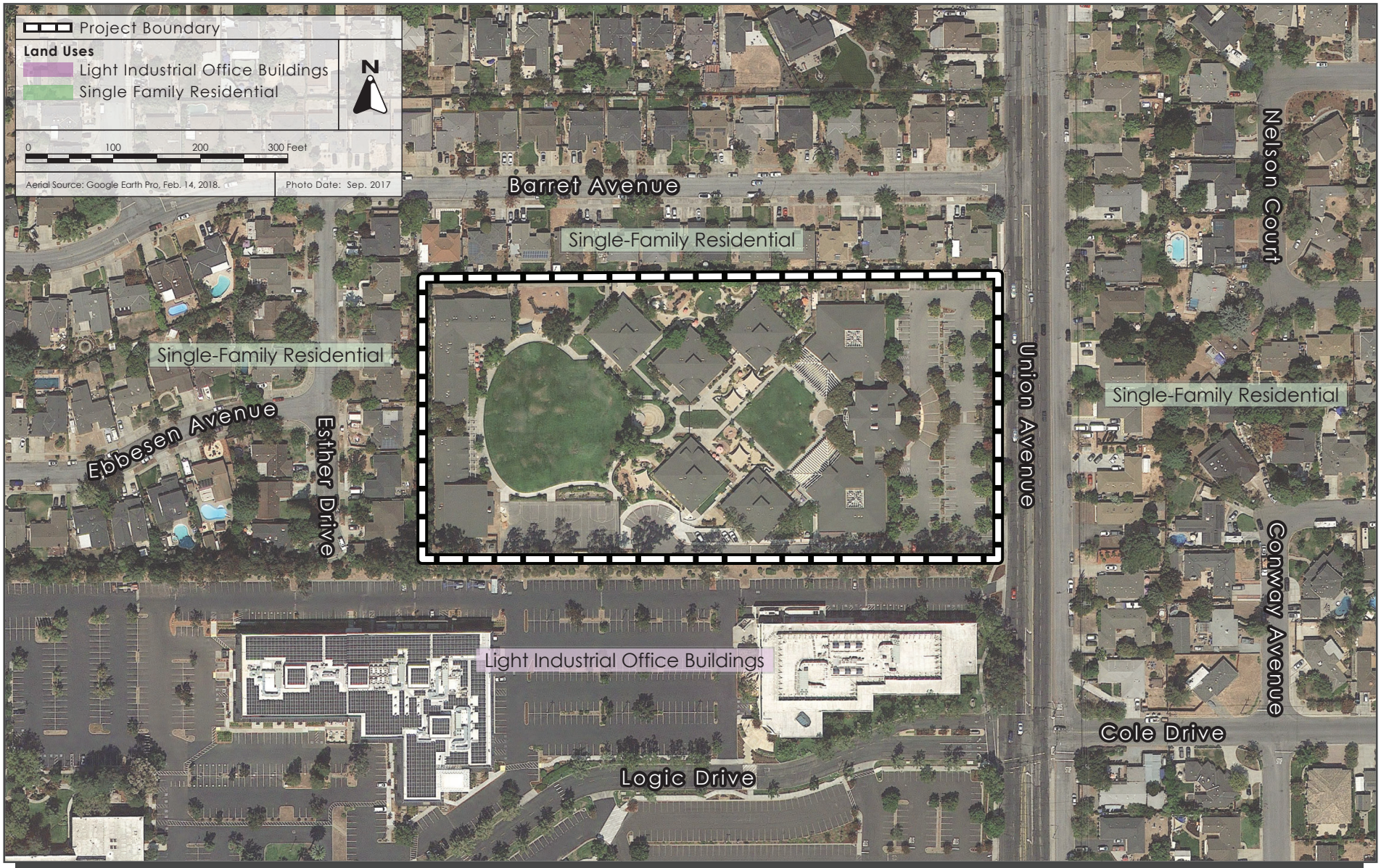
2.8 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

The project would require a Planned Development Permit, Grading Permit, Building Permit, Tree Removal Permit, and other Public Works Clearances.



REGIONAL MAP | FIGURE 2.4-1

VICINITY MAP | FIGURE 2.4-2



AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.4-3

SECTION 3.0 PROJECT DESCRIPTION

3.1 PROJECT BACKGROUND

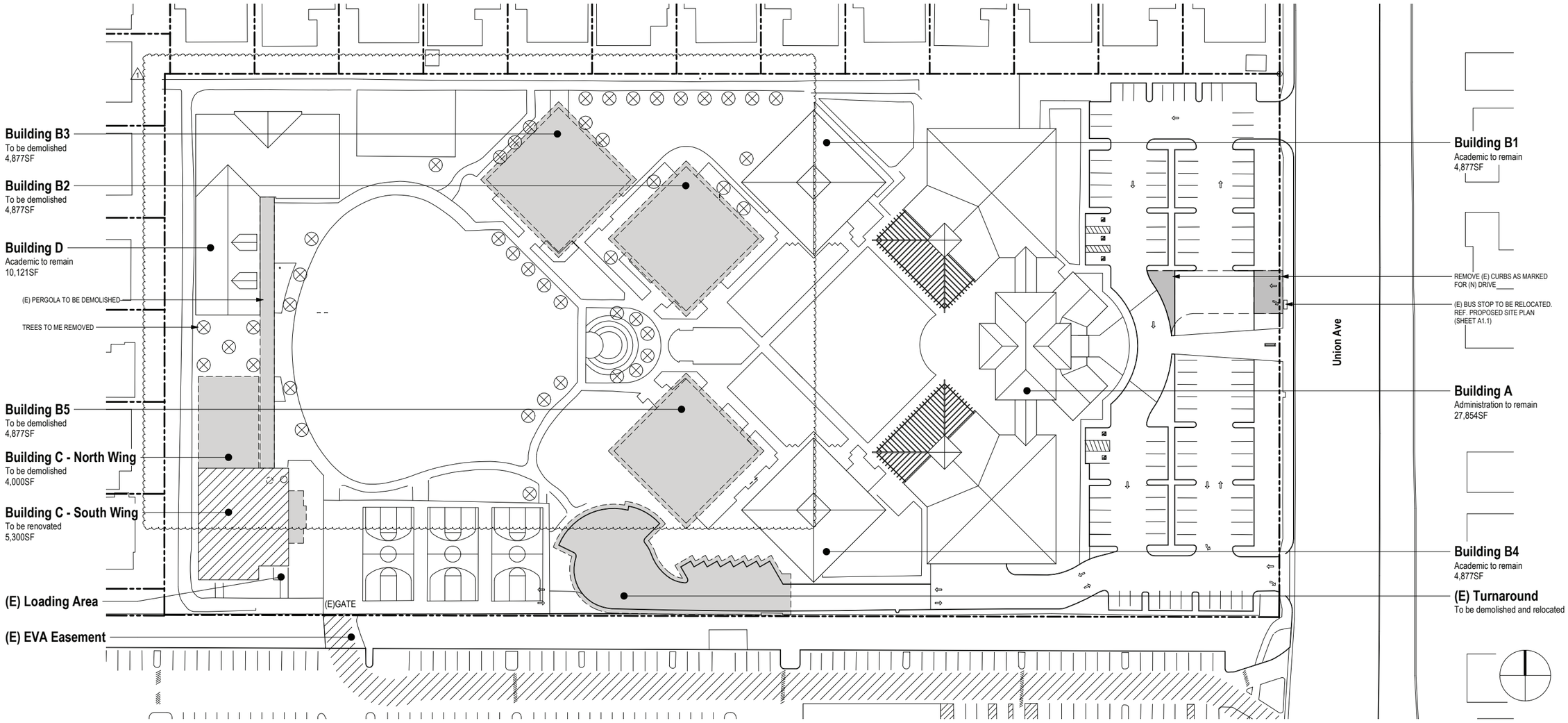
The project site was approved for a Planned Development Rezoning (PDC91-10-077) from an *R-1 Zoning District* to the *A(PD) Planned Development Zoning District* by City Council Ordinance No. 24016 on February 18, 1992, effective March 20, 1992. The rezoning allowed for uses such as cottages for living quarters, school and recreational buildings, a child services center, and administration/medical/kitchen/dining facilities. A Planned Development Permit for a 75,755-square-foot Children's Shelter Facility (PD91-03-21) was approved on June 3, 1992 by the Director of Planning. Since then, the project site has undergone environmental review related to a Planned Development Permit (PD12-027) for a private elementary school of up to 600 pre-Kindergarten through 5th grade students. The Planned Development Permit included the demolition of two existing 4,800-square-foot buildings, construction of a new 17,500-square-foot multipurpose building, a 2,500-square-foot accessory structure, and other site improvements. An Initial Study/Mitigated Negative Declaration was completed for PD12-027 and adopted on December 5, 2012.

The project currently is operating the pre-school, but did not fully implement the physical changes and enrollment increases as approved in the previous Planned Development Permit. The subject project proposes a new Planned Development Permit to allow a private middle school on the site with a capacity of up to 600 students, consistent with the capacity allowed under PD12-027.

3.2 PROJECT OVERVIEW

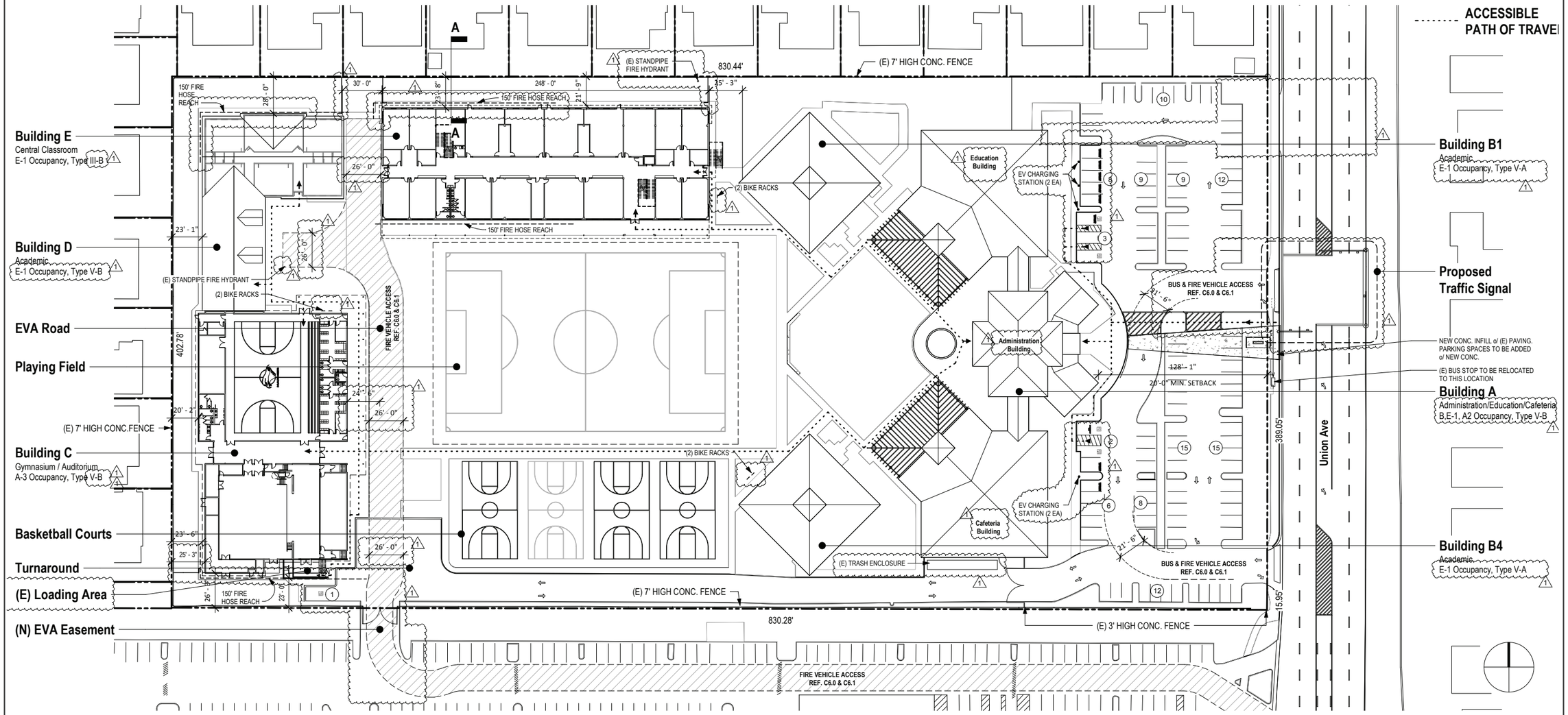
The 7.7-acre project site is the location of the existing Harker Preschool Campus. Existing development on the site includes: five one-story, 4,877-square-foot classroom buildings; a two-story 11,340-square-foot gymnasium; a one-story, 10,121-square-foot music/drama class building; a one- and two-story, 27,854-square-foot administration building (which fronts Union Avenue); a paved parking lot; and a student drop-off area. The preschool campus also includes playgrounds, basketball courts, turf fields, and mature landscaping. The existing enrollment at the preschool is 120 students. All of the existing buildings are shown on the following Existing Conditions and Proposed Demolition plan (Figure 3.2-1).

As shown on Figure 3.2-1, the project proposes the demolition of three of the five existing classroom buildings (Buildings B2, B3, and B5), a portion of the existing auditorium/gymnasium (the north wing of Building C), removal of the existing vehicle turnaround area, and removal of 46 trees, including 15 ordinance-sized trees. The conceptual site plan for the proposed project is shown on Figure 3.2-2. The project would allow the construction of a new two-story classroom building of approximately 38,900 square feet (Building E), and a new addition to the existing auditorium/gymnasium of approximately 15,300 square feet for a total of 20,542 square feet (Building C), to facilitate the operation of a middle school on the site with a maximum enrollment of 600 students. The project also includes construction of five new basketball courts, reconfiguration of the existing turf play field, a new student drop-off/pick-up area, and an emergency vehicle access road. The existing administration building, music/drama building, and two academic buildings would remain in place. Upon completion of the project, the total building square footage on the campus would be approximately 107,170 square feet.



Source DEVCON Construction Inc., April 2019.

EXISTING CONDITIONS AND PROPOSED DEMOLITION | FIGURE 3.2-1



Source DEVCON Construction Inc., April 2019.

CONCEPTUAL SITE PLAN | FIGURE 3.2-2

3.3 PROPOSED DEVELOPMENT

3.3.1 Classroom Building

There are five existing classroom buildings (B1-B5) of approximately 4,877 square feet each on-site and one music/drama building (Building D) of approximately 10,121 square feet. The five classroom buildings are centrally located within the project site and the music/drama building is located at the northwestern corner of the site. The project would demolish three of the five existing classroom buildings on campus and construct one new two-story classroom building with a maximum height of 34 feet (Building E on Figure 3.2-2). The proposed classroom building would be located along the north property line adjacent to the existing music/drama building in the northwest corner of the campus. The location of the new proposed classroom building is currently developed with existing outdoor play areas and two classroom buildings. The proposed classroom building would be approximately 38,900 square feet in size and would contain a total of 34 classrooms along with ancillary uses such as offices and storage space. The classroom building would be stepped back from the property line, with the ground floor and second story being set back approximately 23.5 feet and 35.5 feet from the property line, respectively. The music/drama building would remain as it is.

3.3.2 Gymnasium Building

The project proposes to expand the existing on-site gymnasium building (Building C in Figure 3.2-1). The existing gymnasium building is 11,340 square feet in size and 32 feet in height and is located in the southwest corner of the campus, backing up to existing residences along Esther Drive. The proposed project would demolish a portion of the existing gymnasium building and construct a new, expanded, addition to the gymnasium building. The expanded gymnasium building would be approximately 20,542 square feet in size (an increase of approximately 9,202 square feet) and would have a maximum height of 34 feet (an increase of two feet). The expanded gymnasium building (Building C on Figure 3.2-2) would include a gymnasium with locker rooms and bleachers and an auditorium with a stage, dressing rooms, and storage facilities. The gymnasium and auditorium would be connected by a central lobby. Walkways and plazas would surround the building on three sides, providing connectivity to the campus.

3.3.3 Outdoor Recreation Area

The proposed project would reconfigure and reconstruct the existing centrally located outdoor turf area and basketball courts to create a formal turf soccer field and make more efficient use of space. The reconfigured outdoor recreation area would include a central turf soccer field and four basketball courts along the southern property line.

3.3.4 Site Access and Parking

3.3.4.1 *Site Access*

The existing sidewalk along the site's Union Avenue frontage would provide pedestrian access to the proposed middle school campus. Vehicular access to the site is currently provided by two unsignalized driveways on Union Avenue. The project proposes to relocate the northern driveway approximately 150 feet south to be centrally located along the project frontage. The project would also install a traffic signal on Union Avenue at the location of the relocated driveway. The southern driveway would remain at its existing location and would be unsignalized. Ingress and egress at the

southern driveway would be limited to right turn in and out with restricted access (i.e., no inbound access) during student drop-off and pick-up.

A gated drive aisle along the south site boundary would provide access to the proposed student drop off /pickup area at the rear of the site. The gated drive aisle also functions as emergency vehicle access and includes a turnaround area at the westerly terminus.

3.3.4.2 *Parking*

Surface parking is provided along two double-loaded aisles in front of the school administration building. A total of 117 on-site vehicle parking spaces would be provided by the proposed project.

3.3.5 Utilities

The existing Harker Preschool Campus is served by existing utility lines located in Union Avenue along the project frontage, including sanitary sewer, stormwater, natural gas, and water. The existing utility lines have capacity to accommodate the increased demand generated by the proposed project. No upgrades to the existing utilities serving the project site are proposed by the project.

3.3.6 Green Building Measures

The proposed project would comply with the Private Sector Green Building Policy.

3.3.7 Construction

It is currently anticipated that project construction would take 14 months to complete, beginning May 2020 and ending July 2021. The existing on-site preschool would not be in operation during construction of the proposed project.

Construction activities associated with the proposed project include site demolition and clearing, grading, utility installation, building construction, and landscaping. Approximately 1,450 cubic yards of demolition debris and 1,800 cubic yards of soil would be exported and imported during project construction, respectively.

During construction, staging activities (e.g., equipment and material storage) and construction worker parking would occur on-site.

SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND IMPACT DISCUSSION

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

4.1	Aesthetics	4.11	Land Use and Planning
4.2	Agricultural and Forestry Resources	4.12	Mineral Resources
4.3	Air Quality	4.13	Noise and Vibration
4.4	Biological Resources	4.14	Population and Housing
4.5	Cultural Resources	4.15	Public Services
4.6	Energy	4.16	Recreation
4.7	Geology and Soils	4.17	Transportation/Traffic
4.8	Greenhouse Gas Emissions	4.18	Tribal Cultural Resources
4.9	Hazards and Hazardous Materials	4.19	Utilities and Service Systems
4.10	Hydrology and Water Quality	4.20	Wildfire
		4.21	Mandatory Findings of Significance

The discussion for each environmental subject includes the following subsections:

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

Important Note to the Reader

Project Impacts on the Environment

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

impacts of the project on the environment, including whether a project may exacerbate existing environmental hazards.

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

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

Updated CEQA Guidelines

On December 28, 2018, the California Natural Resources Agency adopted a comprehensive update to the CEQA Guidelines. This update reflected changes related to analyzing transportation impacts pursuant to Senate Bill 743, updates to the analysis of greenhouse gas emissions, and other textual changes, including the addition of two new sections (Tribal Cultural Resources and Wildfire) and the inclusion of an Energy section in Initial Studies. The checklist questions and analysis throughout this Initial Study reflect the updated CEQA Guidelines.

4.1 AESTHETICS

4.1.1 Environmental Setting

4.1.1.1 *Regulatory Framework*

State

Scenic Highways Program

The California Scenic Highway Program is managed by the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. State laws governing the Scenic Highway Program are found in the Streets and Highway Code, Sections 260 through 263.

There are no state-designated scenic highways in San José. In Santa Clara County, the one state-designated scenic highway is State Route (SR) 9 from the Santa Cruz County line to the Los Gatos City Limit.[1] California SR 9 is approximately three miles southwest of the project site and is not visible from the site.

Local

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 visual character and scenic resources and would be applicable to the proposed project:

Envision San José 2040 General Plan Relevant Aesthetics Policies

Goal/Policy/Action	Description
Policy CD-1.1	Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the project transition between areas with different types of land uses.
Policy CD-1.8	Create an attractive street presence with pedestrian-scaled buildings and landscaping elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity throughout the City.
Policy CD-1.13	Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.

[1] California Department of Transportation. "California Scenic Highway Mapping System: Santa Clara County." Accessed March 16, 2018. Available at: http://www.dot.ca.gov/hq/LandArch/16_livability/scenic_highways/index.htm.

Policy CD-1.17	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 uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.
Policy CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
Policy CD-5.6	Design lighting locations and levels to enhance the public realms, promote safety and comfort, and create engaging public spaces. Seek to balance minimum energy use of outdoor lighting with the goal of providing safe and pleasing well-lit spaces. Consider the City's outdoor lighting policies in development review processes.
Policy VN-1.12	Design new public and private development to build upon the vital character and desirable qualities of existing neighborhoods.

City Council Policy 4-3, Outdoor Lighting on Private Developments

Adopted March 1, 1983 and revised June 20, 2000, City Council Policy 4-3, Outdoor Lighting on Private Developments, promotes energy-efficient lighting which furthers the goals pf the Sustainable City Major Strategy. Policy 4-3 calls for private development to use energy-efficient outdoor lighting that is fully shielded and not directed skyward. Low-pressure sodium lighting is required unless a photometric study is completed, and the proposed lighting referred to Lick Observatory for review and comment. One of the purposes of this policy is to provide for the continued enjoyment of the night sky and for continuing operation of Lick Observatory, by reducing light pollution and sky glow.

4.1.1.2 *Existing Conditions*

Project Site

The approximately 7.7-acre project site is located on the west side of Union Avenue, approximately one-third mile north of the SR-85 freeway. The project site is currently not visible from any designated scenic highways or routes. It is currently occupied by the Harker Preschool campus. The site was formerly used as a children's shelter facility. The visual character of the project site is of a modern school campus, with the main office building and parking lot fronting on Union Avenue, several small instructional buildings throughout the campus, playgrounds, basketball courts, turf fields and mature landscaping. Photos of the project site are shown on the following pages.

Surrounding Land Uses

Surrounding land uses include single-family residential to the west and north, single-family and duplex residential to the east (across Union Avenue), and light industrial to the south. The residential neighborhoods surrounding the site can be characterized as single-story, with the tallest structures in the vicinity of the site being the two-story light industrial office buildings on the adjacent parcel to the south. Union Ave, a four-lane arterial street with a center turn lane, borders the site on the east.

Photo 1: Viewing west toward the existing gym building from the vehicle turnaround area.

Photo 2: Viewing east along the south property line from the vehicle turnaround area.

PHOTOS	1 and 2

Photo 3: Viewing east across the existing play field from the western side of the site.

Photo 4: Viewing north toward the proposed Building E location from the western side of the site.

PHOTOS	3 and 4

Photo 5: Viewing west towards the site from Union Avenue.

Photo 6: Viewing towards the existing administration building from the parking lot.

PHOTOS	5 and 6

Scenic Views and Resources

The project site and the surrounding area are relatively flat and, as a result, the site is only visible from the immediate area. The project area is not located within a scenic vista, scenic corridor or urban corridor based on the *Envision San José 2040 General Plan*.

Light and Glare

Sources of light and glare are abundant in the urban environment of the project area, including, but not limited to, streetlights, parking lot lights, security lights, vehicular headlights, internal building lights, and reflective building surfaces and windows.

4.1.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒
2) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
3) In non-urbanized areas, substantially degrade the existing visual character or quality of public views[2] 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?	☐	☐	☒	☐
4) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☒	☐

Impact AES-1:	The project would not have a substantial adverse effect on a scenic vista. **(No Impact)**

There are no scenic vistas in the vicinity of the project site, and the site itself does not contain a scenic vista. Implementation of the project would not adversely affect a scenic vista. **(No Impact)**

Impact AES-2:	The project would not substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway. **(No Impact)**

[2] Public views are those that are experienced from publicly accessible vantage points.

The project is not visible from scenic highways or routes. The project site is currently developed with the existing Harker Preschool campus and does not contain on-site scenic resources. For these reasons, the proposed project would not impact scenic resources. **(No Impact)**

Impact AES-3:	The project would not substantially degrade the existing visual character or quality of public views of the site and its surroundings and would not conflict with applicable zoning and other regulations governing scenic quality. **(Less than Significant Impact)**

The proposed project would demolish three of the five existing on-site classroom buildings, expand the existing on-site gymnasium building, reconfigure the existing on-site outdoor turf field and basketball recreation area, and construct a new, two-story classroom building on the site. Expansion of the gymnasium building (Building C on Figure 3.2-2) would replace a smaller one-story building but would be similar in scale and architectural style to the existing two-story building to which it will connect. The other new building, Building E on Figure 3.2-2, will also maintain architectural consistency with the adjacent existing music/drama building (Building D), but is two-stories and would present additional mass to that portion of the campus. The adjacent classroom building on the east side of the proposed Building E (Building B1) is single-story and contains a 2nd-story element, which does not contain usable floor space for classroom activities and is likely used for attic/storage space. The maximum height of the proposed classroom building (34 feet) would not differ substantially from the height of the existing classroom buildings (30 feet). The changes proposed by the project would result in a reconfiguration of the physical layout of the existing campus. However, the changes would not be considered to substantially degrade the visual character of the project site or its surroundings. The project includes the removal of mature trees from the site (see Section 4.4 Biological Resources); however, the existing row of mature redwood trees along the western boundary of the site and other mature trees located along the northern boundary that would provide visual screening of the new buildings from the surrounding neighborhoods would be preserved. For these reasons, the proposed project would not substantially degrade the existing visually character or quality of the project site or conflict with applicable zoning and other regulations governing scenic quality. **(Less than Significant Impact)**

Impact AES-4:	The project would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area. **(Less than Significant Impact)**

The proposed additional buildings, as well as the increased number of students and school staff would create additional light and glare from new building and walkway lighting, window and other reflective building surfaces, and additional cars. However, the project site is an existing school which already has operational lights and the light and glare from the new buildings would not likely create new adverse impacts to daytime or nighttime views. While the new classroom (Building E in Figure 3.2-2) would be two stories instead of one story, the height difference is not substantial and most operational light sources are in the classroom. The operation of the school is typically during the daytime hours, and nighttime uses would be limited to occasional events. The gymnasium will remain in its existing location in the southwestern area of the campus, and activities would continue to be within the building. The mature vegetation at the western boundary of the site would also reduce light and glare to the adjacent neighbors. Vehicle circulations, pick-up, and drop-off areas are

restricted to near Union Avenue and are similar to the existing circulation pattern on-site. Additional vehicles traveling to and from the site would not be expected to adversely affect views, as they would primarily be limited to morning drop-off and afternoon pickup hours.

The project is subject to conformance to the City's lighting policy (City Council Policy 4-3) which would reduce nighttime glare and light pollution. Given the site has existing outdoor lights as part of the existing school use, the proposed new construction and reconfiguration of the site would not result in new sources of substantial light and glare that would affect nighttime views in the area, and would be considered less than significant. **(Less than Significant Impact)**

4.2 AGRICULTURAL AND FORESTRY RESOURCES

4.2.1 Environmental Setting

4.2.1.1 *Regulatory Framework*

State

Farmland Mapping and Monitoring Program

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

California Land Conservation Act

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

Forest Land, Timberland, and Timberland Production

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

Local

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 agricultural resources and are applicable to the proposed project:

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

Envision San José 2040 General Plan Relevant Agricultural Resources Policies

Policy	Description
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.

4.2.1.2 *Existing Conditions*

The project site is located in a developed, urban area of Santa Clara and is surrounded by residential and industrial land uses. The Santa Clara County Important Farmlands 2016 Map designates the project site as "Urban and Built-Up Land". Urban and Built-Up Land is defined as land with at least six structures per 10 acres. Common examples of "Urban and Built-Up Land" are residential, institutional, industrial, commercial, landfill, golf course, airports, and other utility uses. There are no forest lands on or adjacent to the project site. The site is not subject to a Williamson Act contract.[4]

4.2.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒
2) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒

[4] County of Santa Clara. "Williamson Act and Open Space Easement". September 17, 2018. Accessed March 21, 2019. https://www.sccgov.org/sites/dpd/programs/wa/pages/wa.aspx

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
3) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	☐	☐	☐	☒
4) Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
5) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒

Impact AG-1:	The project would not convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use. **(No Impact)**

The project would not convert *Prime Farmland, Unique Farmland, or Farmland of Statewide Importance* to non-agricultural uses. Thus, there would be no impact. **(No Impact)**

Impact AG-2:	The project would not conflict with existing zoning for agricultural use, or a Williamson Act contract. **(No Impact)**

The project site is not under a Williamson Act contract. Therefore, the project will not conflict with existing zoning for an agricultural use or a Williamson Act contract. **(No Impact)**

Impact AG-3:	The project would not conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production. **(No Impact)**

The project site is zoned *A(PD) Planned Development District*. The project site is not zoned, or adjacent to land zoned, for forest land, timberland, or Timberland Production. Therefore, the project would not conflict with existing zoning or require rezoning of forest land or timberland uses. **(No Impact)**

Impact AG-4:	The project would not result in a loss of forest land or conversion of forest land to non-forest use. **(No Impact)**

The project site is in urbanized area of the City and does not contain and forest land. Therefore, no forest land would be lost as a result of the project. **(No Impact)**

Impact AG-5:	The project would not 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)**

The proposed school development would occur in an urban area of the City. The project would not result in impacts to agricultural lands or forest lands in the surrounding region. **(No Impact)**

4.3 AIR QUALITY

This section is based in part upon an Air Quality and Community Health Risk Assessment completed by Illingworth & Rodkin, Inc. in October 2018, and revised April 23, 2019. A copy of the report is included in Appendix A of this Initial Study.

4.3.1 Environmental Setting

Air quality and the amount of a given pollutant in the atmosphere are determined by the amount of pollutant released and the atmosphere's ability to transport and dilute the pollutant. The major determination of transport and dilution are wind, atmospheric stability, terrain, and, for photochemical pollutants, sunlight. The Bay Area typically has moderate ventilation, frequent inversions that restrict vertical dilution, and terrain that restricts horizontal dilution. These factors give the Bay Area a relatively high atmospheric potential for pollution.

4.3.1.1 *Regulatory Framework*

Federal and State

Air Quality Overview

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

Regional and Local Criteria Pollutants

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

These pollutants can have health effects such as respiratory impairment and heart/lung disease symptoms. 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 lung function growth in children.

High ozone levels are caused by the cumulative emissions of reactive organic gases (ROG) and nitrogen oxides (NOX). These precursor pollutants react under certain meteorological conditions to form high ozone levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to reduce ozone levels. The highest ozone levels in the Bay Area occur in the eastern and southern inland valleys that are downwind of air pollutant sources. High ozone levels

aggravate respiratory and cardiovascular diseases, reduced lung function, and increase coughing and chest discomfort.

Violations of ambient air quality standards are based on air pollutant monitoring data and are determined for each air pollutant. "Attainment" status for a pollutant means that a given Air District meets the standard set by the EPA and/or CARB. The Bay Area as a whole does not meet state or federal ambient air quality standards for ground level ozone and fine particulate matter ($PM_{2.5}$), nor does it meet state standards for respirable particulate matter (PM_{10}). The Bay Area is considered in attainment or unclassified for all other pollutants.

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

Besides criteria pollutants, there is another group of substances found in ambient air referred to as Toxic Air Contaminants (TACs). These contaminants tend to be localized and are found in relatively low concentrations in ambient air; however, exposure to low concentrations over long periods can result in increased risk of cancer and/or adverse health effects. In addition to its classification as a "criteria air pollutant" as described above, Fine Particulate Matter ($PM_{2.5}$) is also considered a TAC. $PM_{2.5}$ is composed of a mix of substances, such as carbon and metals, compounds such as nitrates, organics, and sulfates, and mixtures such as diesel exhaust and wood smoke. Because of their small size (particles are less than 2.5 micrometers in diameter), $PM_{2.5}$ can lodge deeply into the lungs (most susceptible to injury). [5]

Common stationary sources of $PM_{2.5}$ include gasoline stations, dry cleaners, diesel vehicles, and diesel backup generators. Diesel exhaust, in the form of diesel particulate matter (DPM), is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs (based on the Bay Area average). According to the California Air Resources Board (CARB), diesel exhaust is a complex mixture of gases, vapors, and fine particles. This complexity makes the evaluation of health effects of diesel exhaust a complex scientific issue. 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.

TACs are primarily regulated through state and local risk management programs. These programs are designed to eliminate, avoid, or minimize the risk of adverse health effects from exposures to TACs. Several of these regulatory programs affect medium and heavy-duty diesel trucks, which represent the bulk of DPM emissions from California highways. To address the issue of diesel emissions in the state, CARB developed the Diesel Risk Reduction Plan (Diesel RRP) to reduce diesel particulate matter emissions. In addition to requiring more stringent emission standards for new on- and off-road mobile sources and stationary diesel-fueled engines to reduce particulate matter emissions by 90 percent, a significant component of the plan involves application of emission control strategies to existing diesel vehicles and equipment. Many of the measures of the Diesel RRP have been approved and adopted, including the federal on- and non-road diesel engine emission standards for new engines, as well as adoption of regulations for low sulfur fuel in California.

[5] CARB. "Overview: Diesel Exhaust and Health". Accessed April 16, 2018. https://www.arb.ca.gov/research/diesel/diesel-health.htm.

Unlike regional criteria pollutants, local risks associated with TACs are evaluated on the basis of risk to human health rather than comparison to an ambient air quality standard or emission-based threshold.

Regional

Bay Area Air Quality Management (BAAQMD)

BAAQMD is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. BAAQMD has permit authority over stationary sources, acts as the primary reviewing agency for environmental documents, and develops regulations that must be consistent with or more stringent than, federal and state air quality laws and regulations.

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

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

Furthermore, the BAAQMD CEQA Air Quality Guidelines are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. The City of San José and other jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing air quality impacts developed by BAAQMD within their CEQA Air Quality Guidelines. The guidelines include information on legal requirements, BAAQMD rules, methods of analyzing impacts, and recommended mitigation measures.

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, 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. For cancer risk assessments, children are the most sensitive receptors, since they are more susceptible to cancer causing TACs. Residential locations are assumed to include infants and small children.

Local

Envision San José 2040 General Plan

The San José Envision 2040 General Plan includes goals, policies, and actions to reduce exposure of the City's sensitive population to exposure of air pollution and TACs. The following goals, policies, and actions are applicable to the proposed project:

Envision San José 2040 General Plan Relevant Air Quality Policies

Goal/Policy/Action	Description
Policy MS-10.1	Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement air emissions reduction measures.
Policy MS-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.
Goal MS-11	Minimize exposure of people to air pollution and toxic air contaminants such as ozone, carbon monoxide, lead, and particulate matter.
Policy MS-11.1	Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.
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-11.4	Encourage the installation of appropriate air filtration at existing schools, residences, and other sensitive receptor uses adversely affected by pollution sources.
Policy MS-11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
Action MS-11.7	Consult with BAAQMD to identify stationary and mobile TAC sources and determine the need for and requirements of a health risk assessment for proposed developments.
Policy MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.
Policy MS-13.3	Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

4.3.1.2 *Existing Conditions*

The project is located in Santa Clara County, which is in the San Francisco Bay Area Air Basin. Ambient air quality standards have been established at both the State and federal level. 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 ($PM_{2.5}$). The closest sensitive receptors to the project site are residences adjacent to the northern and western project boundaries. During project construction, students will not be present at the project site.

The project site is located within 1,000 feet of substantial sources of TACs. As identified by BAAQMD, substantial TAC sources include highways and busy surface streets with over 10,000 vehicle trips per day and stationary sources such as diesel generators. Nearby mobile TAC sources include traffic on SR-85 and Union Avenue. One nearby stationary TAC source was identified as Plant #11403, which contains seven emergency diesel generators. Plant #11403 is located at 2100 All Programmable Drive (Xilinx building), approximately 600 feet southwest of the project site.

4.3.2 Checklist and Discussion of Impacts

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

4.3.2.1 *Thresholds of Significance*

The CEQA Guidelines prepared by BAAQMD in 2011 used significance criteria to evaluate the impacts caused by projects. BAAQMD's adoption of the 2011 thresholds was called into question by a trial court order issued March 5, 2012 (California Building Industry Association v. BAAQMD [Alameda Superior Court Case No. RGI0548693]) that determined the adoption of the thresholds was a project under CEQA, but did not address the substantive validity, merits or scientific basis of the thresholds. The California Court of Appeal for the Fifth District reversed the trial court decision and the Court of Appeal's decision was appealed to the California Supreme Court. In a December 2015 opinion [*California Building Industry Association v. Bay Area Air Quality Management District,* 62 Cal. 4th 369 (No. S 213478)] the California Supreme Court 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. The opinion did not negate the BAAQMD thresholds.

The issues in the California Building Industry Association v. BAAQMD lawsuit are not relevant to the scientific basis of BAAQMD's analysis of what levels of pollutants should be deemed significant. The City has determined that the scientific information in BAAQMD's proposed thresholds of significance analysis provides substantial evidence to support the thresholds and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin. Therefore, the thresholds and methodologies from BAAQMD's May 2011 CEQA Air Quality Guidelines (updated in May 2017) are appropriate for use in this analysis to determine whether there would be any project operational impacts in terms of criteria pollutants, toxic air contaminants and odors. The BAAQMD 2017 CEQA Air Quality Guidelines were used in the air quality assessment prepared by Illingworth & Rodkin for the project. These thresholds are summarized in Table 4.3-1.

Table 4.3-1: Air Quality Significance Thresholds

Pollutant	***Construction Thresholds***	***Operational Thresholds***	
	Average Daily Emissions (lbs./day)	Average Daily Emissions (lbs./day)	Annual Average Emissions (tons/year)
Criteria Air Pollutants			
ROG	54	54	10
NO_x	54	54	10
PM_{10}	82 (Exhaust)	82	15
$PM_{2.5}$	54 (Exhaust)	54	10
CO	Not Applicable	9.0 ppm (8-hour average) or 20.0 ppm (1-hour average)	
Fugitive Dust	Construction Dust Ordinance or other Best Management Practices	Not Applicable	
Health Risks and Hazards for Single Sources			
Excess Cancer Risk	>10 per one million		
Hazard Index	>1.0		
Incremental annual $PM_{2.5}$	>0.3 µg/m^3		
Health Risks and Hazards for Combined Sources (Cumulative from all sources within 1,000-foot zone of influence)			
Excess Cancer Risk	>100 per one million		
Hazard Index	>10.0		
Annual Average $PM_{2.5}$	>0.8 µg/m^3		

Note: ROG = reactive organic gases, NOx = nitrogen oxides, PM_{10} = course particulate matter or particulates with an aerodynamic diameter of 10 micrometers (µm) or less, $PM_{2.5}$ = fine particulate matter or particulates with an aerodynamic diameter of 2.5µm or less

Impact AIR-1: The project would not conflict with or obstruct implementation of the applicable air quality plan. **(Less than Significant Impact)**

BAAQMD recommends that the agency approving a project where an air quality plan consistency determination is required analyze the project with respect to the following questions.

1) Does the project support the primary goals of the CAP?

2) Does the project include applicable control measures from the CAP?
3) Does the project disrupt or hinder the implementation of any CAP control measures?

The proposed project supports the primary goals of the 2017 CAP, which are to attain air quality standards, reduce population exposure and protect public health, and reduce greenhouse gas emissions and protect the climate. As discussed below and shown in Table 4.3-2, project construction and operation would not exceed the BAAQMD thresholds for ozone precursor pollutant (ROG, NO_x) and exhaust (PM_{10}, $PM_{2.5}$) emissions during the construction period. Additionally, the project is consistent with the City's General Plan land use designation for the site and would be required to comply with the City's Green Building Ordinance for Private Sector New Construction as set forth in Municipal Code Section 17.84.

The 2017 CAP contains a control strategy intended to complement efforts to improve air quality and protect the climate being made by other partner agencies at the state, regional and local levels. The strategy is based on the following four key priorities and identifies 85 individual control measures to reduce pollutant emissions.

- Reduce emissions of criteria 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.
- Decarbonize our energy system.

None of the 85 specific control measures are directly applicable to the proposed school project. However, the project would support measures related to bicycle and pedestrian access, land use strategies, green building, reduced energy demand, urban heat island, recycling and waste reduction, water conservation and urban tree planting. The project would be required to include bicycle parking spaces, improve pedestrian access to the site, comply with the Green Building Policy to reduce construction-related waste and achieve sustainability goals, and replace all removed trees. Furthermore, the project is subject to measures and conditions that would encourage alternative modes of transportation to reduce vehicle miles traveled (refer to Section 4.17, Transportation).

The project is an infill project and is expanding an existing use in the same project location; therefore, the project would not disrupt, delay or otherwise hinder implementation of the control measures.

For these reasons, the proposed project would not inhibit BAAQMD or partner agencies from attaining state and federal air quality standards and eliminating health-risk disparities from exposure to air pollution among Bay Area communities, as described within the 2017 CAP. Therefore, the project would not result in a significant impact related to consistency with the 2017 CAP. **(Less than Significant Impact)**

Impact AIR-2:	The project would not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard. **(Less than Significant Impact)**

Construction Criteria Pollutant Emissions

As previously mentioned, the Bay Area is considered a non-attainment area for ground-level ozone and $PM_{2.5}$ under both the Federal Clean Air Act and the California Clean Air Act. The area is also considered non-attainment for PM_{10} under the California Clean Air Act, but not the federal act. The area has attained both State and federal ambient air quality standards for carbon monoxide. As part of an effort to attain and maintain ambient air quality standards for ozone and PM_{10}, the BAAQMD has established thresholds of significance for these air pollutants and their precursors. These thresholds are for ozone precursor pollutants (ROG and NO_X), PM_{10}, and $PM_{2.5}$ and apply to both construction period and operational period impacts.

The California Emissions Estimator Model (CalEEMod) Version 2016.3.2 was used to estimate project construction emissions, assuming full build-out of the project (refer to Appendix A). CalEEMod provides emission estimates for both on-site and off-site construction activities. On-site activities are primarily made up of construction equipment emissions, while off-site activity includes worker, hauling, and vendor traffic. A construction build-out scenario, including the construction equipment list and schedule, demolition, soil import and export, and cement and asphalt deliveries, along with the proposed land uses (i.e., 54,152 square feet entered as a "Junior High School" on a four-acre site) were input into CalEEMod to estimate construction emissions. Because the total area of construction on-site would be limited to four acres, this area was input into the model to account for the sections of the school where construction, building demolition, and playing field reconfiguration would occur. The 54,152 square feet accounts for the construction of Building E (38,898 square feet) and the addition to the renovated gym/auditorium building (15,254 square feet). The CalEEMod inputs for soil import and export and construction equipment and duration of use account for emissions resulting from reconfiguration of the playing field.

Construction was assumed to begin May 2020 and last 14 months. Based on the construction schedule and equipment usage, there were an estimated 230 construction workdays. Average daily emissions were computed by dividing the total construction emissions by the number of construction days. Table 4.3-2, below, shows average daily construction emissions of ROG, NO_X, PM_{10} exhaust, and $PM_{2.5}$ exhaust during construction of the project. As shown in Table 4.3-2, predicted construction period emissions would not exceed the BAAQMD significance thresholds summarized above in Table 4.3-1.

Table 4.3-2: Construction Period Emissions

Scenario	*ROG*	*NOx*	*PM_{10} Exhaust*	*$PM_{2.5}$ Exhaust*
Total construction emissions (tons)	0.32 tons	0.81 tons	0.01 tons	0.01 tons
Average daily emissions (pounds)	2.8 lbs./day	7.0 lbs./day	0.1 lbs./day	0.1 lbs./day
BAAQMD Thresholds (pounds per day)	54 lbs./day	54 lbs./day	82 lbs./day	54 lbs./day
Exceeds Threshold?	**No**	**No**	**No**	**No**

Although the project's construction period emissions for ROG, NO_X, PM_{10} exhaust and $PM_{2.5}$ exhaust would not exceed the BAAQMD thresholds, implementation of the following measures

recommended by BAAQMD and listed below as Standard Permit Conditions would ensure air quality impacts associated with project construction are less than significant.

Standard Permit Conditions:

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.)
- Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Minimize idling times either by shutting off equipment 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). Provide clear signage for construction workers at all access points.
- Maintain and property tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

Construction activities proposed by the project would result in emissions of ROG, NO_X, PM_{10} exhaust, and $PM_{2.5}$ exhaust below BAAQMD thresholds, as shown in Table 4.3-2. The project would further reduce construction period emissions by adhering to the Standard Permit Conditions describe above. Therefore, the impact would be less than significant. **(Less than Significant Impact)**

Operation Criteria Pollutant Emissions

The project would primarily generate operational air pollutants due to travel to and from the project site. The project is an infill project to enhance the existing use. The project site is allowed for up to 600 students. The site has been in operation with approximately 120 students. The total building square footage on the proposed 600-student middle school campus would be approximately 107,170 square feet.

According to the BAAQMD thresholds, a project that generates more than 54 pounds per day of ROG (reactive organic gases), NO_x, or $PM_{2.5}$; or 82 pounds per day of PM_{10} would be considered to have a significant impact on regional air quality. The BAAQMD developed screening criteria to provide lead agencies with an indication of whether a project could result in significant operational air quality impacts (e.g., daily or annual emissions above stated thresholds). Screening criteria are used to determine the extent of additional analysis required for a specific project. If a project is determined to be below the BAAQMD's screening criteria for a specific pollutant, then the project is said to have less than significant operational air quality impacts and no further analysis is required under CEQA. The proposed project does not exceed the BAAQMD CEQA Air Quality Guidelines Operational Criteria Pollutant Screening Size criterion of 285,000 square feet or 2,460 students for the "Junior High School" land use type. [6] Therefore, the proposed project would result in less than significant criteria air pollutant emissions. **(Less than Significant Impact)**

Carbon Monoxide

Carbon monoxide emissions from traffic generated by the project would be the pollutant of greatest concern at the local level. Congested intersections with a large volume of traffic have the greatest potential to cause high-localized concentrations of carbon monoxide. BAAQMD has established screening criteria for localized carbon monoxide impacts that determines a project would have a less than significant impact if:

1. The project is consistent with an applicable congestion management program established by the county's congestion management agency for designated roads or highways, regional transportation plans, and local congestion management agency plans.
2. The project would not increase traffic volumes at affected intersections to more than 44,000 vehicles per hour.
3. The project would not increase traffic volumes at affected intersections to more than 24,000 vehicles per hour where vertical and/or horizontal mixing is substantially limited (e.g., tunnel, parking garage, bridge underpass, natural or urban street canyon, below-grade roadway).

According to the traffic analysis prepared by *Hexagon Transportation Consultants, Inc.,* the proposed project would generate 212 net vehicle trips during the PM peak hour and 457 net vehicle trips during the AM peak hour. The increase in traffic resulting from the project would not increase traffic volumes at local intersections above 44,000 vehicles per hour, nor would the project increase traffic volumes at affected intersections above 24,000 vehicles per hour where vertical and/or horizontal mixing is limited. Therefore, the proposed project would not result in significant impacts related to carbon monoxide emissions. **(Less than Significant Impact)**

[6] Bay Area Air Quality Management District. *CEQA Air Quality Guidelines*. Table 3-1, Operational-Related Criteria Air Pollutant and Precursor Screening Level Sizes. Updated May 2011. p. 3-2.

Impact AIR-3:	The project would not expose sensitive receptors to substantial pollutant concentrations. **(Less than Significant Impact with Mitigation Incorporated)**

Project Community Health Risk Impacts

As previously mentioned, other than criteria pollutants, project impacts related to increased community risk can occur either by introducing a new sensitive receptor in proximity to an existing TAC source or by introducing a new TAC source in proximity to existing sensitive receptors. Project operation would not be considered a substantial source of TAC or $PM_{2.5}$ emissions that could lead to significant community risk impacts, as the project would generate typical school traffic (i.e., not diesel truck traffic) and would not include stationary emission sources. The air quality study completed in 2012 for the existing Harker School PD Permit (which allows up to 600 students) made similar findings and concluded that operational emissions would not result in significant community risk impacts from TAC or $PM_{2.5}$.[7]

Diesel exhaust from construction equipment and associated heavy duty truck traffic is considered a TAC. Construction exhaust emissions could pose health risks for sensitive receptors such as the surrounding residences. The primary community risk impacts associated with construction emissions are cancer risk and exposure to $PM_{2.5}$. A construction health risk assessment was completed for the project that evaluated the potential health effects from project construction activities upon the surrounding residences. The nearest sensitive receptors are residences adjacent to the northern and western project boundaries. Dispersion modeling was conducted to predict the off-site TAC and $PM_{2.5}$ concentrations resulting from project construction, so that lifetime cancer risks and non-cancer health effects could be evaluated. CalEEMod (as described above) was also used in the dispersion modeling.

The health risk assessment also calculated the maximum increased cancer risk at the location of the maximally exposed individual (MEI) using BAAQMD recommended methods. The cancer risk calculations are based on applying the BAAQMD recommended age sensitivity factors to the TAC concentrations. Age sensitivity factors reflect the greater sensitivity of infants and small children to cancer causing TACs. Infant and adult exposures were assumed to occur at all residences throughout the entire construction period.

Figure 4.3-1 shows the locations of off-site receptors and TAC impacts. The maximum modeled DPM and $PM_{2.5}$ concentrations occurred at a residence adjacent to the northern project boundary. Table 4.3-3 reports the predicted cancer risk increase, $PM_{2.5}$ concentration, and Hazard Index resulting from project construction activities at the MEI.

[7] City of San Jose, *Initial Study/Mitigated Negative Declaration for Harker School,* August 2012.

LOCATION OF OFF-SITE RECEPTORS AND TAC IMPACTS | FIGURE 4.3-1

Table 4.3-3: Impacts for Combined Sources at Construction MEI				
Source		***Maximum Cancer Risk (per million)***	***$PM_{2.5}$ Concentration (µg/m3)***	***Hazard Index***
Project Construction	Unmitigated	**14.2 (infant)**	0.08	0.02
	Mitigated	9.2 (infant)	0.05	0.01
BAAQMD Single-Source Threshold		***>10.0***	***>0.3***	***>1.0***
	Significant?			
	Unmitigated	***Yes***	*No*	*No*
	Mitigated	*No*	*No*	*No*
SR-85 (Link 298, 6 ft., at 1,000 ft. north)		6.8	0.07	0.01
Union Avenue at 620 ft. (ADT 22,925)		0.9	0.03	<0.03
Plant #11403 at 820 ft. (diesel generators)		2.6	<0.01	<0.01
Combined Sources	Unmitigated	24.5 (infant)	0.19	0.07
	Mitigated	11.9 (infant)	0.12	0.06
BAAQMD Cumulative Source Threshold		***>100***	***>0.8***	***>10***
	Significant?			
	Unmitigated	*No*	*No*	*No*
	Mitigated	*No*	*No*	*No*

As shown in Table 4.3-3, the maximum $PM_{2.5}$ concentration and computed Hazard Index (HI) would be below respective BAAQMD significance thresholds. The maximum increased residential cancer risks without mitigation or construction emissions control, however, would be 14.2 in one million for an infant exposure, which exceeds the significance threshold of 10.0 in one million and, therefore, is considered a significant impact.

Mitigation Measures: The following mitigation measures would be implemented to reduce the construction health risk of the proposed project. With incorporation of these measures, the project's health risk impact would be less than significant:

MM AIR-3.1: The project applicant shall ensure that all diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet U.S. EPA particulate matter emissions standards for Tier 3 engines with electric portable equipment (e.g. welders for this project). Alternatively, equipment that meets Tier 4 engines, equipment equipped with verified diesel emission control devices or the use of alternatively fueled equipment would meet this requirement. If any of these alternative measures are proposed, the project applicant shall include them in the construction operations plans (as stated in MM AIR-3.2, below) which includes specifications of the equipment to be used during construction prior

to the issuance of any demolition, grading, or building permits, whichever occur the earliest.

MM AIR-3.2: Prior to the issuance of any demolition, grading and/or building permits (whichever occurs first), the project applicant shall submit a construction operations plan that includes specifications of the equipment to be used during construction prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest) to the Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement. 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 in these mitigation measures.

Implementation of mitigation measure AIR-3.1, in combination with the BAAQMD recommended measures for all construction projects and included as a Standard Permit Conditions, would reduce on-site diesel exhaust emissions by 30 percent. With mitigation, the computed maximum increased lifetime residential cancer risk from construction, assuming infant exposure, would be 9.2 in one million or less, the maximum annual $PM_{2.5}$ concentration would be 0.05 µg/m3, and the Hazard Index would be 0.01. All these risk values would be below their significance thresholds. **(Less than Significant Impact with Mitigation Incorporated)**

Cumulative Impact on Construction MEI

Cumulative community risk impacts were addressed through evaluation of existing TAC sources located within 1,000 feet of the construction MEI. These sources include freeways or highways, busy surface streets, and stationary sources identified by BAAQMD. A review of the project area indicates that traffic on SR-85 and Union Avenue exceeds 10,000 vehicles per day. One stationary source, a set of emergency generators located in the existing office complex southwest of the site, with the potential to affect the construction MEI was identified using the BAAQMD's Stationary Source Risk & Hazard Analysis Tool. Figure 4.3-1 shows the construction area on the project site, and the locations of off-site receptors, including the location of the construction MEI. Community risk impacts from these sources upon the construction MEI are reported in Table 4.3-3 and are below the significance threshold. **(Less than Significant Impact)**

Non-CEQA Effects - Community Health Risk Impacts to the Project

As previously mentioned, per the California Building Industry Association v. Bay Area Air Quality Management District, 62 Cal. 4th 369 (BIA v. BAAQMD), effects of the environment on the project are not considered CEQA impacts. The following discussion is included for informational purposes only because the City of San José has policies that address existing air quality conditions affecting a proposed project. In accordance with General Plan Policy MS-11.1, an analysis using BAAQMD screening tools was completed to assess the health risk of TAC emissions sources near the proposed school development.

While the site was approved for the operation of up to 600 students, the project has not been operating at the maximum number of students. Therefore, the project would introduce new students (i.e., sensitive receptors) onto the project site. As described above for the MEI cumulative community risk assessment, existing TAC sources in the project area includes mobile sources (i.e.,

traffic on SR-85 and Union Avenue) and one stationary source (i.e., a set of emergency generators located in the existing office complex southwest of the site). The calculated community risks from these sources upon the students are reported in Table 4.3-4. As shown in Table 4.3-4, the calculated community risks would not exceed the cancer risk, $PM_{2.5}$ concentrations or non-cancer Hazard Index single-source or cumulative-source significance thresholds. Detailed calculations and modeling are available in Appendix A of this Initial Study.

Table 4.3-4: Community Risk Impact to the Project

Source	***Receptor***	***Cancer Risk (per million)***	***Annual $PM_{2.5}$ ($\mu g/m^3$)***	***Hazard Index***
SR-85 (Link 298, 6 ft., 1,000 ft. north)	Middle School-Aged Children	0.6	0.07	0.01
Union Avenue at 180 ft. (ADT 22,925)	Middle School-Aged Children	0.5	0.09	<0.03
Plant #11403 at 600 ft. (diesel generators)	Middle School-Aged Children	0.6	0.01	<0.01
BAAQMD Single-Source Threshold		***>10.0***	***>0.3***	***>0.1***
Significant?		***No***	***No***	***No***
Cumulative Total		1.7	0.17	<0.05
BAAQMD Cumulative Source Threshold		***>100***	***>0.8***	***>10.0***
Significant?		***No***	***No***	***No***

Impact AIR-4: The project would not result in other emissions (such as those leading to odors) adversely affecting a substantial number of people. **(Less than Significant Impact)**

The proposed project would not include any land uses that are likely to generate a substantial odor that would cause complaints from surrounding uses. The proposed project would use cleaning supplies, but their use would be contained indoors. The project site is already developed with a cafeteria which generates food odors; however, these odors would also be contained indoors and would not adversely affect a substantial number of people. Localized odors, mainly resulting from diesel exhaust and construction equipment on-site, would be created during the construction phase of the project. These odors would be temporary and not likely be noticed beyond the project site's boundaries. The proposed project would, therefore, result in less than significant odor impacts. **(Less than Significant Impact)**

4.4 BIOLOGICAL RESOURCES

An arborist report was prepared for the site by *HortScience, Inc*. in March 2018. The report included a survey of all of the trees on the site and provided evaluations of their health and suitability for preservation. The report also included guidelines for preserving existing trees. A copy of the report, dated March 1, 2018, is included as Appendix B to this Initial Study.

4.4.1 Environmental Setting

4.4.1.1 *Regulatory Framework*

Special-Status Species

Special-status species include plants or animals that are listed as threatened or endangered under the federal and/or California Endangered Species Act (CESA), species identified by the California Department of Fish and Wildlife (CDFW) as a California Species of Special Concern, as well as plants identified by the California Native Plant Society (CNPS) as rare, threatened, or endangered. The FESA and CESA protect listed wildlife species from harm or "take," which can include habitat modification or degradation that directly results in death or injury to a listed wildlife species.

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA: 16 USC Section 703, Supp. I, 1989) prohibits killing, possessing, or trading in migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, bird nests, and eggs. Construction disturbance during the breeding season could result in a violation of the MBTA such as the incidental loss of fertile eggs or nestlings, or nest abandonment.

California Fish and Game Code

The California Fish and Game Code includes regulations governing the use of, or impacts on, many of the state's fish, wildlife, and sensitive habitats. Certain sections of the Fish and Game Code describe regulations that pertain to certain wildlife species. Fish and Game Code Sections 3503, 2513, and 3800 (and other sections and subsections) protect native birds, including their nests and eggs, from all forms of take. Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered "taking" by CDFW.

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan (Habitat Plan) is a conservation program intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. The Habitat Plan is a regional partnership between six local partners (the County of Santa Clara, Santa Clara Valley Transportation Authority, Santa Clara Valley Water District, and the Cities of San José, Gilroy, and Morgan Hill) and two wildlife agencies (the California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service).

The Habitat Plan identifies and preserves land that provides important habitat for endangered and threatened species. The land preservation is intended to provide mitigation for the environmental impacts of planned development, public infrastructure operations, and maintenance activities, as well as to enhance the long-term viability of endangered species.

The project site is located within the Habitat Plan study area and is designated as *Urban-Suburban* land. *Urban-Suburban* land is comprised of areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures, and is defined as areas with one or more structures per 2.5 acres. Vegetation found in *Urban-Suburban* land is usually in the form of landscaping, planted street trees, and parklands.

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes the following policies that are specific to biological resources and applicable to development projects in San José:

Envision San José 2040 General Plan Relevant Biological Resources Policies

Policy	Description
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 MS-21.8	For Capital Improvement Plan or other public development projects, or through the entitlement process for private development projects, require landscaping including the selection and planting of new trees to achieve the following goals: 1. Avoid conflicts with nearby power lines. 2. Avoid potential conflicts between tree roots and developed areas. 3. Avoid use of invasive, non-native trees. 4. Remove existing invasive, non-native trees. 5. Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species. 6. Plant native oak trees and native sycamores on sites which have adequately sized landscape areas and which historically supported these species.

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.

San José Tree Ordinance

The City of San José maintains the urban landscape by controlling the removal of ordinance trees on private property (San José Municipal Code Section 13.32). Ordinance trees are defined as trees exceeding 38 inches in circumference, or approximately 12 inches in diameter, at a height of 4.5 feet above the ground. Ordinance trees are generally mature trees that help beautify the City, slow the erosion of topsoil, minimize flood hazards, minimize the risk of landslides, increase property values, and improve local air quality. A tree removal permit is required from the City of San José for the removal of ordinance trees.

4.4.1.2 *Existing Conditions*

Overview of Habitat Found on the Project Site

The site is currently occupied by a school and is developed with six classroom buildings, one administration building, a gymnasium, and a music/drama building and surface parking lots. The project site is located in an urbanized area. Vegetation on-site includes trees, shrubs, and open lawn areas. There are no sensitive habitats or wetlands on or adjacent to the project site. The nearest waterway to the site is adjacent to Ross Creek (located approximately 0.6 miles south of the site).

Special Status Species

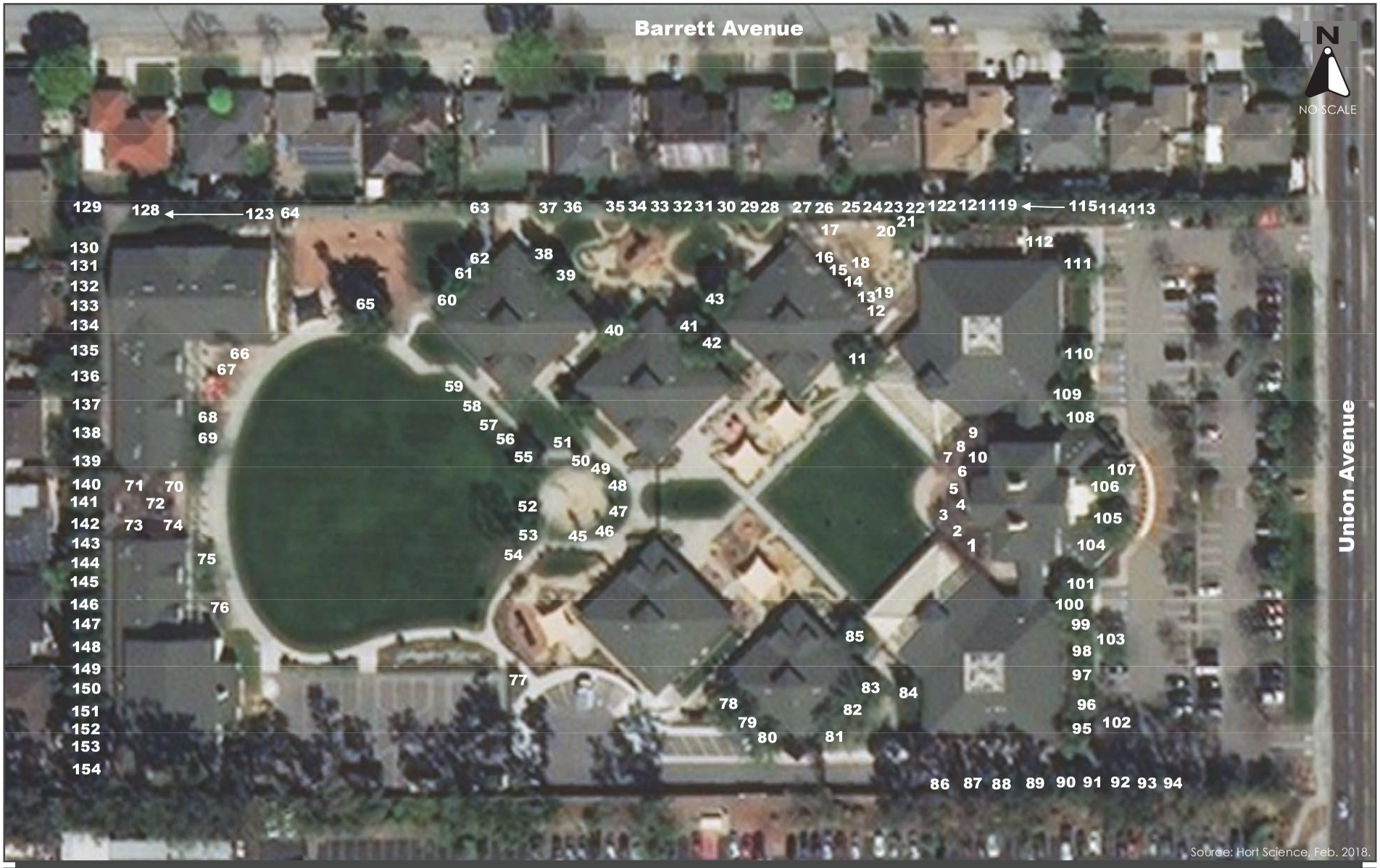
Special-status species are those plants and animals listed under the state and federal Endangered Species Acts (including candidate species); plants listed on the California Native Plant Society's Inventory of Rare and Endangered Vascular Plants of California (1994); and animals designated as Species of Special Concern by the CDFW. Additionally, nesting birds are considered special-status species and are protected by the USFWS under the Migratory Bird Treaty Act. Most special status animal species occurring in the Bay Area use habitats that are not present on the project site. Since the native vegetation of the area is no longer present on-site, native wildlife species have been supplanted by species that are more compatible with an urbanized area; however, there is still the potential for nesting birds to be located in trees in the area surrounding the project site.

Trees

There is a total of 154 trees located on-site, which are comprised of 14 species and 61 ordinance-sized trees (i.e., trees with a trunk diameter of 12 inches or more). Table 4.4-1 lists all trees identified on the project site. The location of the trees is shown on Figure 4.4-1. Most of the trees on-site are non-native and primarily consist of coast redwoods, Australian willows, crape myrtles, Callery pears, London planes and jacarandas. Other trees on-site include Brazilian pepper, flowering cherry, tulip tree, and Southern magnolia trees. There are two coast live oak trees on the site, which are native to the San Jose area.

Table 4.4-1: Tree Species Observed On-Site					
		Trunk Diameter			
Tree Nos.	Common Name	No. of Trees with Diameter Less than 6 inches	No. of Trees with Diameter 6-12 inches	No. of Trees with Diameter Greater than 12 inches	Ordinance-Sized Trees (Tree Nos.)
1-10	Crape myrtle	--	10	--	--
11-16	Callery pear	--	5	**1**	No. 11
17-20	London Plane	--	2	**2**	Nos. 17 and 19
21	Callery pear	--	--	**1**	No. 21
22-28	Australian willow	--	7	--	--
29-37	Brazilian pepper	--	4	**5**	Nos. 30, 32, 34, 36 and 37
38-39	Callery pear	--	--	**2**	**--**
40-42	Jacaranda		1	**2**	Nos. 41 and 42
43-44	*Callery pear*	--	--	**2**	--
45-50	*Brisbane box*	5	1	--	--
51-53	Evergreen pear		2	**1**	No. 52
54-59	London plane	4	1	**1**	No. 54
60-62	Callery pear	--	--	**3**	Nos. 60-62
63-64	Southern magnolia	2	--	**--**	
65	Coast live oak*	--	--	**1**	No. 65
66	London plane	--	--	**1**	No. 66
67-69	Tulip tree	--	3	**--**	--
70-74	Crape myrtle	--	5	**--**	--
75-76	Tulip tree	--	2	**--**	--
77	Coast live oak*	--	1	**--**	--
78-83	Callery pear	--	1	**5**	Nos. 78 -80, 82-83
84-85	Evergreen pear	--	2	--	
86-94	Australian willow	--	9	--	
95-99	Jacaranda	--	4	**1**	No. 95
100-101	Crape myrtle	--	2	--	
102-103	Koelreuteria	--	1	**1**	No. 102
104-109	Crape myrtle	--	6	--	--
110-111	Jacaranda	--	1	**1**	No. 110
112	Flowering cherry	--	1	--	--
113-122	Australian willow	--	10	--	--
123-154	Coast redwood	--	1	**31**	Nos. 123-153

Notes:
Bold = Ordinance-sized trees (i.e., trees with trunk diameters of 12 inches or more)
* = Trees native to the San Jose area



TREE LOCATION MAP

FIGURE 4.4-1

The condition of the trees on-site varies. Of the 154 trees surveyed, 42 trees were in poor condition, 51 were fair, 33 were good, and 28 were excellent. All of the on-site trees were either planted or invasive. The trees are approximately 20 to 25 years of age and are typical of landscape plants used in the San Jose area.

4.4.2 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?	☐	☒	☐	☐
2) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?	☐	☐	☐	☒
3) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒
4) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	☐	☐	☐	☒
5) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☒	☐	☐
6) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒

Impact BIO-1:	The project would not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS. **(Less than Significant Impact with Mitigation Incorporated)**

The project site is developed with classroom and administrative buildings and has been developed since at least the 1950's. The site is surrounded by residential and light industrial development. Given the history of development and disturbance on-site and the urban environment, no natural sensitive habitats supporting endangered, threatened or special status plant or wildlife species occur on or adjacent to the site.

The trees on and adjacent to the project site could provide nesting habitat for birds, including migratory birds and raptors. Nesting birds are among the species protected under provisions of the Migratory Bird Treaty Act and California Fish and Game Code Sections 3503, 3503.5, and 2800. Development of the site during the nesting season (i.e., February 1 to August 31) could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes abandonment and/or loss of reproductive effort is considered a taking by CDFW and the U.S. Fish and Wildlife Service (USFWS). Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute an impact.

The project proposes to remove the 46 existing trees (Tree Nos. 31-65 and 67-77) on the project site, including 15 mature trees with trunk diameters of greater than 12 inches. In addition to removal of trees, construction activities such as site grading that disturb a nesting bird or raptor on-site or immediately adjacent to the construction zone would also constitute an impact.

Mitigation Measures: The project would implement the following measure to avoid impacts to nesting migratory birds. With incorporation of these measures, the project would result in a less than significant impact.

MM 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).

MM BIO-1.2: Nesting Bird Surveys: If demolition and construction 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.

MM 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, 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.

MM 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 or Director's designee of the Department of Planning, Building and Code Enforcement.

Implementation of mitigation measure **MM BIO-1.1** through **MM BIO-1.4** would reduce potential impacts to candidate, sensitive, and/or special status species to a less than significant level. **(Less than Significant Impact with Mitigation Incorporated)**

Impact BIO-2:	The project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS. **(No Impact)**

No protected wetlands, riparian, or other sensitive natural habitats are on or near the project site. The proposed project would, therefore, have no impact on riparian habitats or other sensitive natural communities. **(No Impact)**

Impact BIO-3:	The project would not have a substantial adverse effect on state or federally protected wetlands through direct removal, filling, hydrological interruption, or other means. **(No Impact)**

The project site does not contain any state or federally protected wetlands. The proposed project would, therefore, have no impact on wetlands. **(No Impact)**

Impact BIO-4:	The project would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites. **(No Impact)**

The site is currently developed with school buildings, paved surfaces and landscaping and is surrounded by residential and commercial/light industrial development. Wildlife corridors identified in the General Plan EIR were Coyote Valley, Alviso, the Evergreen Valley, South Almaden Valley Urban Reserve and adjacent hillside areas, and riparian corridors and streams which are primarily undeveloped areas that provide linkages to larger habitats. The site does not support a watercourse or provide habitat that facilitates the movement of any native resident or migratory fish or wildlife species. Therefore, the project would not interfere substantially with the movement of native resident or migratory fish or wildlife species. **(No Impact)**

Impact BIO-5:	The project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. **(Less than Significant Impact with Mitigation Incorporated)**

The urban forest is comprised of all native and non-native trees planted in yards and parks, along streets, and as landscaping in building complexes and parking lots. The urban forest is considered an important biological resource because trees can provide nesting, cover, and foraging habitat for a variety of birds (including raptors) and mammals, as well as providing necessary habitat for beneficial insects. Although the urban forest is not the best environment for native wildlife, trees in the urban forest are often the only or the best habitat commonly or locally available within urban areas.

Tree Replacement

As mentioned previously, there are 154 trees on-site. Of the 154 trees, there are 61 ordinance-sized trees on-site. Forty-six (46) trees are proposed for removal, including 15 ordinance-sized trees and 31 non-ordinance sized trees. As part of the project's Standard Permit Conditions, all trees removed by the project would be required to be replaced in accordance with applicable laws, policies, or guidelines, including:

- City of San José Tree Removal Control (Municipal Code Section 13.31.010 to 13.32.100)
- San José Municipal Code Section 13.28
- General Plan Policies MS-21.4, MS-21.5, and MS-21.6

Standard Permit Condition: The trees removed by the proposed project would be replaced according to the City's required replacement ratios, as provided in Table 4.4-2 below or alternative measures listed below:

Table 4.4-2: Tree Replacement Ratios

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

[1] As measured 4.5 feet above ground level

[2] X:X = tree replacement to tree loss ratio

[3] Ordinance-sized tree

Notes: Trees greater than or equal to 38 inches in circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For multi-family residential, commercial, and industrial properties, a Tree Removal Permit is required for removal of trees of any size.

A 38-inch tree equals 12 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.

Since 46 trees onsite would be removed, including 15 ordinance-sized trees and 31 non-ordinance sized trees, one tree would be replaced at a 5:1 ratio, 14 trees would be replaced at a 4:1 ratio, one tree would be replaced at a 3:1 ratio, 19 trees would be replaced at a 2:1 ratio, and 11 trees would be replaced at a 1:1 ratio. As mentioned previously, there are two native trees on-site. The total number of replacement trees required to be planted would be 113 trees. 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.

By conforming to the above conditions, the proposed project would meet all applicable tree removal and tree protection guidelines set forth by the City of San José. Therefore, the proposed project would not conflict with any ordinance protecting biological resources and would not result in a significant impact to trees and the community forest.

Tree Preservation

Most of the trees on the project site would be preserved, including crape myrtle, Callery pear, London plane, Australian willow, Brazilian pepper, jacaranda, and coast redwood (i.e., Tree Numbers 1-30, 66, and 78-154). Construction activities, however, could result in impacts to the health and longevity of the trees to be preserved.

Mitigation Measures: Implementation of the following mitigation measures would reduce impacts to preserved trees to a less than significant level.

MM BIO-5.1: Prior to the issuance of any tree removal, demolition, grading, or building permits (whichever occur first), the project applicant shall retain a certified arborist throughout the construction period of the project to:

- Review all future project submittals including grading, utility, drainage, irrigation, and landscape plans.
- Meet and schedule with contractors working in the vicinity of trees proposed for preservation to review all work procedures, access routes, storage areas and tree protection measures.
- Monitor all work (any grading, construction, demolition or other ground disturbance work) that is expected to encounter roots of trees to be preserved.
- Evaluate appropriate treatments if injury occurs to any tree during any ground-moving activities.

MM BIO-5.2: Prior to any ground disturbance activities, the project applicant shall submit a tree protection plan including the following, but not limited to, information:

- **Preconstruction Scope:**
  - Establish the horizontal and vertical elevation of all trees recommended for preservation and located within 25-feet of the project area. Include trunk locations and tag numbers on all plans.
- **Tree Protection Zone Protocol:**
  - Establish a tree protection zone around trees to be preserved. As a general guideline, the tree protection zone shall be the limit of work, as most trees recommended for preservation are outside the project area. For coast redwoods located along the western perimeter (#139 to #154) of the site, the tree protection zone shall be the edge of the existing sidewalk. The tree protection zone shall be installed prior to demolition, grubbing, or grading.
  - No materials, equipment, soil, waste or wash-out water may be deposited, stored, or parked within the tree protection zone (fenced area).
  - No entry is permitted into a tree protection zone without permission of the project superintendent.
  - Trees to be removed shall be cut down so as to fall away from tree protection zones and avoid pulling and breaking of roots of trees to remain. If roots are entwined, the consultant may require first severing the major woody root mass before extracting the trees, or grinding the stump below ground.
  - Fenced areas shall remain in place until all site work has been completed. Fences may not be relocated or removed without permission of the project superintendent.
  - Construction trailers, traffic and storage areas shall remain outside fenced areas at all times.
- **Maintenance During Construction:**
  - Any additional tree pruning needed for clearance during construction shall be performed by a qualified arborist and not by construction personnel. Any roots damaged during grading or construction shall be exposed to sound tissue and cut cleanly with a saw.
  - Trees to be preserved shall be irrigated on a regular basis. Use only herbicides safe for use around trees and labeled for that use, even below pavement.
  - Trees proposed for preservation may require pruning to clean the crown and to provide clearance. All pruning shall be completed by an ISA Certified Arborist or Tree Worker and adhere to the latest editions of the American National Standards for tree work (Z133 and A300) and International Society of Arboriculture Best Management Practices, Pruning.

With implementation of the mitigation measures described above for preservation and protection of on-site trees, the project would not conflict with any tree preservation policy or ordinance. **(Less than Significant Impact with Mitigation Incorporated)**

Impact BIO-6:	The project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. **(No Impact)**

The project will not be subject to any land cover fee given the current developed nature of the site and its designation as Urban-Suburban land in the Habitat Plan.

Nitrogen Deposition Impacts on Serpentine Habitat

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

Nitrogen tends to be efficiently recycled by the plants and microbes in infertile soils such as those derived from serpentine, so that fertilization impacts could persist for years and result in cumulative habitat degradation. The impacts of nitrogen deposition upon serpentine habitat and the Bay checkerspot butterfly can be correlated to the amount of new vehicle trips that a project is expected to generate. The nitrogen deposition fees collected under the Habitat Plan for new vehicle trips will be used as mitigation to purchase and manage conservation land for the Bay checkerspot butterfly and other sensitive species. The project would implement the following standard permit condition.

Standard Permit Condition: The project shall implement the following condition to reduce the impacts to endangered and threatened species:

- 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 or Director's designee of the City of San José Department of Planning, Building, and Code Enforcement (PBCE) for review and shall complete subsequent forms, reports, and/or studies as needed prior to the issuance of grading permits. The Habitat Plan and supporting materials can be viewed at www.scv-habitatplan.org.

Compliance with the Standard Permit Condition listed above would ensure that the project does not conflict with the provisions of the Habitat Plan. The project would pay nitrogen deposition fees based on the trip generation associated with the proposed uses. **(No Impact)**

4.5 CULTURAL RESOURCES

4.5.1 Environmental Setting

4.5.1.1 *Regulatory Framework*

Federal

National Historic Preservation Act

Federal protection is legislated by the National Historic Preservation Act of 1966 (NHPA) and the Archaeological Resource Protection Act of 1979. These laws maintain processes for determination of the effects on historical properties eligible for listing in the National Register of Historic Places (NRHP). Section 106 of the NHPA and related regulations (36 Code of Federal Regulations [CFR] Part 800) constitute the primary federal regulatory framework guiding cultural resources investigations and require consideration of effects on properties that are listed or eligible for listing in the NRHP. Impacts to properties listed in the NRHP must be evaluated under CEQA.

State

California Register of Historical Resources

The California Register of Historical Resources (CRHR) is administered by the State Office of Historic Preservation and encourages protection of resources of architectural, historical, archeological, and cultural significance. The CRHR identifies historic resources for state and local planning purposes and affords protections under CEQA. Under Public Resources Code Section 5024.1(c), a resource may be eligible for listing in the CRHR if it meets any of the NRHP criteria.[8]

Historical resources eligible for listing in the CRHR must meet the significance criteria described previously and retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance. A resource that has lost its historic character or appearance may still have sufficient integrity for the CRHR if it maintains the potential to yield significant scientific or historical information or specific data.

The concept of integrity is essential to identifying the important physical characteristics of historical resources and, therefore, in evaluating adverse changes to them. Integrity is defined as "the authenticity of a historical resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance." The processes of determining integrity are similar for both the CRHR and NRHP and use the same seven variables or aspects to define integrity that are used to evaluate a resource's eligibility for listing. These seven characteristics include 1) location, 2) design, 3) setting, 4) materials, 5) workmanship, 6) feeling, and 7) association.

California Native American Historical, Cultural, and Sacred Sites Act

The California Native American Historical, Cultural, and Sacred Sites Act applies to both state and private lands. The act requires that upon discovery of human remains, construction or excavation activity must cease and the county coroner be notified.

[8] California Office of Historic Preservation. "CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6." March 14, 2006.

Public Resources Code Sections 5097 and 5097.98

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

Pursuant to Public Resources Code Section 5097.98, in the event of human remains discovery, no further disturbance is allowed until the county coroner has made the necessary findings regarding the origin and disposition of the remains. If the remains are of a Native American, the county coroner must notify the NAHC. The NAHC then notifies those persons most likely to be related to the Native American remains. The code section also stipulates the procedures that the descendants may follow for treating or disposing of the remains and associated grave goods.

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:

Envision San José 2040 General Plan Relevant Cultural Resources Policies

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

Municipal Code – Historic Preservation Ordinance

City of San José Criteria for Local Significance

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.

According to the City of San José's *Guide to Historic Reports,* a City Landmark is "a significant historic resource having the potential for landmark designation as defined in the Historic Preservation Ordinance. Preservation of this resource is essential."

4.5.1.2 *Existing Conditions*

Archaeological Resources

Native Americans occupied Santa Clara Valley and the greater Bay Area for more than 5,000 years. The exact time period of the Ohlone (originally referred to as Costanoan) migration into the Bay Area is debated by scholars. Dates of the migration range between 3000 B.C. and 500 A.D. Regardless of the actual time frame of their initial occupation of the Bay Area and, in particular, Santa Clara Valley, it is known that the Ohlone had a well-established population of approximately 7,000 to 11,000 people with a territory that ranged from the San Francisco Peninsula and the East Bay, south through the Santa Clara Valley and down to Monterey and San Juan Bautista.

Native American settlements are commonly associated with the abundant food supply in the Santa Clara Valley and they often established settlements near local waterways. Prehistoric archaeological resources are also known to be located in these areas. Archaeological resources are nonrenewable resources that often yield unique information about past societies and environments. The nearest waterbody (i.e., creek) to the project site is Ross Creek, approximately 0.6 miles south of the site. Based on the City's Archaeologically Sensitive Areas Map, the site is not located in an archaeologically sensitive area.

Historic Resources

The project site is developed with five classroom buildings, one administration building, a gymnasium, and a music/drama building. The existing buildings on the site were constructed in the early 1990's. Prior to that time, the site was occupied by Parker Elementary School (Union School District) from the 1950's to 1991. The school buildings were demolished in 1991. The existing buildings were constructed for the Santa Clara County Children's Shelter, which occupied the site from approximately 1993 to 2012.[9]

[9] Cornerstone Earth Group, *Phase I Environmental Site Assessment.* March 23, 2018.

The existing buildings are not listed on the National Historic Landmarks Program or California Office of Historic Preservation as a historic resource. Based on the City's criteria for local significance, a resource shall be associated with an important individual or event, an architectural innovation, and/or an archaeological contribution, or have achieved significance within the past 50 years in order to be deemed significant.

The buildings are less than 50 years old and are primarily made of horizontal wood paneling, concrete, and brick with pyramid and hip styled roofs. The site is not associated with persons or events which are important to California history and does it appear to have unique architectural features. There are no known historic resources located on or adjacent to the project site.

4.5.2 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?	☐	☐	☐	☒
2) Cause a substantial adverse change in the significance of an archaeological resource as pursuant to CEQA Guidelines Section 15064.5?	☐	☐	☒	☐
3) Disturb any human remains, including those interred outside of dedicated cemeteries?	☐	☐	☒	☐

Impact CUL-1: The project would not cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5. **(No Impact)**

As discussed above, the project site is currently developed with the Harker Preschool campus. The existing on-site buildings are one to two stories in height and were constructed in the early 1990s. The buildings housed the Santa Clara County Children's Shelter from 1993 to 2012; prior to this time the site was occupied by Parker Elementary School. There are no known historic sites in the project area. The project site and adjacent properties are not listed on any local, state, or federal lists of historically or architecturally significant structures and/or sites, landmarks, or points of interest. The existing buildings nearby are not eligible for listing on the NRHP, CRHR, City of San José Historic Resources Inventory, or Santa Clara County Heritage Resource Inventory. Therefore, the proposed project would not have an effect on significant or potentially significant architectural resources. **(No Impact)**

Impact CUL-2:	The project would not cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5. **(Less than Significant Impact)**

The project site has been developed since the early 1900s and there are no known archaeological sites within or adjacent to the project site. Based on the City's Archaeologically Sensitive Areas Map, the site is not located in an archaeologically sensitive area. Therefore, it is unlikely that subsurface cultural resources would be encountered during the construction period. However, consistent with City policies, in the unlikely event that archaeological resources are encountered during excavation and construction, the standard permit conditions listed below would be implemented.

Standard Permit Conditions: Implementing the following conditions would reduce impacts of the project on subsurface cultural resources:

- In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Supervising Environmental Planner and Historic Preservation Officer of the Department of Planning, Building and Code Enforcement will be notified, and a qualified archaeologist will examine the find. The archaeologist will 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. If the finds do not meet the definition of a historical or archaeological resources, no further study or protection is necessary prior to project implementation. If the find(s) does meet the definition of a historical or archaeological resource, then it should be avoided by project activities. Project personnel should not collect or move any cultural material. Fill soils that may be used for construction purposes should not contain archaeological materials.

- If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement and the qualified archaeologist, who will then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American.

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

- If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:
    - The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
    - 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.

With the implementation of the standard permit conditions detailed above, the proposed project would have a less than significant impact to archaeological resources. **(Less than Significant Impact)**

Impact CUL-3:	The project would not disturb any human remains, including those interred outside of dedicated cemeteries. **(Less than Significant Impact)**

As mentioned above, the site is not within an archaeologically sensitive area. Although unlikely, it is possible that project construction activities could disturb as-yet undiscovered human remains at the project site. The standard permit conditions described above in CUL-2 would ensure that an appropriate process is followed in the event of accidental discovery of human remains during project construction. By following the process set forth in these conditions, the proposed project would not result in a significant impact to human remains. **(Less than Significant Impact)**

4.6 ENERGY

4.6.1 Environmental Setting

4.6.1.1 *Regulatory Framework*

Federal

At the federal level, energy standards set by the U.S. Environmental Protection Agency (EPA) apply to numerous consumer products and appliances (e.g., the EnergyStar™ program). The EPA also sets fuel efficiency standards for automobiles and other modes of transportation.

State

Renewables Portfolio Standard Program

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 2008, Executive Order S-14-08 was signed into law requiring retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 requires retail sellers and publicly owned utilities to procure 50 percent of their electricity from renewable sources by 2030. SB 100, passed in 2018, requires 100 percent of electricity in California to be provided by 100 percent renewable and carbon-free sources by 2045.

Pacific Gas and Electric Company (PG&E) is the electricity provider to the project site. PG&E's 2017 electricity mix was 33 percent renewable; thus, they have already met the requirements of Executive Order S-14-08.[10]

Building Codes

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6, of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years, and the 2016 Title 24 updates went into effect on January 1, 2017.[11] Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[12]

The California Green Building Standards Code (CALGreen) establishes mandatory green building standards for buildings in California. CALGreen was developed to reduce GHG emissions from buildings, promote environmentally responsible and healthier places to live and work, reduce energy and water consumption, and respond to state environmental directives. The most recent update to CALGreen went into effect on January 1, 2017, and covers five categories: planning and design,

[10] PG&E. "Exploring Clean Energy Solutions". Accessed August 24, 2018. https://www.pge.com/en_US/about-pge/environment/what-we-are-doing/clean-energy-solutions/clean-energy-solutions.page.
[11] California Building Standards Commission. "Welcome to the California Building Standards Commission". Accessed February 6, 2018. http://www.bsc.ca.gov/.
[12] California Energy Commission (CEC). "2016 Building Energy Efficiency Standards". Accessed February 6, 2018. http://www.energy.ca.gov/title24/2016standards/index.html.

energy efficiency, water efficiency and conservation, material and resource efficiency, and indoor environmental quality.

Local

City of San José Green Building Standards

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)[13], GreenPoint[14], 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 4.6-1 below.

Table 4.6-1: Private Sector Green Building Policy Applicable Projects

Applicable Project*	Minimum Green Building Rating
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

Notes: *For mixed-use projects – only that component of the project triggering compliance with the policy shall be required to achieve the applicable green building standard.
Source: City of San José. "Private Sector Green Building." Accessed: February 19, 2019. Available at: http://www.sanjoseca.gov/index.aspx?NID=3284.

Envision San José 2040 General Plan

Multiple policies and actions in the General Plan have energy implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings.

The General Plan includes the following policies for the purpose of reducing or avoiding impacts related to energy.

[13] Created by the non-profit organization United States Green Building Council, LEED is a certification system that assigns points for green building measures based on a 110-point rating scale.
[14] Created by the California based non-profit organization Build It Green, GreenPoint is a certification system for residential development that assigns points for green building measures based on a 381-point rating scale for multi-family development and 341-point rating scale for single-family developments.

Envision San José 2040 General Plan Relevant Energy Resources Policies

Policy/Goal/Action	Description
Policy MS-2.2	Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.
Policy MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
Policy MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g. design to maximize cross ventilation and interior daylight) and through site design techniques (e.g. orienting buildings on sites to maximize the effectiveness of passive solar design).
Policy MS-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 or other area functions.
Policy MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
Policy MS-6.5	Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.
Policy MS-6.8	Maximize reuse, recycling, and composting citywide.
Policy MS-14.3	Consistent with the California Public Utilities Commission's California Long Term Energy Efficiency Strategic Plan, as revised and when technological advances make it feasible, require all new residential and commercial construction to be designed for zero net energy use.
Policy MS-14.4	Implement the City's Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, and passive solar building design and planting of trees and other landscape materials to reduce energy consumption.
Policy MS-14.5	Consistent with State and Federal policies and best practices, require energy efficiency audits and retrofits prior to or at the same time as consideration of solar electric improvements.

City of San José Municipal Code and Building Codes

The City's Municipal Code includes regulations associated with energy efficiency and energy use. City regulations include a Green Building Ordinance for Private Sector New Construction (Chapter 17.84) to foster practices to minimize the use and waste of energy, water and other resources in the City of San José, Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10), requirements for Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105), and a Construction and Demolition Diversion Deposit Program that fosters recycling of construction and demolition materials (Chapter 9.10).

Climate Smart San José

Climate Smart San José, adopted in February 2018, is a plan to reduce air pollution, save water, and create a healthy community. Climate Smart San José focuses on three pillars and nine key strategies to transform San José into a climate smart city that is substantially decarbonized and meeting requirements of Californian climate change laws.

4.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 7,830 trillion Btu in the year 2016, the most recent year for which this data was available. Out of the 50 states, California is ranked 2nd in total energy consumption and 48th in energy consumption per capita. The breakdown by sector was approximately 18 percent (1,384 trillion Btu) for residential uses, 19 percent (1,477 trillion Btu) for commercial uses, 24 percent (1,853 trillion Btu) for industrial uses, and 40 percent (3,116 trillion Btu) for transportation.[15] This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

Pacific Gas and Electric Company (PG&E) is the City of San José 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 2017, natural gas facilities provided 20 percent of PG&E's electricity delivered to retail customers; nuclear plants provided 27 percent; hydroelectric operations provided 18 percent; renewable energy facilities including solar, geothermal, and biomass provided 33 percent; and two percent was unspecified.[16]

As of February 2019, San José Clean Energy provides over 300,000 residential and commercial electricity customers with carbon-free electricity options at competitive prices, from sources like solar, wind, and hydropower.

Natural Gas

PG&E provides natural gas services within the City of San José. In 2017, approximately 1.4 percent of California's natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada.[17] In 2016, residential and commercial customers in California used 29 percent, power plants used 32 percent, and the industrial sector used 37 percent. Transportation accounted for one percent of natural gas use in California. In 2017, Santa Clara County used approximately 3.5 percent of the state's total consumption of natural gas. [18]

[15] United States Energy Information Administration. *State Profile and Energy Estimates, 2016.* Accessed September 6, 2018. https://www.eia.gov/state/?sid=CA#tabs-2.
[16] PG&E. "Exploring Clean Energy Solutions". Accessed September 18, 2018. https://www.pge.com/en_US/about-pge/environment/what-we-are-doing/clean-energy-solutions/clean-energy-solutions.page.
[17] California Gas and Electric Utilities. 2018 *California Gas Report.* Accessed June 27, 2019. https://www.socalgas.com/regulatory/documents/cgr/2018_California_Gas_Report.pdf.
[18] California Energy Commission. "Natural Gas Consumption by County." Accessed June 27, 2019. http://ecdms.energy.ca.gov/gasbycounty.aspx.

Fuel for Motor Vehicles

In 2017, 15 billion gallons of gasoline were sold in California.[19] The average fuel economy for light-duty vehicles (autos, pickups, vans, and SUVs) in the United States has steadily increased from about 13.1 miles-per-gallon (mpg) in the mid-1970's to 24.9 mpg in 2018.[20] Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was subsequently revised to apply to cars and light trucks Model Years 2011 through 2020. [21,22]

Energy Use of Existing Development

The project site is developed with five one-story 4,877-square-foot classroom buildings, a two-story 11,340-square-foot gymnasium, a one story 10,121-square-foot a music/drama class building, a one and two-story 27,854-square-foot administration building (which fronts Union Avenue), a paved parking lot, and a student drop-off area. The existing enrollment at the preschool is 120 students. Energy use from existing uses is attributable to electricity generation for the buildings on site, natural gas for building heating and cooling, solid waste disposal, and water use.

4.6.2 Impact Discussion

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

Impact EN-1: The project would not result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy, or wasteful use of energy resources, during project construction or operation. **(No Impact)**

The proposed project would result in the demolition of three of the five existing classroom buildings, a portion of the existing auditorium/gymnasium, and removal of 46 trees. The project would also

[19] California Department of Tax and Fee Administration. Net Taxable Gasoline Gallons. Accessed February 16, 2018. http://www.cdtfa.ca.gov/taxes-and-fees/MVF_10_Year_Report.pdf.

[20] United States Environmental Protection Agency. "The 2018 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." March 2019.

[21] U.S. Department of Energy. Energy Independence & Security Act of 2007. Accessed February 8, 2018. http://www.afdc.energy.gov/laws/eisa.

[22] Public Law 110–140—December 19, 2007. Energy Independence & Security Act of 2007. Accessed February 8, 2018. http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf.

reconfigure the recreational area and drop-off/pick-up area. The project would construct a new two-story classroom building of approximately 38,900 square feet, a new addition to the existing auditorium/gymnasium of approximately 15,300 square feet for a total of 20,542 square feet and operate a middle school on the Harker School site with a maximum enrollment of 600 students. The project also includes construction of five new basketball courts, reconfiguration of the existing turf play field, a new student drop-off/pick-up area, and an emergency vehicle access road. Implementation of the project would increase the demand for energy at the project site and in the City as a whole. Table 4.6-3, below, shows the estimated annual energy use of the proposed development.

Table 4.6-2: Estimated Annual Energy Use of Proposed Development[1]

Development	Electricity Use (kWh)	Natural Gas Use (kBtu)
Junior High School – 54,150 square feet	291,879	998,563

Notes: [1] Illingworth & Rodkin, Inc. *Harker School Air Quality and Greenhouse Gas Assessment.* October 12, 2018. Revised April 23, 2019.

The estimated annual energy use of the proposed project is calculated as gross demand and does not factor in the energy use of the existing buildings proposed for demolition. The net energy demand of the project would be substantially less than the values shown in Table 4.6-3. Further, the proposed project would be required to be designed for energy efficiency and conservation, in accordance with the City's Green Building Program. The project would be subject to the Green Building Policy, which requires new development to incorporate energy conservation and efficiency through site design, architectural design, and construction techniques. While the proposed project would result in more energy use when compared to the existing use, the project would not result in wasteful, inefficient, or unnecessary energy consumption upon implementation of General Plan policies and existing regulations. **(No Impact)**

Impact EN-2: The project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. **(No Impact)**

The project would be required to conform to General Plan policies and regulations which promote the use and expansion of renewable energy resources, including solar voltaic, solar hot water, wind, and biogas or biofuels. By conforming to applicable General Plan policies related to renewable energy and energy efficiency, and the Green Building Ordinance for Private Sector New Construction, the project would not preclude the City from meeting local or state renewable energy or energy efficiency goals. **(No Impact)**

4.7 GEOLOGY AND SOILS

4.7.1 Environmental Setting

4.7.1.1 *Regulatory Framework*

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act regulates development in California near known active faults due to hazards associated with surface fault ruptures. The Earthquake Fault Zones indicate areas with potential surface fault-rupture hazards. Areas within the Alquist-Priolo Earthquake Fault Zone require special studies to evaluate the potential for surface rupture to ensure that no structures intended for human occupancy are constructed across an active fault.

California Building Code

The California Building Code prescribes a standard for constructing safer buildings throughout the State of California. It contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, strength of the ground and distance to seismic sources. The Code is renewed on a triennial basis every three years; the current version is the 2014 Building Standards Code.

Paleontological Resources

Several sections of the California Public Resources Code protect paleontological resources. Section 5097.5 prohibits "knowing and willful" excavation, removal, destruction, injury, and defacement of any "vertebrate paleontological site, including fossilized footprints" on public lands, except where the agency with jurisdiction has granted express permission. "As discussed in this section, 'public lands' means lands owned by, or under the jurisdiction of, the state, or any city, county, district, authority, or public corporation, or any agency thereof." California Public Resources Code Section 30244 requires reasonable mitigation for impacts on paleontological resources that occur as a result of development on public lands.

City of San José Municipal Code

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

Envision San José 2040 General Plan

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

Envision San José 2040 General Plan Relevant Geology, Soils, and Seismic Hazards Policies

Policy	Description
Policy EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
Policy EC-3.6	Restrict development in close proximity to water retention levees or dams unless it is demonstrated that such facilities will be stable and remain intact during and following an earthquake.
Policy EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.
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 soil disturbance of one acre or more, are adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 15 and April 15.

4.7.1.2 *Existing Conditions*

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

Soils and Topography

The project site has an elevation of approximately 250 feet above mean sea level (amsl) and is comprised of surface soils classified as Urban land – Flaskan complex, with zero to two percent slopes.[23] Urban land is comprised of disturbed and human transported material. The Flaskan soils at the site are mostly comprised of sandy loam, sandy clay loom, and gravelly sandy clay loam from the surface to approximately 2.5 feet below ground surface, underlain by very gravelly sandy loam to five feet below ground surface.

[23] United States Department of Agriculture. *Web Soil Survey*. Available at: https://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm. Accessed: February 23, 2018.

Expansive near-surface soil is subject to volume changes during seasonal fluctuations in moisture content, which may cause movement and cracking of foundations, pavements, slabs, and below-grade walls. On-site soils have a low to moderate expansion potential.[24] Based on the Santa Clara County Geologic Hazard Zones Map and the site's flat topography, the project site is not located within a landslide hazard zone.[25]

Groundwater

The groundwater level at the site is approximately 130 to 140 feet below ground surface (bgs) based on information presented in the California Geotracker database. A perched groundwater table was intermittently reported at a depth of approximately 35 feet bgs. Fluctuations in the groundwater level may occur due to seasonal variations in rainfall and temperature, nearby water courses, pumping from wells, and groundwater recharge. Based on regional topography, groundwater flow direction in the area is north to northeast.

Seismicity and Seismic Hazards

The San Francisco Bay Area is classified as Zone 4 for seismic activity, the most seismically active region in the United States. Based on a 2015 forecast completed by the United States Geological Survey (USGS), there is a 72 percent probability of experiencing at least one magnitude 6.7 earthquake during the next 30 years.[26]

The project area is not located within an Alquist-Priolo Earthquake Fault Zone.[27] There are no known active faults that traverse the site and, therefore, the potential for fault rupture is very low. The known major active faults (which are faults that have a higher probability (22 percent or more) that an earthquake magnitude of 6.7 on the fault system will occur by 2043) near the project site are shown in Table 4.7-1, below. Monte-Vista Shannon is a lesser known fault, approximately one quarter mile south of the site (immediately south of SR-85), with a low probability of a major earthquake occurring on the fault system by 2043.

Table 4.7-1: Major Active Faults Near the Project Site

Fault	Distance from Site
Hayward	16 miles north
Calaveras	13.5 miles east
San Andreas	6.5 miles west

Source: United States Geological Survey. The San Andreas and Other Bay Area Faults. Available: https://earthquake.usgs.gov/earthquakes/events/1906calif/virtualtour/bayarea.php. Accessed February 23, 2018.

[24] Ibid.
[25] County of Santa Clara, Department of Planning. *Santa Clara County Geologic Hazard Zones*. Map 35. October 2012.
[26] United States Geological Survey. *Earthquake Outlook for the San Francisco Bay Region 2014–2043*. Revised August 2016. Accessed: February 28, 2018. Available at: https://pubs.usgs.gov/fs/2016/3020/fs20163020.pdf.
[27] California Department of Conservation. *CGS Information Warehouse: Regulatory Maps.* Accessed: February 23, 2018. Available at: http://maps.conservation.ca.gov/cgs/informationwarehouse/index.html?map=regulatorymaps.

Liquefaction

Liquefaction is the result of seismic activity and is characterized as the transformation of loose water-saturated soils from a solid state to a liquid state during ground shaking. During ground shaking, such as during earthquakes, cyclically induced stresses may cause increased pore water pressures within the soil voids, resulting in liquefaction. Liquefied soils may lose shear strength that may lead to large shear deformations and/or flow failure under moderate to high shear stresses, such as beneath foundations or sloping ground. Soils most susceptible to liquefaction are loose, non-cohesive soils that are saturated and are bedded with poor drainage, such as sand and silt layers bedded with a cohesive cap. The project site not located within a State-designated liquefaction hazards zone or a Santa Clara County liquefaction hazard zone.[28]

Lateral Spreading

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area, such as the steep bank of a stream channel. The nearest waterway to the project site is Ross Creek, approximately 0.6 miles south of the site. The project site is relatively flat and is not adjacent to a creek or any other unsupported face. For these reasons, the potential for lateral spreading is low.

Paleontological Resources

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. Most of the City is situated on alluvial fan deposits of Holocene age that have a low potential to contain significant nonrenewable paleontological resources; however, Pleistocene sediments present at or near the ground surface at some locations have high potential to contain these resources. These sediments have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates. The General Plan FPEIR found the project site to have a high sensitivity at the surface for paleontological resources.[29]

[28] State of California Seismic Hazard Zones. San Jose West Quadrangle. February 7, 2002. Available at: <http://gmw.consrv.ca.gov/shmp/download/quad/SAN_JOSE_WEST/maps/ozn_sjosw.pdf>. Accessed February 23, 2018.

[29] City of San José. *Integrated Final Program EIR for the Envision San José 2040 General Plan. Appendix J – Cultural Resources.* September 2011.

4.7.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	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:				
– 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 (refer to Division of Mines and Geology Special Publication 42)?	☐	☐	☐	☒
– Strong seismic ground shaking?	☐	☐	☐	☒
– Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒
– 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 will 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 the current California Building Code, 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 geological feature?	☐	☐	☒	☐

Impact GEO-1: The project would not directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving 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; strong seismic ground shaking; seismic-related ground failure, including liquefaction; or landslides. **(No Impact)**

The project site is in the seismically active San Francisco Bay Area which has a 72 percent probability of experiencing at least one magnitude 6.7 earthquake during the next 30 years. Earthquake faults in the region, specifically the San Andreas, Hayward, and Calaveras faults, are capable of generating earthquakes larger than 7.0 in magnitude. The project site would experience intense ground shaking in the event of a large earthquake. However, the site is not located within an Alquist-Priolo Fault Zone and the potential for fault rupture at the site is low.

Furthermore, consistent with the City's General Plan and Municipal Code, to avoid or minimize potential damage from seismic shaking, the proposed development would be built using standard engineering and seismic safety design techniques. Consistent with these requirements, the following condition shall be implemented proposed project to ensure the proposed development is designed to address seismic hazards.

Standard Permit Condition:

- To avoid or minimize potential damage from seismic shaking, the project would be built using standard engineering and seismic safety design techniques. Building design and construction at the site will be completed in conformance with the recommendations of a design-level geotechnical investigation. The structural designs for the proposed development will account for repeatable horizontal ground accelerations. The report shall be reviewed and approved by the City of San José Department of Planning, Building and Code Enforcement as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes, including the 2016 California Building Code Chapter 16, Section 1613, as adopted or updated by the City.

With implementation of the above Standard Permit Condition, the proposed project would not expose people or structures to substantial adverse effects due to ground shaking; nor would the project exacerbate existing geological hazards on the project site such that it would impact (or worsen) off-site geological and soil conditions.

The project site is not located within a State of California Liquefaction Hazard Zone and is not located next to an open-face geologic formation. The project, therefore, would not be at risk for liquefaction or lateral spreading. The site is flat and is not located within a Landslide Hazard Zone. The project site and surrounding areas would, therefore, have a low potential for liquefaction and lateral spreading during large seismic events. Development of the site would not exacerbate existing geologic conditions on the project site. **(No Impact)**

Impact GEO-2:	The project would not result in substantial erosion or the loss of topsoil. **(Less than Significant Impact)**

Ground disturbance would be required for demolition of the existing surface parking lots and buildings, grading, and construction of proposed development. Ground disturbance would expose soils and increase the potential for wind or water related erosion and sedimentation at the site until construction is complete.

The City's NPDES Municipal Permit (refer to Section 4.10 Hydrology and Water Quality), urban runoff policies, and the Municipal Code are the primary means of enforcing erosion control measures

through the grading and building permit process. The Envision San José 2040 General Plan FEIR concluded that with the regulatory programs currently in place, the possible impacts of accelerated erosion during construction would be less than significant. The City shall require all phases of the project to comply with all applicable City regulatory programs pertaining to construction related erosion. Because the project would comply with the regulations identified in the Envision San José 2040 General Plan EIR, implementation of the proposed project would not have a soil erosion impact. **(Less Than Significant Impact)**

Impact GEO-3:	The project would not 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)**

Refer to the discussion above under Impact GEO-1 for a discussion on landslide, lateral spreading, and liquefaction.

Development of the project site would not change or exacerbate the geologic conditions of the project area and, therefore, would not result in a significant geologic hazards impact. The project site is flat and is not at risk of becoming unstable following the development proposed by the project. Thus, there would be no impact. **(No Impact)**

Impact GEO-4:	The project would not be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property. **(No Impact)**

The project site is located in an area of low to moderate expansion potential. By adhering to the recommendations included in the geotechnical investigation for soil and seismic hazards and constructing the building in accordance with standard engineering practices, the proposed project would not result in a significant impact as a result of the soils underlying the site. The proposed project would not exacerbate existing soil conditions on the project site. **(No Impact)**

Impact GEO-5:	The project would not 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 disposal of wastewater from the project site will be facilitated by connection to the City's existing sewer system. The existing utilities in the project area would serve the proposed classroom building and expanded student population. No on-site septic system would be constructed for the proposed project. By connecting to existing City sewer lines, the project would avoid potential impacts related to wastewater disposal via an on-site septic system or alternative wastewater disposal system. **(No Impact)**

Impact GEO-6:	The project would not directly or indirectly destroy a unique paleontological resource or site or unique geological feature. **(Less than Significant Impact)**

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. Most of the City of San José is situated on alluvial fan deposits of Holocene age that have a low potential to contain significant nonrenewable paleontological resources; however, older Pleistocene sediments present at or near the ground surface at some locations have high potential to contain these resources. These older sediments, often found at depths of greater than 10 feet below the ground surface, have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates. The proposed project could potentially disturb undiscovered paleontological resources underlying the project site during excavation, grading and construction activities.

The General Plan FPEIR recognized that while development allowed under the General Plan could directly impact paleontological resources, implementation of General Plan policies and existing regulations and programs would reduce potential impacts to a less than significant level. However, the project site has been disturbed by prior development and the project does not propose deep foundations or other major excavating activities. Even so, the following Standard Permit Conditions would be applied to the proposed project to reduce and avoid impacts to as yet unidentified paleontological resources.

Standard Permit Conditions:

- **Stop Work.** If vertebrate fossils are discovered during construction, all work on the site shall stop immediately until a qualified professional paleontologist can assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, 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 applicant will be responsible for ensuring the recommendations of the paleontological monitor regarding treatment and reporting are implemented. A report of all findings shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement prior to continuation of ground-disturbing activities.

Implementation of the Standard Permit Conditions discussed above would reduce impacts to paleontological resources to a less than significant level. **(Less than Significant Impact)**

4.7.3 Non-CEQA Effects

Per *California Building Industry Association v. Bay Area Air Quality Management District,* 62 Cal. 4th 369 *(BIA v. BAAQMD)*, effects of the environment on the project are not considered CEQA impacts. The following discussion is included for informational purposes only because the City of San José has policies that address existing geology and soils conditions affecting a proposed project.

As discussed in Section 4.7.2, the project site is in the seismically active San Francisco Bay Area which has a 72 percent probability of experiencing at least one magnitude 6.7 earthquake during the

next 30 years. Earthquake faults in the region, specifically the San Andreas, Hayward, and Calaveras faults, are capable of generating earthquakes larger than 7.0 in magnitude. The project site would experience intense ground shaking in the event of a large earthquake; though the probability of liquefaction and/or lateral spreading on-site is considered low.

Geologic conditions in the project area will require that the proposed structures be designed and built in conformance with the requirements of the California Building Code. The Envision San José 2040 General Plan FEIR concluded that adherence to the California Building Code would reduce seismic related impacts to a less than significant level. The project would be built and maintained in accordance with site-specific geotechnical report (consistent with Action EC-4.11) and applicable regulations including the California Building Code.

Because the proposed project would conform to the California Building Code, and with regulations identified in the Envision San José 2040 General Plan EIR that ensure geologic hazards are adequately addressed, the project would comply with Policies EC-3.1 and EC-4.4.

4.8 GREENHOUSE GAS EMISSIONS

The following discussion is based, in part, upon a CalEEMod greenhouse gas emissions calculation completed for the proposed project by David J. Powers & Associates, Inc. in December 2018. The project CalEEMod greenhouse gas emissions data sheets are included as Appendix C to this Initial Study.

4.8.1 Environmental Setting

4.8.1.1 *Regulatory Framework*

State

Global Warming Solutions Act

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

In 2016, Senate Bill (SB) 32 was signed into law, amending the California Global Warming Solution Act. SB 32, and accompanying Executive Order B-30-15, require CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its Climate Change Scoping Plan in December of 2017 to express the 2030 statewide target in terms of million metric tons of carbon dioxide equivalent (MMTCO2e). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 MMTCO2e.

Senate Bill 375

SB 375, known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. SB 375 builds upon AB 32 by requiring CARB to develop regional GHG reduction targets for automobile and light truck sectors for 2020 and 2035, as compared to 2005 emissions levels. The per-capita GHG emissions reduction targets for passenger vehicles in the San Francisco Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.

Consistent with the requirements of SB 375, the Metropolitan Transportation Commission (MTC) partnered with the Association of Bay Area Governments, BAAQMD, and Bay Conservation and Development Commission to prepare the region's Sustainable Communities Strategy (SCS) as part of the Regional Transportation Plan process. The SCS is referred to as Plan Bay Area. Plan Bay Area establishes a course for reducing per-capita GHG emissions through the promotion of compact, high-density, mixed-use neighborhoods near transit, particularly within identified Priority Development Areas (PDAs). The project site is not located within a PDA.

Advanced Clean Cars Program

CARB adopted the Advanced Clean Cars program in 2012 in coordination with the EPA and National Highway Traffic Safety Administration. The program combines the control of smog-

causing (criteria) pollutants and GHG emissions into a single coordinated set of requirements for model years 2015 through 2025. The program promotes development of environmentally superior passenger cars and other vehicles, as well as saving the consumer money through fuel savings.[30]

Regional and Local Plans

Bay Area 2017 Clean Air Plan

Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how state and federal air quality standards would be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The 2017 CAP focuses on two related BAAQMD goals: protecting public health and protecting the climate. To protect the climate, the 2017 CAP includes control measures designed to reduce emissions of methane and other super-GHGs that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

CEQA Air Quality Guidelines

The BAAQMD CEQA Air Quality Guidelines are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. The City of Santa Clara and other jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing GHG impacts developed by BAAQMD within the CEQA Air Quality Guidelines. The guidelines include information on legal requirements, BAAQMD rules, methods of analyzing impacts, and recommended mitigation measures.

City of San José Municipal Code

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

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

Envision San José 2040 General Plan and Greenhouse Gas Reduction Strategy

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

[30] CARB. "The Advanced Clean Cars Program". Accessed April 6, 2018. https://www.arb.ca.gov/msprog/acc/acc.htm.

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 or could be incorporated as mitigation measures for proposed projects, at the City's discretion. The GHG Reduction Strategy was adopted by City Council in 2015.

The primary test for consistency with the City's GHG Reduction Strategy is conformance with the General Plan Land Use / Transportation Diagram and supporting policies. CEQA clearance for development proposals are required to address the consistency of individual projects with the goals and policies in the General Plan designed to reduce GHG emissions. Compliance with the mandatory measures and voluntary measures (if included in the proposed project or 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 Climate Change Scoping Plan through 2020.

The environmental impacts of the GHG Reduction Strategy were analyzed in the General Plan FEIR (as supplemented). Beyond 2020, the emission reductions in the GHG Reduction Strategy are not enough to meet the City's identified 3.04 metric tons (MT) CO2e/SP efficiency metric for 2035. An additional reduction of 5,392,000 MT CO2e per year would be required for the projected service population to meet the City's target for 2035.[31]

The substantial communitywide GHG emissions reductions needed beyond 2020 cannot be achieved solely by implementing the measures identified in the GHG Reduction Strategy. The General Plan FEIR (as supplemented) disclosed that it would require an aggressive multiple-pronged approach that includes policy decisions and additional emission controls at the Federal and State level, new and substantially advanced technologies, and substantial behavioral changes to reduce single occupant vehicle trips—especially to and from workplaces. Future policy and regulatory decisions by other agencies (such as CARB, California Public Utilities Commission, California Energy Commission, MTC, and BAAQMD) and technological advances are outside the City's control and, therefore, could not be relied upon as feasible mitigation strategies at the time of the latest revisions to the GHG

The following policies and actions in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to GHG Reduction Strategy (e.g., when the Final Supplemental FEIR to the General Plan FEIR was certified on December 15, 2015). Thus, the City Council adopted overriding considerations for the identified cumulative impact for the 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

[31] As described in 2040 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 CO2e) for San José in 2020. It was developed prior to issuance of Executive Order S-30-15 in April 2015, which calls for a statewide reduction target of 40 percent by 2030 (five years earlier) to keep on track with the more aggressive target of 80 percent reduction by 2050.

and embodied in the GHG Reduction Strategy. The City of San José recognizes that additional strategies, policies and programs, to supplement those currently identified, will ultimately be required to meet the mid-term 2035 reduction target of 40 percent below 1990 levels in the GHG Reduction Strategy and the target of 80 percent below 1990 emission levels by 2050. The following General Plan policies are related to GHG emissions and are applicable to the proposed project:

Envision San José 2040 General Plan Relevant Greenhouse Gas Emissions Policies

Policy	Description
Policy MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
Action MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).
Policy MS-14.4	Implement the City's Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
Policy MS-14.5	Consistent with State and Federal policies and best practices, require energy efficiency audits and retrofits prior to or at the same time as consideration of solar electric improvements.

San Jose Transportation Analysis Policy (Council Policy 5-1)

This policy, which was adopted in 2018, changed the methodology for the evaluation of traffic impacts of all projects from a delay-based metric (i.e., level of service) to one based on vehicle-miles-traveled (VMT). The intent of the policy is to reduce the emission GHGs and other pollutants associated with vehicular travel. Please see Section 4.17 Transportation for a detailed discussion of this policy and its applicability to the proposed project.

Climate Smart San José

Climate Smart San José, adopted in February 2018, is a plan to reduce air pollution, save water, and create a healthy community. Climate Smart San José focuses on three pillars and nine key strategies, to transform San José into a climate smart city that is substantially decarbonized and meeting requirements of Californian climate change laws.

Other Implementing Laws and Regulations

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

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

4.8.1.2 *Existing Conditions*

Unlike emissions of criteria and toxic air pollutants, which have regional and local impacts, emissions of GHGs have a broader, global impact. Global warming is a process whereby GHGs accumulating in the upper atmosphere contribute to an increase in the temperature of the earth and changes in weather patterns. The principal GHGs contributing to global warming include CO_2, methane, nitrous oxide, and fluorinated compounds. Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the transportation, manufacturing, utility, and agricultural sectors.

The project site is currently utilized as a pre-school campus. Greenhouse gas emissions are generated from vehicles entering, parking, and leaving the site and from heating, cooling and lighting of buildings.

4.8.2 Impact Discussion

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

4.8.2.1 *Significance Thresholds*

The City's Greenhouse Gas Reduction Strategy covers new development projects through the year 2020. Because the proposed project would not be operational until after the 2020 limit of the City's GHG Strategy, a quantitative analysis was prepared to compare the project's long-term operational greenhouse gas emissions to the AB32 targets. A copy of the CalEEMod model data sheets used in the analysis are included as Appendix C to this Initial Study.

The BAAQMD's CEQA Air Quality Guidelines recommended a GHG operational threshold of 1,100 metric tons (MT) or 4.6 MT of carbon dioxide equivalent (CO_2e) per capita. These thresholds were developed based on meeting the 2020 GHG targets set in the scoping plan that addressed AB 32. Development of the project would occur beyond 2020, so a threshold that addresses a future target is appropriate. This assessment uses an efficiency metric of 2.6 MT CO_2e/year/service population. The service population metric of 2.6 MT CO_2e/year/service population is calculated for 2030 based on the 1990 inventory and the projected 2030 statewide population and employment levels.

Impact GHG-1:	The project would not generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment. **(Less than Significant Impact)**

Construction

GHG emissions during project construction would be the result of processing and manufacturing construction supplies, operating construction equipment, and construction-related vehicle trips (construction crews, materials and equipment deliveries, off hauling demolition debris and soil, etc.). GHG emissions would be generated at different levels throughout project construction activities. Construction-related GHG emissions vary depending on the level of activity, duration of the construction, specific construction operations, equipment-type use, and number of construction personnel.

Currently, neither the City of San José nor BAAQMD have adopted GHG significance thresholds that apply to construction emissions. Nonetheless, for informational purposes, GHG emissions during construction of the proposed project were modeled (refer to Appendix C). Those emissions are estimated to be 461 metric tons (MT) of CO_2e over the course of the entire project construction, which is estimated to be approximately 14 months.[32] Construction emissions are not modified to reflect a service population and are not compared to any significance threshold. Given that the proposed project is in an urban setting near construction supplies, equipment, and workforces, GHG emissions resulting from project-related construction activities would not contribute substantially to local or regional greenhouse gas emissions. For these reasons and because construction GHG emissions would be a temporary condition and would not result in permanent ongoing emissions that would interfere with the implementing SB 32, GHG emissions during construction of the proposed project would be less than significant. **(Less than Significant Impact)**

Operational Emissions

Consistent with the project site's existing Envision San José 2040 General Plan land use designation (*Public/Quasi-Public*) and zoning district (*A[PD]),* the project proposes to partially redevelop the site and operate a 600-student, approximately 107,170-square-foot middle school with up to 100 faculty and staff members. Similar to the existing on-site preschool, project GHG emissions would primarily result from vehicle trips to and from the middle school and operation of the campus heating, cooling, and electrical systems. The proposed project would intensify the uses on the project site, increasing

[32] If the construction period were extended due to unforeseen delays (e.g., equipment scheduling, unavailability of materials, weather, etc.), construction emissions would remain essentially unchanged because the same effort would still be required to construct the project.

vehicle trips and energy usage compared to existing conditions (120 pre-school children and 50 faculty and staff).

CalEEMod was used to estimate the daily GHG emissions associated with operation of the proposed approximately 107,170-square-foot, 600-student middle school. The service population consists of the total future middle school student enrollment and faculty and staff (i.e., 600 students and 100 employees). Once construction is complete and the proposed middle school is operational (i.e., 2021), annual emissions resulting from operation of the proposed project are computed to be 933 MT of CO_2e, or 1.33 MT CO_2e/year/service population.[33] This would not exceed the 2030 efficiency threshold of 2.6 MT CO_2e/year/service population. While the Envision General Plan 2040 EIRs identified the full build-out of the General Plan would result in significant unavoidable impact to GHG emissions, the project would not exceed the significance threshold for a project-level analysis. **(Less than Significant Impact)**

Impact GHG-2:	The project would not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of GHGs. **(Less than Significant Impact)**

City of San José Greenhouse Gas Reduction Strategy

The City of San José's GHG Reduction Strategy is the primary benchmark used for assessing whether the proposed project will contribute significantly to GHGs in the region. The GHG Reduction Strategy was developed in accordance with the BAAQMD CEQA Guidelines, and in accordance with CEQA Guidelines Section 15183.5, where GHG Reduction Plans are specifically addressed.

The project proposes to partially redevelop the site and operate a 600-student, approximately 107,170-square-foot middle school with up to 100 faculty and staff members. Project construction and operation would contribute to regional GHG emissions. The GHG Reduction Strategy lists the following mandatory criteria that development projects must satisfy in order to be consistent with City goals and policies:

1. Consistency with the Land Use/Transportation Diagram (General Plan Goals/Policies IP-1, LU-10);
2. Implementation of Green Building Measures (General Plan Goals MS-1, MS-14)
    a. Solar site orientation
    b. Site design
    c. Architectural design
    d. Construction techniques
    e. Consistency with City Green Building Ordinances and Policies
    f. Consistency with GHG Reduction Strategy Policies MS-1.1, MS-1.2, MS-2.3, MS-2.11, and MS-14.4;
3. Pedestrian/Bicycle Site Design Measures
    a. Consistency with Zoning Ordinance

[33] No credit was taken for the existing GHG emissions generated on-site by the existing preschool campus.

b. Consistency with GHG Reduction Strategy Policies CD-2.1, CD-3.2, CD-3.3, CD-3.4, CD-3.6, CD-3.8, CD-3.10, CD-5.1, LU-5.4, LU-5.5, LU-9.1, TR-2.8, TR-2.18, TR-3.3, and TR-6.7;

4. Salvage building materials and architectural elements from historic structures to be demolished to allow reuse (General Plan Policy LU-16.4), if applicable;
5. Complete an evaluation of operational energy efficiency and design measures for energy-intensive industries (e.g., data centers; General Plan Policy MS-2.8), if applicable;
6. Preparation and implementation of the Transportation Demand Management Program at large employers (General Plan Policy TR-7.1), if applicable; and
7. Limits on drive-through and vehicle serving uses, if applicable. All new uses that serve the occupants of vehicles (e.g., drive-through windows, car washes, service stations) must not disrupt pedestrian flow (General Plan Policy LU-3.6).

The proposed project site is consistent with the site's existing General Plan land use designation, zoning district (see *Section 4.11, Land Use and Planning*), and development standards as required by the approved zoning entitlement. Further, the project would be constructed in compliance with the San José Green Building Ordinance for Private Sector New Construction, as set forth in Municipal Code Section 17.84. Therefore, the project would satisfy criteria 1 and 2, above. The site does not contain historic structures and the project does not propose an energy-intensive use; therefore, criteria 4, 5, and 7 are not applicable to the project. The proposed project, which would include approximately 100 employees, would implement TDM measures (refer to Section 4.17, Transportation).

As previously mentioned, the General Plan FEIR and SEIR has determined that full buildout of the General Plan would result in significant unavoidable GHG impacts. However, the project would continue to comply with existing regulations to reduce emissions at a project-level and would comply with regional and State GHG reduction thresholds through 2030. For these reasons, the project would not result in a significant GHG emissions impact due to inconsistencies with the City's GHG Reduction Strategy and applicable policies. **(Less than Significant Impact)**

Climate Smart San José

Climate Smart San José has been adopted by the City with the purpose of creating a more sustainable, connected, and economically inclusive City. Climate Smart San José is aligned with General Plan growth patterns and General Plan policies which prioritize automobile-alternative transportation modes, encourage denser development, and ensure energy-efficient features are included in new buildings.

As discussed in Section 4.6, Energy, the project would be subject to the Green Building Policy, which requires new development to incorporate energy conservation and efficiency through site design, architectural design, and construction techniques. As discussed in Section 4.17, Transportation, the project would implement mitigation measures (MM TRN-2.1 and -2.2) to achieve a 25 percent reduction in vehicle miles traveled. Furthermore, the proposed project is an infill development which would densify the use of the site and bring new jobs to an already developed area. For these reasons, the project is consistent with the City's climate action goals as set forth in Climate Smart San José. **(Less than Significant Impact)**

4.9 HAZARDS AND HAZARDOUS MATERIALS

The discussion in this section is based in part on the *Phase I Environmental Site Assessment* prepared by *Cornerstone Earth Group* in March 2018 and the Environmental Soil Screening Study Test Results prepared by *Cleary Consultants* in December 2012. The reports are included in this Initial Study as Appendix D1 and D2, respectively.

4.9.1 Environmental Setting

4.9.1.1 *Regulatory Framework*

Comprehensive Environmental Response, Compensation, and Liability Act

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted by Congress in 1980. This law provided broad federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. CERCLA established prohibitions and requirements concerning closed and abandoned hazardous waste sites, provided for liability of persons responsible for releases of hazardous wastes at these sites, and established a trust fund to provide for cleanup when no responsible party could be identified.

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA), initially authorized in 1976, gives the USEPA the authority to control hazardous waste from "cradle-to-grave." This includes the generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA also set forth a framework for the management of non-hazardous solid wastes. The 1986 amendments to RCRA enabled the USEPA to address environmental problems that could result from underground tanks storing petroleum and other hazardous substances.

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 Regional Water Quality Control Board also provides regulatory oversight for sites with contaminated groundwater or soils.

Government Code §65962.5 (Cortese List)

Section 65962.5 of the Government Code requires the California Environmental Protection Agency (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.

Federal Aviation Regulations, Part 77

Federal Aviation Regulations, Part 77, "Objects Affecting Navigable Airspace" (FAR Part 77) sets forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of potential structures and minimizing other potential hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircraft in flight. These regulations require that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways.

Based on the Norman Y. Mineta San José International Airport's (SJIA) FAA Noticing Requirement Criteria Map, which determines if proposed developments require FAA airspace safety review based the heights of proposed structures, the project would not require submittal to the FAA due to the distance of the site from SJIA.

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

The SJIA is located approximately 6.5 miles north of the project site. Development within the Airport influence Area (AIA) can be subject to hazards from aircraft and also pose hazards to aircraft travelling to and from the airport. The AIA is a composite of areas surrounding the airport that are affected by noise, height and safety considerations. These hazards are addressed in federal and state regulations as well as in land use regulations and policies in the Airport Comprehensive Land Use Plan (CLUP). The project site is not located within the AIA nor the safety zones designated by the CLUP.

Envision San José 2040 General Plan

In addition to the above regulations, various policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating hazards and hazardous materials impacts resulting from planned development within the City. The proposed project would be subject to the hazards and hazardous materials policies and actions of the City's General Plan, including the following:

Envision San José 2040 Relevant Hazardous Material Policies

Policy	Description
Policy EC-6.6	Address through environmental review for all proposals for new residential, park and recreation, school, day care, hospital, church or other uses that would place a sensitive population in close proximity to sites on which hazardous materials are or are likely to be located, the likelihood of an accidental release, the risks posed to human health and for sensitive populations, and mitigation measures, if needed, to protect human health.
Policy EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
Policy EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.

Policy EC-7.4	On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-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.
Policy EC-7.9	Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.
Action EC-7.10	Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.
Action EC-7.11	Require sampling for residual agricultural chemicals, based on the history of land use, on sites to be used for any new development or redevelopment to account for worker and community safety during construction. Mitigation to meet appropriate end use such as residential or commercial/industrial shall be provided.

4.9.1.2 *Existing and Historic Conditions*

The approximately 7.7-acre project site is located on the west side of Union Avenue, approximately ¼-mile north of SR-85. The project site is currently developed with a pre-school campus which includes five academic/classroom buildings, a gymnasium, a music/drama class building, an administration building (which fronts Union Avenue), a paved parking lot and a student drop-off area. The school campus also includes playgrounds, basketball courts, turf fields and mature landscaping. Based on historical data, groundwater beneath the site is likely present at depths between 130 to 140 feet below ground surface. A perched water bearing zone also has been reported at a depth of approximately 35 feet below ground surface. Groundwater beneath the site flows toward the northeast.

Surrounding land uses include single-family residential to the west and north, single-family and duplex residential to the east (across Union Avenue), and light industrial to the south.

Historic Uses of the Project Site and Surrounding Land Uses

The project site was occupied by an orchard between 1939 and 1948. In 1953, the site was occupied by a school (Lewis Park School). The school remained on-site until at least 1982. By 1993, the Lewis Parker School had been demolished and construction of the existing school buildings was in progress. By 1998, current buildings on-site were constructed.

The project vicinity historically consisted mainly of agricultural land (orchards) with widely spaced residences. During the 1940s, 1950s and 1960s, residential development increased to the east, north and west of the site. From the 1960s to the early 1980s, a golf course was located immediately to the

south of the site. The golf course was replaced with the existing light industrial office buildings to the south of the site, constructed between 1982 and 1998.

On-Site Sources of Contamination

As a part of the Phase I ESA, a review of federal, state and local regulatory agency databases was completed to evaluate the likelihood of contamination incidents at and near the project site. The purpose of the records review was to obtain available information to help identify recognized environmental conditions.

The Harker Preschool was identified on the HAZNET database, which contains data extracted from the copies of hazardous waste manifests received each year by the DTSC. Listed wastes disposed in 2014 were categorized as laboratory waste chemicals. The Harker Preschool was also listed on City and County databases of facilities that use hazardous materials or generate hazardous waste, which included ceramic glazes (0.5 gallons), used motor oil (five gallons) and latex paint (30 gallons).

Santa Clara County (SCC) Children's Shelter (previously on the site) was listed on the Facility Index System (FINDS) database, which contains both facility information and references to other sources that contain more detail. The listing indicates that the facility was subject to the California Environmental Reporting System (GERS), a statewide web-based system that facilitates electronically collecting and reporting various hazardous materials, hazardous waste and compliance/enforcement data as mandated by the California Health and Safety Code and other legislation.

The Harker Preschool and Santa Clara County also were listed under the site's address on databases of facilities that emit air pollutants; these listings are generally associated with the operation of emergency power generators.

Chemical Use and Storage

Common facility maintenance supplies (mainly paint related products), janitorial products, and classroom art supplies are used and stored on-site. An emergency generator with a diesel fuel above ground storage tank (AST) historically was present on-site between 1991 and 2010 (based on San Jose Fire Department records).

Based on the Phase I ESA site reconnaissance in February 2018, no evidence of hazardous materials spills was present. The site did not appear to have been historically been occupied by businesses that are typically associated with the use or storage of hazardous materials.

Former Agricultural Use

The project site was used for agricultural purposes between 1939 and 1948. Pesticides may have been applied to crops in the normal course of farming operations. Given the site's historic agricultural uses and the possible presence of residual pesticide concentrations in on-site soils, soil sampling for agricultural chemicals was completed in agricultural chemicals was completed in November 2012 at the site. Concentrations of motor oil and diesel chemicals, volatile organic compounds (VOCs), CAM 17 metals (including lead), and asbestos were also analyzed. Three soil samples collected to the depth of three feet below ground surface. The sample results showed that the

analyzed contaminant concentrations were below San Francisco Bay Regional Water Quality Control Board (RWQCB) environmental screening levels (ESLs) or background metal concentrations.

Lead-Based Paint and Asbestos-Containing Building Materials

The existing buildings on-site were constructed in the 1990s. The use of lead-based paint was banned by the U.S. Consumer Product Safety Commission in 1978. Therefore, the buildings on-site would not likely contain lead-based paint. Given the age of the existing buildings on-site, the building materials do not likely contain asbestos. Based on the November 2012 sampling event, the soils on-site do not contain hazardous levels of lead or asbestos from previous on-site structures.

Off-Site Sources of Contamination

Based on the review of the of regulatory agency databases, no nearby off-site spill incidents were reported that appear likely to significantly impact soil, soil vapor or ground water beneath the site. The potential for impact was based on the types of reported incidents, the locations of the reported incidents in relation to the site and the assumed groundwater flow direction.

4.9.1.3 *Other Hazards*

Wildfire Hazards

The project site is surrounded by residential and light industrial development. The site is not mapped within a Very-High Fire Hazard Severity Zone for wildland fires designated by California Department of Forestry and Fire Protection (CalFIRE).[34]

4.9.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐
2) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☒	☐	☐
3) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☒	☐

[34] California Department of Forestry and Fire Protection. Santa Clara County FHSZ Map. November 6, 2007 Available at: http://calfire.ca.gov/fire_prevention/fhsz_maps_santaclara.php. Accessed April 27, 2018.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
4) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?	☐	☐	☐	☒
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☐	☒
6) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☒	☐
7) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	☐	☐	☐	☒

Impact HAZ-1: The project would not create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials. **(Less than Significant Impact)**

The project proposes to redevelop a portion of the Harker school campus and convert it to a middle school campus without the increase of number of allowable students. Hazardous materials and chemicals for cleaning and/or teaching purposes could potentially be housed and handled on-site. However, as required by local and state policies, chemicals are expected to be handled and disposed of properly. The project, therefore, would not result in a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials. **(Less than Significant Impact)**

Impact HAZ-2: The project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. **(Less than Significant Impact with Mitigation Incorporated)**

Impacts from Contaminated Soil

The project site was historically used for agricultural purposes. The previous on-site structures, which were constructed in the 1950's and demolished by 1991, could have contained lead-based paint and asbestos. Soil sampling was completed in November 2012 to determine the concentrations of pesticides, CAM 17 metals, VOCs, lead and asbestos in on-site soils. Results showed that the chemicals and metals that were analyzed were below ESLs or background concentrations, however, the samples were collected from a depth (two and one half to three feet) that is below the depth in

which pesticides are typically found (upper two feet). The on-site soils could therefore potentially contain levels of pesticides and pesticide-based metals such as arsenic and lead that would pose a health risk for construction workers and future site occupants.

Mitigation Measures: The project would implement the following measure to avoid soil contamination impacts. With incorporation of this measure, the project would result in a less than significant impact.

MM HAZ-2: Prior to issuance of any demolition or grading permits, the project applicant shall collect shallow soil samples in the near surface soil within the proposed project area and tested for organochlorine pesticides and pesticide-based metals such as arsenic and lead to determine if contaminants from previous agricultural operations occur at concentrations above established construction worker safety and commercial/industrial standard environmental screening levels. The results of soil sampling and testing shall be provided to the Director of Planning or Director's designee of the City of San José Department of Planning, Building, and Code Enforcement and Municipal Environmental Compliance Officer for review.

If pesticide contaminated soils are found in concentrations above the appropriate regulatory environmental screening levels for the proposed project, the project applicant shall obtain regulatory oversight from the Santa Clara County Department of Environmental Health (or Department of Toxic Substances Control) under their Voluntary Cleanup Program. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared by a qualified hazardous materials consultant. The plan shall establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future workers and visitors. The Plan and evidence of regulatory oversight shall be provided to the Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement and the Environmental Compliance Officer in the City of San José's Environmental Services Department.

Adherence to the requirements of the mitigation measures described above would ensure the proposed project does not expose construction workers and adjacent uses to potentially harmful levels of contamination in the soils on-site. **(Less than Significant Impact with Mitigation Incorporated)**

Asbestos-Containing Materials and Lead-Based Paint Impacts

Given the age of the existing buildings, the structures on-site do not likely contain lead-based paint or asbestos. Lead-based paint was banned in 1978 and the structures on-site were constructed in the 1990s. However, an asbestos survey may be required by local authorities in accordance with National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines and Occupational Safety and Health Administration (OSHA) regulations. The project would be required to implement the

following Standard Permit Conditions to reduce impacts due to the presence of Asbestos Containing Materials (ACMs) and/or lead-based paint.

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(s) 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 of Regulations (CCR), Section 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 type of lead being disposed.
- All potentially friable asbestos containing materials (ACMs) shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, 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.
- Based on Cal/OSHA rules and regulations, the following conditions are required to limit impacts to construction workers.
- Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint.
- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR, Section 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 type of waste being disposed.

The proposed project, with the implementation of the Standard Permit Conditions listed, would result in a less than significant ACM and/or lead impact on future construction workers and the environment. **(Less than Significant Impact)**

Impact HAZ-3:	The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. **(Less than Significant Impact)**

The closest school to the project site is Carlton Avenue School, located at 2421 Carlton Avenue, approximately 0.7 miles southwest of the project site. The project site is not located within one-quarter mile of any off-site proposed or existing school. Operation of the proposed junior high school would only include handling of cleaning chemicals in small chemicals and would not generate hazardous waste or use hazardous materials. As a result, implementation of the proposed project would not result in a hazardous materials impact to any nearby school. **(Less than Significant Impact)**

Impact HAZ-4:	The project would not be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or the environment. **(No Impact)**

The project site is listed on regulatory agency databases due to the previous operation of a diesel-fueled emergency generator; however, the site is not on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. **(No Impact)**

Impact HAZ-5:	The project would not be 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. The project would not result in a safety hazard or excessive noise for people residing or working in the project area. **(No Impact)**

The project site is 6.5 miles from the SJIA, and there are no private airports in the vicinity of the site. The project does not require airspace safety review by the FAA and is not located within the ALUC's Airport Influence Area. The project would not result in aircraft safety hazards nor and would not result in a substantial safety hazard for people residing or working in the project area. **(No Impact)**

Impact HAZ-6:	The project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. **(Less than Significant Impact)**

Redeveloping a portion of the existing Harker Preschool and converting it to a middle school campus may require the project to revise and update its own emergency operational plan to be consistent with the updated layout of the site. However, redevelopment of the site would not impair the requirement of developing a new, revised, and applicable plan. Furthermore, the project is proposing a redevelopment of the same use in an already developed area with emergency services available to the site. Therefore, the proposed project would not physically interfere with or impair an adopted emergency response or evacuation plan. **(Less than Significant Impact)**

Impact HAZ-7:	The project would not 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 within a developed area of San José that is not subject to wildland fires. Therefore, the proposed project would not expose people or structures to a significant risk of loss, injury or death involving wildland fires. **(No Impact)**

4.10 HYDROLOGY AND WATER QUALITY

4.10.1 Environmental Setting

4.10.1.1 *Regulatory Framework*

State Water Quality Control Board Nonpoint Source Pollution Program

The Federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality in California. Regulations set forth by the U.S. EPA and the State Water Resources Control Board (SWRCB) have been developed to fulfill the requirements of this legislation. EPA's regulations, under Section 402 of the Clean Water Act, include the NPDES permit program, which controls sources that discharge pollutants into the waters of the United States (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by the water quality control boards, which for the San José area is the San Francisco Bay Regional Water Quality Control Board (RWQCB).

In 1988, the SWRCB adopted the Nonpoint Source Management Plan in an effort to control nonpoint source pollution in California. In December 1999, the Plan was updated to comply with the requirements of Section 319 of the Clean Water Act and Section 6217 of the Coastal Zone Act Reauthorization Amendment (CZARA) of 1990. The Nonpoint Source Program requires individual permits to control discharge associated with construction activities. The Nonpoint Source Program is administered locally by the RWQCB under the National Pollutant Discharge Elimination System (NPDES) General Permit for Construction Activities (Construction General Permit). Projects must comply with the requirements of the Nonpoint Source Program if:

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

The Construction General Permit requires the applicant to submit a Notice of Intent (NOI) to the SWRCB and to develop a Storm Water Pollution Prevention Plan (SWPPP) prior to commencement of construction. The SWPPP addresses appropriate measures for reducing construction and post-construction impacts.

All development projects, whether subject to the Construction General Permit or not, must comply with the City of San José's Grading Ordinance, which requires the use of erosion and sediment controls to protect water quality while the site is under construction. Prior to the issuance of a permit for grading activity occurring during the rainy season (October 1 to April 30), the project must submit to the Director of Public Works an Erosion Control Plan detailing Best Management Practices (BMPs) that will prevent the discharge of stormwater pollutants from the site.

Municipal Regional Stormwater NPDES Permit/Provision C.3

The City of San José is required to operate under an NPDES permit to discharge stormwater from the City's storm drain system to surface waters. The Municipal Regional Stormwater Permit (MRP), adopted by the San Francisco Bay Regional Water Quality Control Board in 2015 (Order No. R2-2015-0049) covers 76 Bay Area municipalities and county agencies as co-permittees, including the City of San José. The MRP mandates that the co-permittees use their planning and development

review authority to require that stormwater management measures such as site design, pollutant source control and treatment measures be included in new and redevelopment projects to minimize and properly treat stormwater runoff. Provision C.3 of the MRP regulates the following types of development projects:

- Projects that create or replace 10,000 square feet or more of impervious surface; and
- Special Land Use Categories that create or replace 5,000 square feet or more of impervious surface.

The MRP requires regulated projects to incorporate Low Impact Development (LID) practices, which are intended to reduce runoff and mimic a site's predevelopment hydrology by minimizing disturbed areas and impervious cover and then infiltrating, storing, detaining, evapotranspiring, and/or biotreating stormwater runoff close to its source. LID employs principles such as preserving and recreating natural landscape features and minimizing imperviousness to create functional and appealing site drainage that treats stormwater as a resource, rather than a waste product. Practices used to adhere to these LID principles include measures such as rain barrels and cisterns, green roofs, permeable pavement, preserving undeveloped open space, and biotreatment through rain gardens, bioretention units, bioswales, and planter/tree boxes. The MRP also requires that stormwater treatment measures are properly installed, operated and maintained.

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

The City of San José's Policy No. 6-29 implements the stormwater treatment requirements of Provision C.3 of the MRP. Policy No. 6-29 requires all new and redevelopment projects regardless of size and land use to implement post-construction BMPs and Treatment Control Measures (TCM) to the maximum extent practicable. 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 surface area.

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

The City of San José's Policy No. 8-14 implements the hydromodification management provisions of the MRP. Policy No. 8-14 requires all new and redevelopment projects that create or replace one acre or more of impervious surface area to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through development and implementation of a Hydromodification Management Plan.

Based on the Santa Clara Valley Urban Runoff Pollution Prevention Program's Hydromodification Management Applicability Map for San José, the project site is exempt from the hydromodification requirements of the MRP because it is located in a subwatershed greater than or equal to 65 percent impervious.[35]

[35] Santa Clara Valley Urban Runoff Pollution Prevention Program. Accessed on April 18, 2018. <http://www.scvurppp-w2k.com/HMP_app_maps/San_Jose_HMP_Map.pdf>.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The proposed project would be subject to applicable policies of the City's General Plan, including the following:

Envision San José 2040 Relevant Hydrology and Water Quality Policies

Policy	Description
Policy IN-3.1	Achieve minimum level of services: • For sanitary sewers, achieve a minimum level of service "D" or better as described in the Sanitary Sewer Level of Service Policy and determined based on the guidelines provided in the Sewer Capacity Impact Analysis (SCIA) Guidelines. • For storm drainage, to minimize flooding on public streets and to minimize the potential for property damage from stormwater, implement a 10-year return storm design standard throughout the City, and in compliance with all local, State and Federal Regulatory requirements.
Policy IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.
Policy IN-3.10	Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES).
Policy MS-3.4	Promote the use of green roofs (i.e., roofs with vegetated cover), landscape-based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.
Policy MS-3.5	Minimize area dedicated to surface parking to reduce rainwater that comes into contact with pollutants.
Policy MS-20.2	Avoid locating new development or authorizing activities with the potential to negatively impact groundwater quality in areas that have been identified as having a high degree of aquifer vulnerability by the Santa Clara Valley Water District or other authoritative public agency.
Policy MS-20.3	Protect groundwater as a water supply source through flood protection measures and the use of stormwater infiltration practices that protect groundwater quality. In the event percolation facilities are modified for infrastructure projects, replacement percolation capacity will be provided.
Policy ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
Policy ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
Policy ER-9.5	Protect groundwater recharge areas, particularly creeks and riparian corridors.

Action ER-8.10	Participate in the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) and take other necessary actions to formulate and meet regional water quality standards which are implemented through the National Pollution Discharge Elimination System (NPDES) permits and other measures.
Policy EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls.
Policy EC-5.7	Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.
Policy EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

4.10.1.2 *Existing Conditions*

Flooding

The project site is not located within a 100-year flood zone. Based on the Federal Emergency Management Agency's Flood Insurance Rate Maps, the project site is located within Zone D. Flood Zone D denotes areas of undetermined, but possible, flood hazards.

Storm Drainage System

Storm drainage lines in the area are provided and maintained by the City of San José. The site is served by a 12-inch stormwater line in Union Avenue. Stormwater runoff is conveyed through a network of storm drain lines, including the line in Union Avenue, to a discharge point at Los Gatos Creek, approximately 2.5 miles north of the project site. Storm drain capacity is currently adequate to serve the existing preschool campus and is expected to be available to serve the project, as well.

Groundwater

The project site is not a designated groundwater recharge area.

4.10.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	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 ground water quality?	☐	☐	☒	☐

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
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:	☐	☐	☒	☐
– result in substantial erosion or siltation on- or off-site;	☐	☐	☒	☐
– substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;	☐	☐	☒	☐
– 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; or	☐	☐	☒	☐
– impede or redirect flood flows?	☐	☐	☒	☐
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?	☐	☐	☐	☒

Impact HYD-1: The project would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality. **(Less than Significant Impact)**

Construction Impacts

Construction of the proposed project, including grading and excavation activities, may result in temporary impacts to surface water quality. When disturbance to underlying soils occurs, surface runoff that flows across the site may contain sediments that are ultimately discharged into the storm drainage system. All construction or demolition activity that results in land disturbances equal to or greater than one acre must obtain coverage under the Construction General Permit, which is administered by the SWRCB. The project would disturb greater than one acre of land and, therefore, would require coverage under the Construction General Permit.

All development projects in San José must comply with the City's Grading Ordinance whether or not the projects are subject to the Construction General Permit. The City of San José Grading Ordinance

requires the use of erosion and sediment controls to protect water quality while a site is under construction. Prior to issuance of a permit for grading activity occurring during the rainy season (October 1st to April 30th), the applicant is required to submit an Erosion Control Plan to the Director of Public Works for review and approval. The Plan must detail the Best Management Practices (BMPs) that would be implemented to prevent the discharge of stormwater pollutants.

Standard Permit Conditions: The following measures are included in the project to prevent stormwater pollution and minimize potential sedimentation during construction:

- 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.

The proposed project, with implementation of the standard permit conditions listed above and included in the project, would not result in significant construction-related water quality impacts. **(Less than Significant Impact)**

Post-Construction Impacts

The proposed project would replace more than 10,000 square feet of existing impervious surface area; therefore, it is considered a regulated project under Provision C.3 of the MRP and must provide on-site runoff treatment in conformance with the Provision C.3 requirements, and in conformance with Runoff Policy 6-29.

The project proposes the use of numerically sized bioretention basins to meet the on-site runoff treatment requirements of the MRP and Policy 6-29. Stormwater runoff from the new impervious surfaces on the site (building roofs, paved walkways and drive aisles) will drain into adjacent bioretention facilities, which will have sufficient capacity to treat the runoff prior to it entering the storm drainage system. Site design and pollutant source control measures included in the project include the preservation of existing trees, use of drought-tolerant and water-conserving landscape materials, and stenciled storm drain inlets.

Implementation of the site design, source control and LID-based runoff treatment controls described above would reduce the rate of stormwater runoff while also removing pollutants. For these reasons, development of the proposed project would not result in significant impacts to post-construction water quality. **(Less than Significant Impact)**

Impact HYD-2:	The project would not 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 Impact)**

The project site is not located within a designated groundwater recharge zone.[36] The proposed development portion of the site, in its existing condition, contains approximately 48 percent impervious surface area (driveways, walkways and building roofs). Because the proposed project would result in only a slight increase in impervious area on the site (10 percent), it would not substantially affect groundwater recharge. **(Less than Significant Impact)**

Impact HYD-3:	The project would not 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 result in substantial erosion or siltation on- or off-site; substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; 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; or impede or redirect flood flows. **(Less than Significant Impact)**

The existing City stormwater system collects untreated stormwater from the site and surrounding area and discharges it to Los Gatos Creek approximately 2.5 miles north of the site via a network of storm drainpipes and an outfall to the creek. Development of the proposed project would not substantially alter the existing drainage pattern of the site. The drainage pattern under the proposed project would be similar to existing conditions, except the runoff generated by the project site would be treated by on-site stormwater treatment control measures, prior to entering the stormwater drainage system. The proposed stormwater treatment source control and treatment control measures would reduce the rate of stormwater runoff while also removing pollutants. While there would be an incremental increase in the volume of stormwater generated from the site due to a marginal increase (approximately 10 percent) in impervious surface area, the project would not change the drainage patterns on the site or exceed the capacity of existing stormwater drainage facilities in the project area. **(Less than Significant Impact)**

[36] Santa Clara Valley Water District. *Groundwater Management Plan.* November 2016.

Impact HYD-4:	The project would not risk release of pollutants due to project inundation in flood hazard, tsunami, or seiche zones. **(No Impact)**

The project site is not located within a 100-year floodplain. The site is also not within the Lexington Dam or Anderson Dam failure inundation zones.[37] The potential for dam failure is reduced by several regulatory inspection programs, and the risk to people and property, if dam failure were to occur, is reduced by local hazard mitigation planning. Implementation of the proposed project would not exacerbate flooding impacts on neighboring properties, nor would it expose residences to substantial flood hazards.

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

A tsunami or tidal wave is a series of water waves caused by displacing a large volume of a body of water, such as an ocean or a large lake. Due to the immense volumes of water and energy involved, tsunamis can devastate coastal regions. The project site is not located within a tsunami inundation hazard area.[38]

A mudflow is the rapid movement of a large mass of mud formed from loose soil and water. The project site and surrounding area are flat. Therefore, the site is not susceptible to mudflows.

For these reasons, the proposed project would not be subject to inundation by seiches, tsunamis, or mudflows. **(No Impact)**

Impact HYD-5:	The project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan. **(No Impact)**

The SCVWD prepared a Groundwater Management Plan (GMP) for the Santa Clara and Llagas subbasins in 2016, describing its comprehensive groundwater management framework including objectives and strategies, programs and activities to support those objectives, and outcome measures to gauge performance. The GMP is the guiding document for how the SCVWD will ensure groundwater basins within its jurisdiction are managed sustainably. The Santa Clara subbasin has not been identified as a groundwater basin in a state of overdraft.

The project site is not located within, or adjacent to, a SCVWD groundwater recharge pond or facility.[39] Implementation of the proposed project would not interfere with actions set forth by the SCVWD in its GMP regarding groundwater recharge, transport of groundwater, and/or groundwater quality. Therefore, the proposed project would not preclude the implementation of the GMP. **(No Impact)**

[37] Santa Clara Valley Water District. Lenihan (Lexington) Dam Flood Inundation Maps, Leroy Anderson Dam Flood Inundation Maps. April 2016.
[38] California Department of Conservation. "Santa Clara County Tsunami Inundation Quads". Accessed April 19, 2018. Available at: http://www.conservation.ca.gov/cgs/geologic_hazards/Tsunami/Inundation_Maps/SantaClara
[39] SCVWD. *2016 Groundwater Management Plan.* Figure 1-3. 2016.

4.11 LAND USE AND PLANNING

4.11.1 Environmental Setting

4.11.1.1 *Regulatory Framework*

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigation impacts resulting from planned development projects in the City. The proposed project would be subject to the land use policies of the City's General Plan, including the following:

Envision San José 2040 Relevant Land Use Policies

Policies	Description
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).
Policy CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.
Policy LU-1.5	With new development or expansion and improvement of existing development or uses, incorporate measures to comply with current Federal, State, and local standards.
Policy LU-1.8	Preserve existing Public/ Quasi-Public lands in order to maintain an inventory of sites suitable for Private Community Gathering Facilities, particularly within the Residential Neighborhoods, Urban Villages and commercial areas, and to reduce the potential conversion of employment lands to non-employment use.
Policy LU-6.2	Prohibit encroachment of incompatible uses into industrial lands, and prohibit non-industrial uses which would result in the imposition of additional operational restrictions and/or mitigation requirements on industrial users due to land use incompatibility issues.

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

As discussed in Section 4.4, *Biological Resources* of this Initial Study, the Habitat Plan is a conservation program intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth on approximately 500,000 acres of southern Santa Clara County.

The project site is located within the Habitat Plan study area and is designated as *Urban-Suburban* land. *Urban-Suburban* land is comprised of areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures, and is defined as areas with one or more structures per 2.5 acres.

The SJIA is the nearest airport to the site and is located approximately 6.5 miles to the north. Development within the Airport influence Area (AIA) can be subject to hazards from aircraft and also pose hazards to aircraft travelling to and from the airport. The AIA is a composite of areas surrounding the airport that are affected by noise, height and safety considerations. These hazards are addressed in federal and state regulations as well as in land use regulations and policies in the Airport Comprehensive Land Use Plan (CLUP). The project site is not located within the AIA nor the safety zones designated by the CLUP and would not be subject to CLUP policies.

Federal Aviation Regulations, Part 77, "Objects Affecting Navigable Airspace" (referred to as FAR Part 77), requires that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which otherwise stand at least 200 feet in height above ground. Based on the SJIA's FAA Noticing Requirement Criteria Map, which determines if proposed developments require FAA airspace safety review based the heights of proposed structures, the project would not require submittal to the FAA due to the distance of the site from SJIA.

4.11.1.2 *Existing Conditions*

The approximately 7.7-acre project site is located on the west side of Union Avenue, approximately ¼-mile north of SR-85. It is currently developed with a pre-school campus which includes five academic/classroom buildings which total 24,385 square feet, an 8,830 square foot gymnasium, a 10,120 square foot music/drama class building, a 27,845 square foot administration building (which fronts Union Avenue), a paved parking lot and student drop-off area. The school campus also includes parking lots, playgrounds, basketball courts, turf play fields and mature landscaping.

4.11.1.3 *Surrounding Land Uses*

Surrounding land uses include single-family residential to the west and north, single-family and duplex residential to the east (across Union Avenue), and light industrial to the south. The residential neighborhoods surrounding the site can be characterized as single-story, with the tallest structures in the vicinity of the site being the two-story light industrial office buildings on the adjacent parcel to the south. Union Ave, a north-south arterial street running between Blossom Hill Road to the south and Campbell Avenue to the north, borders the site on the east and provides direct access to SR-85 south of the project site.

4.11.1.4 *Existing Land Use Designation and Zoning*

The project site is designated *Public/Quasi-Public* in the Envision San José 2040 General Plan and is zoned *A(PD) Planned Development District*. PD Zoning Districts provide specific development standards and design guidelines for individual sites. The site's *A(PD)* zoning allows for the existing pre-school and proposed middle school uses.

The *Public/Quasi-Public* designation allows public land uses, including schools, colleges, corporation yards, homeless shelters, libraries, fire stations, water treatment facilities, convention centers and auditoriums, museums, governmental offices and airports. The land use allows some

private entities, including private schools, daycare centers, hospitals, public utilities, and the facilities of any organization involved in the provision of public services such as gas, water, electricity, and telecommunications facilities that are consistent in character with established public land uses.

4.11.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Physically divide an established community?	☐	☐	☐	☒
2) 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?	☐	☐	☐	☒

Impact LU-1: The project would not physically divide an established community. **(No Impact)**

The project site is developed with a preschool and is surrounded by single-family residences to the east, north, and west, and light industrial office buildings to the south. Examples of projects that have the potential to physically divide an established community include new freeways and highways, major arterial streets, and railroad lines. The existing 7.7-acre site is a preschool campus with entitlement for up to 600 students. The proposed project would demolish three of the five existing on-site classroom buildings, expand the existing on-site gymnasium building, reconfigure the existing on-site outdoor turf field and basketball recreation area, and construct a new, two-story classroom building on the site. The proposed buildings would be similar in height and architecture to the existing on-site buildings. The proposed middle school campus would not physically divide an established community. **(No Impact)**

Impact LU-2: The project would not 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. **(No Impact)**

General Plan

The project site is designated *Public/Quasi-Public* in the General Plan, which allows for private schools such as the proposed middle school campus. The project would comply with General Plan land use policies including LU-1.8, which requires preservation of existing *Public/Quasi-Public* lands in order to maintain an inventory of sites suitable for private community gathering facilities, particularly within the residential neighborhoods, urban villages and commercial areas, and to reduce the potential conversion of employment lands to non-employment use. The project site is already developed and located in an urban-suburban area; no open space would be converted into new development by the project. The project would also not exceed any height limitations adopted for aviation safety. **(No Impact)**

Zoning Ordinance

The project applicant has filed a Planned Development Permit application, in conformance with the previously approved Planned Development Rezoning (File No. PDC91-077) on the site to allow the proposed private middle school development. The proposed project, which includes demolition of existing buildings and construction of new buildings, would comply with the development and performance standards of the existing A(PD) zoning on the property, and would not result in any significant land use impacts. **(No Impact)**

Airport Plans and Policies

The nearest airport to the site is SJIA, which is located approximately 6.5 miles north of the site. Per the Santa Clara County Comprehensive Land Use Plan (CLUP), the project site is not within the AIA, nor is the project it considered an aircraft hazard under Federal Aviation Regulations FAR Part 77 requirements. The project would, therefore, not conflict with any applicable airport plans or regulations. **(No Impact)**

4.12 MINERAL RESOURCES

4.12.1 Environmental Setting

The Santa Clara Valley was formed when sediments derived from the Santa Cruz Mountains and the Mount Hamilton-Diablo Range were exposed by continuous tectonic uplift and regression of the inland sea that had previously inundated the area. As a result of this process, the topography of the City is relatively flat and there are no significant mineral resources. The project site is not located in an area containing known mineral resources.

The State Mining and Geology Board under the Surface Mining and Reclamation Act of 1975 (SMARA) has designated an area of Communications Hill in Central San José, bounded by the Union Pacific Railroad, Curtner Avenue, State Route 87, and Hillsdale Avenue, as a regional source of construction aggregate materials. Other than the Communications Hills area, San José does not have mineral deposits subject to SMARA.

4.12.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state?	☐	☐	☐	☒
2) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒

Impact MIN-1: The project would not result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state. **(No Impact)**

The Communications Hill area in central San José is the only area within the City of San José that is designated by the State Mining and Geology Board as containing mineral deposits of regional significance. The project site is not on or adjacent to Communications Hill. The project would not result in the loss of availability of a known mineral resource. **(No Impact)**

Impact MIN-2: The project would not 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 not located in an area of San José or Santa Clara County with known mineral resources. Therefore, the project would not result in the loss of availability of a mineral resource recovery site. **(No Impac**t)

4.13 NOISE AND VIBRATION

The following discussion and analysis are based in part on a noise and vibration assessment prepared for the project by *Illingworth & Rodkin, Inc.* A copy of the report, dated September 17, 2018 and revised May 29, 2019, is included as Appendix E to this Initial Study.

4.13.1 Environmental Setting

4.13.1.1 *Background Information*

Fundamentals of Environmental Noise

Noise may be defined as unwanted sound. 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.

In addition to the concepts of pitch and loudness, there are several noise measurement scales which are used to describe noise in a particular location. A decibel (dB) is a unit of measurement which indicates the relative amplitude of a sound. The zero on the decibel scale is based on the lowest sound level that the healthy, unimpaired human ear can detect. Sound levels in decibels are calculated on a logarithmic basis. An increase of 10 decibels represents a ten-fold increase in acoustic energy, while 20 decibels is 100 times more intense, 30 decibels is 1,000 times more intense, and etcetera. There is a relationship between the subjective noisiness or loudness of a sound and its intensity. Each 10 decibel increase in sound level is perceived as approximately a doubling of loudness over a fairly wide range of intensities.

There are several methods of characterizing sound. The most common in California is the A-weighted sound level (dBA). This scale gives greater weight to the frequencies of sound to which the human ear is most sensitive. Because sound levels can vary notably over a short period of time, a method for describing either the average character of the sound or the statistical behavior of the variations must be utilized. Most commonly, environmental sounds are described in terms of an average level that has the same acoustical energy as the summation of all the time-varying events. This energy-equivalent sound/noise descriptor is called Leq. The most common averaging period is hourly, but Leq can describe any series of noise events of arbitrary duration. Sound level meters can accurately measure environmental noise levels to within approximately plus or minus one dBA.

Various computer models are used to predict environmental noise levels from sources, such as roadways and airports. The accuracy of the predicted models depends upon the distance the receptor is from the noise source. Close to the noise source, the models are accurate to within about plus or minus one to two dBA. 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 five-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 Ldn) 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.

Fundamentals 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. The PPV descriptor with units of mm/sec or in/sec is used to evaluate construction generated vibration for building damage and human complaints.

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 induce structural damage and the degree of annoyance for humans.

The two primary concerns with construction-induced vibration, the potential to damage a structure and the potential to interfere with the enjoyment of life, are evaluated against different vibration limits. 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, that 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 4.13-1 include several categories for ancient, fragile, and historic structures, the types of structures most at risk to damage. Most buildings are included within the categories ranging from “Historic and some old buildings” to “Modern industrial/commercial buildings”. 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.

Table 4.13-1: Vibration Human Reaction and Building Damage

Velocity Level, PPV (in/sec)	***Human Reaction***	***Effect on Buildings***
0.01	Barely perceptible	No effect
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	Virtually no risk of damage to normal buildings
0.3	Strongly perceptible to severe	Threshold at which there is a risk of damage to older residential dwellings such as plastered walls or ceilings
0.5	Severe - Vibrations considered unpleasant	Threshold at which there is a risk of damage to newer residential structures

Source: Transportation and Construction Vibration Guidance Manual, California Department of Transportation, September 2013.

4.12.1.2 *Regulatory Framework*

State of California Code of Regulations, Title 24

The State of California Title 24 standards use the DNL descriptor and specify an exterior noise criterion of 60 dB DNL for the requirement of a noise analysis.

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. The performance method was utilized in the *Illingworth & Rodkin, Inc.* report 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 ($L_{eq\ (1\text{-}hr)}$) 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.

California Collaborative for High Performance School

The California Collaborative for High Performance School (CHPS) provides criteria for interior noise levels in learning spaces of schools due to exterior noise sources, summarized in Table 4.13-2. The CHPS criteria shown in the table refer to hourly average noise levels ($L_{eq(h)}$) during the loudest hour of the school day.

Table 4.13-2: Exterior-to Interior Noise Intrusion Criteria for Schools

	CHPS Prerequisite	***CHPS Enhanced Acoustics***
Core Learning Spaces	45 dB(A) or less indoors	35 dB(A) or less indoors
Ancillary Learning & Assembly Spaces	N/A	40 dB(A) or less indoors

Envision San José 2040 General Plan

The City's Envision San José 2040 General Plan establishes an acceptable exterior noise level of 60 dBA DNL or less for residential and most institutional land uses, including schools (see Table 4.13-3). Outdoor sports and recreation areas and playgrounds are considered acceptable in noise environments of 65 dBA DNL or less.

Table 4.13-3: Envision San José 2040 General Plan Land Use Compatibility Guidelines

Land Use Category	Exterior DNL Value in Decibels					
	55	60	65	70	75	80
1. Residential, Hotels and Motels, Hospitals and Residential Care[1]						
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
3. Schools, Libraries, Museums, Meeting Halls, and Churches						
4. Office Buildings, Business Commercial, and Professional Offices						
5. Sports Arena, Outdoor Spectator Sports						
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters						

Notes: [1]Noise mitigation to reduce interior noise levels pursuant to Policy EC-1.1 is required.

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

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

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

The Environmental Leadership Chapter in the Envision San José 2040 General Plan sets forth policies with the goal of minimizing the impact of noise and vibration on people, residences, and business operations through noise reduction and suppression techniques, and through appropriate land use policies in the City of San José. The following policies are applicable to the proposed project:

Envision San José 2040 Relevant Noise Policies

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

Interior Noise Levels

The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected General Plan traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan.

Exterior Noise Levels

The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses including schools (Table 4.13-3). Outdoor sports and recreation areas and playgrounds are considered acceptable in noise environments of 65 dBA DNL or less.

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

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

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

Policy EC-2.3 Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or buildings 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. Avoid use of impact pile drivers within 25 feet of any buildings, and within 100 feet of a historical building, or building in poor condition. On a project-specific basis, this distance of 100 feet may be reduced to 50 feet 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.

Municipal Code

The City's Municipal Code 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 dB at any property line shared with land zoned for residential use, except upon issuance and in compliance with a Conditional Use Permit. This code is not explicit in terms of the acoustical descriptor associated with the noise level limit. Consistent with General Plan policy E.C.-1.3, a reasonable interpretation of this standard would identify the ambient base noise level criteria as the day/night noise level (DNL) for continuously operating noise sources such as mechanical equipment. For noise sources that are not operating on a 24-hour per day basis, such as sporting events, a reasonable interpretation of this standard would identify the ambient base noise level criteria as the hourly average noise level (Leq).

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.

4.12.1.3 *Existing Conditions*

The project site is located on the west side Union Avenue, approximately 150 feet south of Barrett Avenue in San José. The 7.7-acre project site is the location of the existing Harker Preschool Campus. Existing development on the site includes five 4,877-square-foot classroom buildings, an 11,340-square-foot gymnasium, a 10,121-square-foot a music/drama class building, a 27,854-square-foot administration building (which fronts Union Avenue), a paved parking lot, a student drop-off area, playgrounds, basketball courts, turf fields, and mature landscaping. The campus is immediately surrounded by residential and light industrial land uses. The closest residential building is approximately 20 feet away from the project property line, and the closest residence to an existing building on the site is approximately 35 feet. There is an approximately eight-foot tall masonry wall at the perimeter of the property line, which separates the project site from adjacent homes on the north and west sides, and from the industrial park/office uses on the south site. A dense row of mature redwood trees is also located along the western property line. The existing noise environment in the vicinity of the project site is primarily attributable to traffic along Union Avenue. Outdoor weekday activities occurring at the existing preschool campus, such as children playing on the playground and open space areas, contributes to the existing noise environment.

A noise monitoring survey was conducted from March 6th through March 8th, 2018 by *Illingworth & Rodkin, Inc.* to document existing noise conditions at the site and in the surrounding area. The noise monitoring survey included two long-term (48-hour) measurements and three short-term (10-minute) noise measurements. The short-term measurement locations were selected to be representative of the noise environment in the surrounding neighborhoods. Daytime time periods when the school was in session were selected. The long-term measurements document the diurnal trend in noise levels at locations on the school property, so as to identify existing school activity

noise as well as noise from other noise sources (traffic, etc.). These were ongoing measurements that cover a 48-hour period.

The noise measurement locations are shown on Figure 4.13-1. Long-term measurement one (LT-1) was located on-site along the western site boundary adjacent to the rear yards of the existing residences on Esther Drive that back up to the project site. The primary noise source at this location was vehicular traffic on Barrett Avenue and Esther Drive. Hourly average noise levels at LT-1 ranged from 45 to 53 dBA Leq during the day, and from 43 to 47 dBA Leq during the night. The day-night equivalent noise level at LT-1 was calculated to be 54 dBA DNL.

Long-term measurement two (LT-2) was located on-site along the northern site boundary. The primary noise source at LT-2 was vehicular traffic along Barrett Avenue and occasional noise from activities on the playground. Hourly average noise levels at LT-2 ranged from 48 to 60 dBA Leq during day, and 42 to 51 dBA Leq during the night. The day-night equivalent noise level at LT-2 was calculated to be 56 dBA DNL.

Short-term (10-minute interval) noise measurements were made at three off-site locations to the north, west and south of the site to complete the noise monitoring survey. The results of the short-term noise measurements are summarized in Table 4.13-4. Based on the results of the noise monitoring survey, existing ambient noise levels at the project site range from 54 to 56 dBA DNL. The primary noise source in the project area is traffic on surrounding roadways.

Table 4.13-4: Summary of Short-Term Noise Measurements

ID	***Location (start time)***	***Measured Noise Level (dBA Leq)***	***Primary Noise Source***
ST-1	Parking area south of the site. (01:20 p.m. to 01:30 p.m.)	50	Union Av. traffic and parking lot activities
ST-2	Intersection of Esther Dr. and Ebbesen Av. (01:40 p.m. to 01:50 p.m.)	47	Traffic on Esther Dr. and Ebbesen Av.
ST-3	30 feet from centerline of Barrett Av. (12:10 p.m. to 12:20 p.m.)	57	Traffic on Barrett Av.

NOISE MEASUREMENT LOCATIONS | FIGURE 4.13-1

4.13.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project result in:				
1) 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?	☐	☒	☐	☐
2) Generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☒	☐
3) 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?	☐	☐	☐	☒

4.13.2.1 *Significance Criteria*

Appendix G of the CEQA Guidelines states that a project would normally be considered to result in a significant impact if noise levels conflict with adopted environmental standards or plans, if the project would expose persons to or generate excessive groundborne vibration levels, or if noise levels generated by the project would substantially increase existing noise levels on a permanent or temporary basis. For the purposes of this analysis, the following criteria were used to quantitatively evaluate noise and vibration impacts resulting from the project:

- A significant noise impact would be identified if the project would generate a substantial temporary or permanent noise level increase over ambient noise levels at existing noise-sensitive receptors surrounding the project site and that would exceed applicable noise standards presented in the following *Envision San José 2040 General Plan* policies at existing noise-sensitive receptors surrounding the project site.

  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.

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

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

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

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

- A significant vibration impact would be identified if project construction of the project would generate excessive vibration levels surrounding receptors, and that would exceed applicable noise standards presented in the following *Envision San José 2040 General Plan* policy at existing noise-sensitive receptors surrounding the project site.

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

Impact NOI-1:	The project would not result in 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. **(Less than Significant Impact with Mitigation Incorporated)**

Based on the results of the noise monitoring survey, existing ambient noise levels at the project site range from 54 to 56 dBA DNL. As discussed in further detail below, outdoor activities, mechanical equipment, and project-generated traffic would be the main noise sources during operation of the proposed project.

Outdoor Activities

The reconfigured outdoor recreation area would include a central turf soccer field and four basketball courts along the southern property line. The turf field would be located approximately 130 feet and 200 feet from the northern and western property lines, respectively. The nearest existing residence would be located approximately 155 feet and 230 feet to the north and west of the proposed turf field, respectively. The basketball courts would be located approximately 290 feet and 220 feet from the northern and western property lines, respectively. The nearest residence would be located approximately 310 feet and 240 feet to the north and west of the basketball courts, respectively.

Noise levels generated by field hockey, soccer, and lacrosse games are generally limited to whistles and some cheering. Based on noise monitoring of soccer games at San Jose high schools[40,41] whistles and cheering would be anticipated to generate maximum noise levels of about 58 to 63 dBA L_{max} at residences adjoining the field. Hourly average noise levels during field hockey, soccer, and lacrosse events would be anticipated to be about 60 dBA Leq at a distance of about 100 feet from the center of the field. Noise levels generated during activities at the proposed middle school athletic field would be lower.

While the edge to edge measurement of the new playing field is approximately 155 feet from the nearest residences, the nearest residences are at least 200 feet from the center of soccer field to the west and north. At this distance, the noise levels at residences due to activities on the outdoor field would be 45 dBA Leq or less accounting for attenuation due to existing and proposed school buildings and the existing eight-foot-tall perimeter masonry wall. On a DNL basis, noise levels would be below 45 dBA DNL to the occasional daytime nature of the activities. Since the noise levels would not exceed 55 dBA DNL at sensitive land uses to the north and west, the project will conform to Policy EC-1.3.

Mechanical Equipment

In addition to outdoor activities, operational noise sources associated with the proposed project would include mechanical equipment.

Rooftop equipment, including heating, ventilation, and air conditioning systems, would be centrally located atop both the proposed classroom building (Building E) and the gymnasium/auditorium building (Building C). The rooftop equipment would be screened to reduce noise levels at nearby receptors. Under General Plan Policy EC-1.3, noise generation of new nonresidential land uses would be limited to 55 dBA DNL at receiving noise-sensitive land uses. Based on the acoustical analysis completed for the proposed screened mechanical equipment (refer to Appendix E), noise levels from the screened mechanical equipment would be below 55 dBA DNL at the closest residences.

Traffic Noise

A significant permanent noise impact would occur if the project resulted in an increase of three dBA DNL or greater at noise-sensitive land uses where existing or projected noise levels would exceed the noise level considered satisfactory for the affected land use (60 dBA DNL for school or residential uses), or an increase of five dBA DNL or greater at noise-sensitive land uses where noise levels would continue to be below those considered satisfactory for the affected land use.

The transportation analysis completed for the project was reviewed to calculate potential traffic noise level increases attributable to the project expected along roadways serving the site. (refer to Section 4.17, Transportation and Appendix F of this Initial Study). Roadway volumes under project conditions were compared to existing conditions to calculate the noise increase attributable to the

[40] Silver Creek High School Sports Lighting Project Environmental Noise Assessment, Prepared by Illingworth & Rodkin, Inc., September 9, 2013.
[41] Santa Teresa High School Sports Lighting Project Environmental Noise Assessment, Prepared by Illingworth & Rodkin, Inc., September 12, 2013.

project. Typically, traffic volumes must double to result in a noticeable (i.e., three dBA) noise increase. As discussed in Section 4.17, it is estimated that a 600-student middle school would generate 906 trips during the AM peak hour and 420 trips during the PM peak hour. When subtracting out the trips generated by the existing pre-school, the proposed project would result in a net increase of 684 trips during the AM peak hour and 317 trips during the PM peak hour. The increase in traffic created by the proposed project would not amount to a doubling in traffic on the local roadways analyzed (Union Avenue, Charmeran Avenue, Cole Avenue, and Logic Drive) and would not result in a noticeable noise increase at noise-sensitive land uses in the site vicinity.

Traffic volumes in the site vicinity would incrementally increase with the proposed project, resulting in a zero to one dBA L_{eq} increase during the AM and PM peak traffic hours. Traffic noise increases resulting from the proposed project would not increase ambient noise levels by three dBA DNL or more.

Combined Operational Noise

Based on the findings of the noise report, the combined effect of all on-site operational noise sources (outdoor activities, mechanical equipment, and traffic) would be a slight increase in the overall ambient noise level of zero to one dBA DNL. This would be less than the General Plan threshold of a three dBA DNL increase over existing levels. **(Less than Significant Impact)**

Construction Noise

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

Policy EC-1.7 of the City's General Plan requires that all construction operations within the City use best available noise suppression devices and techniques. The policy also requires limitation of construction hours near residential uses per the Municipal Code allowable hours, which are between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday and no construction on weekends within 500 feet of a residential land use. Further, the City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would involve substantial noise-generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.

A temporary construction noise impact would be considered significant if project construction activities exceeded 60 dBA Leq at nearby residences or exceeded 70 dBA Leq at nearby commercial land uses and exceeded the ambient noise environment by five dBA Leq or more for a period longer than one year. Construction would take approximately 14 months to complete, and would involve demolition of existing structures and pavement, site preparation, grading and excavation, trenching, building erection, and paving. The hauling of excavated materials and construction materials would generate truck trips on local roadways as well. Table 4.13-5 shows the anticipated construction noise

levels calculated for each phase of construction. Pile driving is not proposed as a method of construction.

Table 4.13-5: Calculated Noise Levels for Each Phase of Construction		
Construction Phase	***At a Distance of 50 ft.***	
	L_{eq}, dBA	**L_{max}, dBA**
Demolition (30 days)	85	90
Site Preparation (60 days)	83	85
Grading/Excavation (60 days)	84	85
Trenching (60 days)	78	81
Building-Exterior (240 days)	78	81
Building-Interior (90 days)	74	78
Paving (60 days)	80	80

As indicated in Table 4.13-5, at 50 feet from the noise source, maximum instantaneous noise levels generated by project construction equipment are calculated to range from 78 to 90 dBA L_{max} and hourly average noise levels are calculated to range from 74 to 85 dBA L_{eq}.

Noise sensitive uses surrounding the site include residential buildings located approximately 20 feet west and north of the site. Taking into account a seven dBA noise reduction from the existing seven-foot wall located along the shared property line, maximum noise levels of 91 dBA L_{max} during demolition and 79 to 85 dBA L_{max} during other construction phases would be anticipated at a distance of 20 feet. Typical hourly average noise levels of 86 dBA L_{eq} during demolition and 75 to 85 dBA L_{eq} during other phases of construction are anticipated at 20 feet when considering the noise reduction provided by the existing wall. Construction noise levels would be lower as construction activities moves away from shared property lines or into shielded locations.

The nearest commercial building is located approximately 100 feet south of the project site. The northern façade of the commercial building would be exposed to a maximum noise level of 84 dBA L_{max} during demolition and 72 to 79 dBA L_{max} during other phases of construction. Typical hourly average noise levels of 79 dBA L_{eq} during demolition and 68 to 78 dBA L_{eq} during other phases of construction are anticipated at the commercial building.

Construction of the project would temporarily increase noise levels in the immediate vicinity of the project site. Noise levels would exceed 60 dBA Leq at residences and 70 dBA Leq at commercial uses and ambient levels by more than five dBA for over one year. Therefore, sensitive receptors in the project area would be intermittently exposed to high noise levels during project construction.

Mitigation Measures: The proposed project shall implement the following measures to reduce construction noise impacts to sensitive receptors in the project area:

MM NOI-1: Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place

prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistic plan shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building, and Code Enforcement prior to the issuance of any grading or demolition permits.

The noise logistic plan shall include, but is not limited to, the following best management practices:

- Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence (San José Municipal Code Section 20.100.450).
- Pile-driving shall be prohibited.
- Construct temporary noise barriers, where feasible, to screen mobile and stationary construction equipment. The temporary noise barrier fences shall be placed such that the noise barrier interrupts the line-of-sight between the noise source and receiver and shall be constructed in a manner that eliminates any cracks or gaps.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines shall be strictly prohibited.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise source and noise-sensitive receptors nearest the project site during all project construction.
- A temporary noise control blanket barrier shall be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling.
- If impact pile driving is proposed, foundation pile holes shall be pre-drilled to minimize the number of impacts required to seat the pile Pre-drilling foundation pile holes is a standard construction noise control technique. Pre-drilling reduces the number of blows required to seat the pile.
- Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors.

- Control noise from construction workers' radios to a point where they are not audible at residential property lines bordering the project site.
- The project applicant shall prepare a detailed construction schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
- 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.
- Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

Implementation of the mitigation measures described above would reduce temporary construction noise levels emanating from the site, limit construction hours, and minimize disruption and annoyance, resulting in a less than significant impact. **(Less than Significant Impact with Mitigation Incorporated)**

Impact NOI-2:	The project would not generate excessive groundborne vibration or groundborne noise levels. **(Less than Significant Impact)**

Per General Plan Policy EC-2.3, a significant impact would be identified if the project would result in vibration levels of 0.2 in/sec PPV or greater at nearby structures. Operation of the proposed middle school would not generate perceptible levels of groundborne vibration at nearby structures. Project construction activities, however, could generate perceptible levels of groundborne vibration at nearby structures. Construction activities with the greatest potential to generate perceptible vibration levels would include pavement and soil removal, movement of heavy tracked equipment, and vibratory compacting of roadway base materials. Table 4.13-6 summarizes typical vibration levels associated with varying pieces of construction equipment at a distance of 50 feet.

Table 4.13-6: Vibration Source Levels for Construction Equipment

Equipment		***PPV at 25 ft. (in/sec)***	***PPV at 50 ft. (in/sec)***
Hydromill (slurry wall)	in soil	0.008	0.008
	in rock	0.017	0.017
Vibratory roller		0.210	0.074
Hoe Ram		0.089	0.031
Large bulldozer		0.089	0.031
Loaded trucks		0.076	0.027
Jackhammer		0.035	0.012
Small bulldozer		0.003	0.001

Source: Transit Noise and Vibration Impact Assessment, United States Department of Transportation, Office of Planning and Environment, Federal Transit Administration, May 2006.

Although the nearest residential buildings are located approximately 20 feet west and north of the site, heavy project construction activities would occur approximately 50 feet from the nearest residence. As shown in Table 4.13-6, vibration levels generated during project construction activities would be below the 0.2 in/sec PPV criteria when construction occurs at distances of 30 feet or greater from structures. Vibration levels generated by construction activities would be perceptible indoors when construction is located adjacent to structures and secondary vibration, such as a slight rattling of windows or doors, may occur. Architectural damage to normal residential structures, however, would not occur and vibration levels would be below those that could cause structural damage. In addition, as stated in mitigation measure MM NOI-1, construction would occur during daytime hours only, thus reducing the potential for vibration during typical periods of rest or sleep. **(Less than Significant Impact)**

Impact NOI-3:	The project would not be 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. The project would not expose people residing or working in the project area to excessive noise levels. **(No Impact)**

The project site is located approximately 6.5 miles south of the nearest airport (the SJIA) and is not within the City's projected aircraft noise impact area. **(No Impact)**

4.13.3 Non-CEQA Effects

Per *California Building Industry Association v. Bay Area Air Quality Management District,* 62 Cal. 4th 369 *(BIA v. BAAQMD)*, effects of the environment on the project are not considered CEQA impacts. The following discussion is included for informational purposes only because the City of San José has policies that address existing noise conditions affecting a proposed project.

Based on the results of the noise monitoring survey, existing ambient noise levels at the project site range from 54 to 56 dBA DNL. The primary noise source in the project area is traffic on surrounding roadways. Therefore, future noise levels are projected to increase by approximately one dBA DNL due to increased traffic volumes and would range from 55 to 57 dBA DNL.

Interior Noise

As previously mentioned, the City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. The Cal Green code requires interior noise attributable to exterior sources to not exceed 50 dBA $L_{eq\text{-}1hr}$ in non-residential spaces.

Interior noise levels would vary depending upon the design of the buildings (relative window area to wall area) and the selected construction materials and methods. Standard school construction provides approximately 15 dBA of exterior-to-interior noise reduction, assuming the windows are partially open for ventilation. Standard construction with the windows closed provides approximately

20 to 25 dBA of noise reduction in interior spaces. The calculated exterior noise level exposures of building façades, based on the results of the noise monitoring survey and the increase in noise level due to future traffic projections, range from 55 to 57 dBA DNL, with interior levels ranging from 40 to 42 dBA DNL.

Noise levels inside the buildings would be expected to be below 45 dBA DNL and the CALGreen criteria of 50 dBA $L_{eq(1\text{-}hr)}$ assuming standard construction methods with the windows in the open or closed position. Interior levels in the classroom building would meet the CHPS Prerequisite Goal for core learning spaces of 45 dBA L_{eq} with standard construction and windows in the open or closed position and the CHPS Enhanced Acoustics Goal of 35 dBA L_{eq} with closed windows and the use of classroom windows with sound insulation ratings of STC 28 or greater. The gymnasium/auditorium would meet the CHPS Enhanced Acoustics Goal of 40 dBA L_{eq} for axillary learning and assembly spaces with standard construction and windows in the open or closed position.

Exterior Noise

Exterior use areas include the playing field and basketball courts. The primary background noise source for these outdoor areas is the traffic on Union Avenue, Barrett Avenue and Esther Drive. The playing field and basketball courts will be shielded on north, east and west by proposed buildings. Based on the results of the noise monitoring survey and accounting for future increased traffic volumes, the proposed outdoor areas would be exposed to a noise level of up to 55 dBA DNL. Noise levels at the school's playfield and basketball courts would not exceed the City's acceptable exterior noise level criteria of 65 dBA DNL for outdoor sports and recreation uses.

4.14 POPULATION AND HOUSING

4.14.1 Environmental Setting

4.14.1.1 *Regulatory Framework*

State

In order to attain the state housing goal, cities must make sufficient suitable land available for residential development, as documented in an inventory, to accommodate their share of regional housing needs. California's Housing Element Law requires all cities to: 1) zone adequate lands to accommodate its Regional Housing Needs Allocation (RHNA); 2) produce an inventory of sites that can accommodate its share of the RHNA; 3) identify governmental and non-governmental constraints to residential development; 4) develop strategies and work plan to mitigate or eliminate those constraints; and 5) adopt a housing element and update it on a regular basis.

Regional

The Association of Bay Area Governments (ABAG) allocates regional housing needs to each city and county within the nine-county Bay Area, based on statewide goals. ABAG also develops forecasts for population, households, and economic activity in the Bay Area. ABAG, Metropolitan Transportation Commission, and local jurisdiction planning staff created the Regional Forecast of Jobs, Population and Housing (upon which Plan Bay Area 2040 is based), which is an integrated land use and transportation plan looking out to the year 2040 for the nine-county San Francisco Bay Area.

Plan Bay Area 2040 is a state-mandated, integrated long-range transportation, land-use and housing plan intended support a growing economy, provide more housing and transportation choices, and reduce transportation-related pollution and GHG emissions in the Bay Area. Plan Bay Area promotes compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified Priority Development Areas (PDAs). The project site is not located within a PDA.

Envision San José 2040 General Plan

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

4.14.1.2 *Existing Conditions*

The City of San José population was estimated to be approximately 1,051,316 with a total of 335,164 housing units in January 2018. The average number of persons per household in San José was estimated at 3.20.[42] According to the City's General Plan, the projected population in 2035 will be 1.3 million persons occupying 429,350 households.

[42] California Department of Finance. *E-5 Population and Housing Estimates for Cities, Counties, and the State, 2011-2018 with 2010 Benchmark.* Accessed October 31, 2018. Available at: http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/.

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.

San José currently has a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident) but this trend is projected to reverse with full build-out under the current General Plan.

4.14.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) 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)?	☐	☐	☐	☒
2) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

Impact POP-1: The project would not 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). **(No Impact)**

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

The project proposes to demolish three classroom buildings, expand the existing gymnasium, and construct a classroom building at the existing Harker Preschool campus and convert it to a middle school campus. The administration building, music/drama building, and two academic buildings would remain in place.

The project does not propose new housing and would not extend roads or other infrastructure to undeveloped areas or remove obstacles to population growth. Upon completion, enrollment at the school would increase from its current level of 120 pre-school students to 600 middle school students, and the number of faculty and staff would increase from 50 to 100. Therefore, the proposed project would not induce substantial unplanned population growth in the area. **(No Impact)**

Impact POP-2:	The project would not displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere. **(No Impact)**

The project would not remove housing or displace people. Therefore, the project would not require the construction of replacement housing elsewhere and would not result in a significant housing impact. **(No Impact)**

4.15 PUBLIC SERVICES

4.15.1 Environmental Setting

4.15.1.1 *Regulatory Framework*

California Government Code Section 65996

California Government Code Section 65996 specifies that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to issuance of a building permit. The legislation states that payments of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA [§65996(b)].

The school district is responsible for implementing the specific methods of school impact mitigation under the Government Code. The CEQA documents must identify that school impact fees and the school districts' methods of implementing measures specified by Government Code 65996 would adequately mitigate project-related increases in student enrollment.

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 and a Park Impact Ordinance, consistent with the Quimby Act.

Parkland Dedication Ordinance and Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25), requiring new residential development to either dedicate sufficient land to serve new residents or pay fees to offset the increased costs of providing new park facilities for new development. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities on-site. For projects exceeding 50 units, the City decides whether the project will dedicate land for a new public park site or provide a fee in-lieu of land dedication. Affordable housing including low, very-low, and extremely-low income units are subject to the PDO and PIO at a rate of 50 percent of applicable parkland obligation. The acreage of parkland required is based on the minimum acreage dedication formula outlined in the PDO.

Envision San José 2040 General Plan

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

Envision San José 2040 Relevant Public Service Policies

Policies	Description
Policy FS-5.7	Encourage school districts and residential developers to engage in early discussions regarding the nature and scope of proposed projects and possible fiscal impacts and mitigation measures early in the project planning stage, preferably immediately preceding or following land acquisition.
Policy ES-2.2	Construct and maintain architecturally attractive, durable, resource-efficient, and environmentally healthful library facilities to minimize operating costs, foster learning, and express in built form the significant civic functions and spaces that libraries provide for the San José community. Library design should anticipate and build in flexibility to accommodate evolving community needs and evolving methods for providing the community with access to information sources. Provide at least 0.59 SF of space per capita in library facilities.
Policy ES-3.1	Provide rapid and timely Level of Service (LOS) response time to all emergencies: 1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.
Policy ES-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.
Policy ES-3.11	Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.
Policy PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
Policy PR-1.2	Provide 7.5 acres per 1,000 population of citywide /regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
Policy PR-1.3	Provide 500 SF per 1,000 population of community center space.
Policy PR-1.12	Regularly update and utilize San José's Parkland Dedication Ordinance/Parkland Impact Ordinance (PDO/PIO) to implement quality facilities.
Policy PR-2.4	To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds.
Policy PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

4.15.1.2 *Existing Conditions*

Fire Protection Services

Fire protection services for the project would be provided by the San Jose Fire Department (SJFD). Fire stations are located throughout the City to provide adequate response times to service calls. SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the City. Emergency response is provided by 30 engine companies, nine truck companies, one urban search and rescue company, one hazardous incident team company, and numerous specialty teams and vehicles.

The SJFD has established the goal of responding to Priority 1 incidents (emergencies) within eight minutes, 80 percent of the time, and Priority 2 incidents (non-emergencies) within 13 minutes, 80 percent of the time. For 2017-2018, the SJFD responded to Priority 1 incidents within the set time standard only 71 percent of the time.[43]

The closest station to the project site is Station No. 9, located at 3410 Ross Avenue. The distance between the project site and Station No. 9 is approximately 1.4 miles.

Police Protection Services

Police protection services for the project site are provided by the San José Police Department (SJPD). Officers are dispatched from police headquarters, located at 201 West Mission Street. The physical distance between police headquarters and the project site is approximately seven miles.

The SJPD has established the goal of responding to Priority 1 calls (present or imminent dangers to life or major damage to/loss of property) within six minutes and responding to Priority 2 calls (involving injury or property damage, or the potential for either to occur) within 11 minutes. In 2017-2018, the citywide average response time for Priority 1 calls was 9.2 minutes, and the average response time for Priority 2 calls was 22.4 minutes.[44]

Schools

The project site is located within the Union School District, for public elementary and middle schools, and within the Campbell Union High School District. Students in the project area attend schools within these districts. The project site is occupied by a private preschool and is not served by these districts.

Parks

The City's Departments of Parks, Recreation, and Neighborhood Services is responsible for the development, operation, and maintenance of all City park facilities. The City of San José owns approximately 204 parks.

[43] City of San José. *Annual Report on City Services 2017-2018*. December 2018. http://www.sanJoséculture.org/DocumentCenter/View/81795
[44] Ibid.

The General Plan objective for neighborhood/community serving parkland is 3.5 acres of land per 1,000 population, with a minimum of 1.5 acres of City-owned parkland and up to two acres of recreational school grounds located within a reasonable walking distance. The General Plan estimated a population of 1.3 million by 2035, which would increase the demand for park and recreational facilities and create a parkland deficit of 2,187 acres (including regional and local park lands).

The closest park to the project site is Houge Park on Samaritan Drive, approximately 0.6 miles west of the site. Houge Park is a neighborhood park that features a children's playground, basketball and tennis courts, a horseshoe pit and barbeque areas.

Libraries

The San José Public Library System consists of one main library and 22 branch libraries. The nearest public library to the project site is the Cambrian Branch Library, located at 1780 Hillsdale Avenue, approximately 1.4 miles northeast of the site.

4.15.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
1) Fire Protection?	☐	☐	☒	☐
2) Police Protection?	☐	☐	☒	☐
3) Schools?	☐	☐	☐	☒
4) Parks?	☐	☐	☐	☒
5) Other Public Facilities?	☐	☐	☐	☒

Impact PS-1: The project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for fire protection services. **(Less than Significant Impact)**

The project site, which is currently developed and occupied with a 120-student preschool, is located in an urban area in San José that is served by San José Fire Department. The proposed redevelopment and conversion of the site to a 600-student middle school would intensify the use of the site and, as a

result, may incrementally increase the demand for fire protection services. The project by itself, however, would not substantially affect fire response times or require the construction of new facilities. The proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies to promote public and property safety. For these reasons, the project would result in a less than significant impact on fire protection services. **(Less than Significant Impact)**

Impact PS-2:	The project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for police protection services. **(Less than Significant Impact)**

The project site, which is currently developed and occupied with a 120-student preschool, is located in an urban area in San José that is served by San José Police Department. The proposed redevelopment and conversion of the site to a 600-student middle school would intensify the use of the site and, as a result, may incrementally increase the demand for police protection services. The project by itself, however, would not substantially affect police response times, or require the construction of new facilities. The proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies to promote public and property safety. For these reasons, the project would result in a less than significant impact on police protection services. **(Less than Significant Impact)**

Impact PS-3:	The project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for schools. **(No Impact)**

The proposed project is the redevelopment and conversion of an existing 120-student preschool campus to a 600-student middle school campus. The proposed project does not include residential development that would increase demand upon schools serving the project area. Therefore, the project would have no impact on school facilities. **(No Impact)**

Impact PS-4:	The project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for parks. **(No Impact)**

The proposed project is the redevelopment and conversion of an existing 120-student preschool campus to a 600-student middle school campus. The proposed project does not include residential development and, therefore, would not increase demand upon for park facilities in the project area. **(No Impact)**

Impact PS-5:	The project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for other public facilities. **(No Impact)**

The proposed project is the redevelopment and conversion of an existing 120-student preschool campus to a 600-student middle school campus. The proposed project does not include residential development and, therefore, would not increase demand upon public facilities, such as libraries and community centers, in the project area. **(No Impact)**

4.16 RECREATION

4.16.1 Environmental Setting

4.16.1.1 *Regulatory Framework*

Envision San José 2040 General Plan Policies

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

Envision San José 2040 Relevant Recreation Policies

Policy	Description
Policy PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
Policy PR-1.2	Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
Policy PR-1.3	Provide 500 SF per 1,000 population of community center space.
Policy PR-2.4	To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance and Park Impact Ordinance fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds.
Policy PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (Such as soccer fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

4.16.1.2 *Existing Conditions*

The City of San José owns and maintains over 3,500 acres of parkland, including neighborhood parks, community parks, and regional parks.[45] The City also manages 50 community centers, 17 community gardens, and six pool facilities. Other recreational facilities include seven public skate parks and 61.2 miles of interconnected trails.

The project site is located within the Cambrian/Pioneer Area of San José, which is currently underserved with respect to parklands for the population. The area needs an additional 83.3 acres of parkland to provide the desired 3.5 acres per 1,000 residents for the projected 2020 population.[46] The project area is not considered underserved with respect to parklands or community centers for the population.

The nearest public park is Houge Park, located at the intersection of Twilight Drive and White Oaks Avenue, approximately 0.6 miles west of the site. The nearest community center is the Camden Community Center, located at 3369 Union Avenue, approximately 0.7 miles north of the site.

[45] City of San José Parks, Recreation, and Neighborhood Services. "Fast Facts 2018-2019." December 20, 2018.
[46] City of San José. *Greenprint 2009 Update*. December 8, 2009. Page 104.

4.16.2 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
1) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility will occur or be accelerated?	☐	☐	☐	☒
2) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☒	☐

Impact REC-1:	The project would not 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. **(No Impact)**

The proposed project is the redevelopment and conversion of an existing 120-student preschool campus to a 600-student middle school campus. Recreational activities are anticipated to be available as part of the operation of the proposed school. Furthermore, the proposed project does not include residential development and, therefore, would not generate residents that could increase demand upon the existing recreational facilities in the project area. **(No Impact)**

Impact REC-2:	The project would not 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 Impact)**

The proposed project includes on-site recreational facilities for use by the middle school. The impacts from construction and operation of these on-site facilities are evaluated in this Initial Study as part of the proposed project. The project does not propose or require the construction of off-site recreational facilities that could have an adverse effect on the physical environment. For these reasons, the proposed project would not result in significant recreation impacts. **(Less than Significant Impact)**

4.17 TRANSPORTATION/TRAFFIC

The following discussion is based, in part, on a transportation analysis prepared by *Hexagon Transportation Consultants, Inc.* A copy of the report, dated February 22, 2019 and revised May 10, 2019, is included as Appendix F to this Initial Study.

4.17.1 Environmental Setting

4.17.1.1 *Regulatory Framework*

Regional

Regional Transportation Planning

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

Congestion Management Program

The Santa Clara Valley Transportation Authority (VTA) oversees the Congestion Management Program (CMP), which is 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. State legislation requires that each CMP define traffic LOS standards, transit service standards, a trip reduction and transportation demand management, a land use impact analysis program, and a capital improvement element. VTA has review responsibility for proposed development projects that are expected to affect CMP designated intersections.

Local

Transportation Analysis Policy (City Council Policy 5-1)

As established in City Council Policy 5-1 "Transportation Analysis Policy" (2018), the City of San José uses vehicle miles traveled (VMT) as the metric to assess transportation impacts from new development. According to the policy, an employment (e.g. office, R&D) or residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average citywide or regional per capita VMT.[47] For industrial projects (e.g. warehouse, manufacturing, distribution), the impact would be less than significant if the project VMT is equal to or less than existing average regional per capita VMT. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible. The policy also requires preparation of a

[47] Residential is 15% below the citywide average and employment is 15% below the regional average.

Local Transportation Analysis (LTA) to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, and site access and circulation. The LTA also addressed CEQA issues related to pedestrian, bicycle access, and transit.

Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to a have a less than significant VMT impact. Under Policy 5-1, the screening criteria are:

1. Small Infill Projects,
2. Local-Serving Retail,
3. Local-Serving Public Facilities,
4. Transit Supportive Projects in Planned Growth Areas with Low VMT and High-Quality Transit,
5. Restricted Affordable, Transit Supportive Residential Projects in Planned Growth Areas with High Quality Transit;
6. Transportation Projects that reduce or do not increase VMT.

The VMT policy does not negate Area Development Policies (ADPs) and Transportation Development Policies (TDPs) approved prior to adoption of Policy 5-1. Policy 5-1 does, however, negate the City's Protected Intersection Policy, as defined in Policy 5-3.

Envision San José 2040 General Plan

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

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

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The proposed project would be subject to the transportation policies in the General Plan, including the following:

Envision San José 2040 Relevant Transportation Policies

Policy	Description
Policy TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
Policy TR-1.4	Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.

• Development proposals shall be reviewed for their impacts on all transportation modes through the study of Vehicle Miles Traveled (VMT), Envision San José 2040 General Plan policies, and other measures enumerated in the City Council Transportation Analysis Policy and its Local Transportation Analysis. Projects shall fund or construct proportional fair share mitigations and improvements to address their impacts on the transportation systems.

• The City Council may consider adoption of a statement of overriding considerations, as part of an EIR, for projects unable to mitigate their VMT impacts to a less than significant level. At the discretion of the City Council, based on CEQA Guidelines Section 15021, projects that include overriding benefits, in accordance with Public Resources Code Section 21081 and are consistent with the General Plan and the Transportation Analysis Policy 5-1 may be considered for approval. The City Council will only consider a statement of overriding considerations for (i) market-rate housing located within General Plan Urban Villages; (ii) commercial or industrial projects; and (iii) 100% deed-restricted affordable housing as defined in General Plan Policy IP-5.12. Such projects shall fund or construct multimodal improvements, which may include improvements to transit, bicycle, or pedestrian facilities, consistent with the City Council Transportation Analysis Policy 5-1. 1.

• Area Development Policy. An "area development policy" may be adopted by the City Council to establish special transportation standards that identifies development impacts and mitigation measures for a specific geographic area. These policies may take other names or forms to accomplish the same purpose.

Policy TR-1.6	Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.
Policy TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
Policy TR-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-8.4	Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.
Policy TR-9.1:	Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.

4.17.1.2 *Existing Conditions*

Roadway Network

Regional access to the project site is provided via SR-17 and SR-85. These facilities are described below:

- *SR-17* is a six-lane freeway in the vicinity of the site. It extends south to Santa Cruz and north to Interstate 280 (I-280) in San José, at which point it makes a transition into I-880 to Oakland. Access to the site from SR-17 is provided by its interchange with San Tomas Expressway/Camden Avenue.

- *SR-85* is a six-lane freeway [two mixed-flow lanes and one high occupancy vehicle (HOV) lane in each direction] in the vicinity of the site. It extends from its starting point at US Route 101 in South San José westward and northward to Mountain View, where it ends as it merges with US Route101. Access to the project site is provided via its interchange with Union Avenue.

Local access to the site is provided by Union Avenue and Camden Avenue. A description of these roadways is described below:

- *Camden Avenue* is a four- to six-lane Grand Boulevard that is located approximately 2,000 feet to the north of the project site. The roadway extends from Almaden Expressway in South San José north-eastward to SR-17 in Campbell, at which point it transitions into San Tomas Expressway. Camden Avenue consists of three travel lanes in each direction. In the project area, Camden Avenue has continuous sidewalks on both sides of the street with on-street parking permitted along some roadway segments. There are no bicycle lanes provided on Camden Avenue.

- *Union Avenue* is a two- to four-lane north-south City Connector Street that provides direct access to the site. It extends from Campbell Avenue in Campbell to Los Gatos, where it terminates at Blossom Hill Road. In the project area, Union Avenue consists of two travel lanes in each direction with a center two-way left-turn (TWLT) lane. Continuous sidewalks are present on the west side of Union Avenue in the project vicinity. No sidewalks are present on the east side of Union Avenue between SR-87 and 470 feet north of Charmeran Avenue. Bicycle lanes are provided in both directions on Union Avenue in the project vicinity. On street parking is not permitted along Union Avenue in the project area. The project site currently has two driveways on Union Avenue.

Pedestrian and Bicycle Facilities

Pedestrian facilities in the project area consist primarily of sidewalks along the streets. Sidewalks are located along most local roadways in the project area, with the exception of short intermittent segments of Union Avenue, south of Camden Avenue, where sidewalks are missing along one side of the street. Additionally, sidewalks are missing along several of the local residential streets located to the east of the project site. Other pedestrian facilities include crosswalks with pedestrian signal heads and push buttons at all the signalized intersections in the project area.

Bicycle facilities are divided into three classes of relative significance. Class I bikeways are bicycle paths that are physically separated from motor vehicles and offer two-way bicycle travel on a separate path. Class II bikeways are striped bicycle lanes on roadways that are marked by signage and pavement markings. Class III bikeways are bicycle routes and only have signs to help guide bicyclists on recommended routes to certain locations.

Class II striped bike lanes are provided on the following roadways in the vicinity of the project site:

- Union Avenue, between south of SR-85 and Bascom Avenue
- Leigh Avenue, between Blossom Hill Road and Curtner Avenue
- Los Gatos - Almaden Road, between Los Gatos Boulevard and Harwood Road

There is a Class I bikeway, the Los Gatos Creek Trail, located along the west side of SR-17, extending from Lexington Reservoir south of Los Gatos to Meridian Avenue in San José. The trail can be accessed from Camden Avenue, although there are no Class II bicycle lanes on Camden Avenue.

Transit Services

Existing transit service near the project is are provided by the Santa Clara Valley Transportation Authority (VTA). The project area is served directly by one express bus route (Express Route 101), two limited stops bus routes (Limited Route 328 and Limited Route 330), and three local routes (Local Route 62, Local Route 37, and Local Route 27). The project area is well served by bus transit.

Local Route 62 operates along Union Avenue, with the nearest bus stop at the project frontage. Bus stops for Local Route 37, Express Route 101, Limited Route 328 and Limited Route 330 are located at the intersection of Camden Avenue and Union Avenue, approximately 0.5 mile north of the project site. The bus stop for Local Route 27 is located at the intersection Samaritan Drive and Union Avenue, approximately a 0.25 mile south of the project site.

Harker School Shuttle Program

Harker School currently operates a free inter-campus shuttle between their four campuses – preschool, elementary, middle, and high school – during both the morning and evening. The school shuttles drive the kids to their respective schools. This provides the convenience for parents with multiple children to drop off and pick up their children from the one campus closest to their home. In addition, Harker school currently provides bus service from four locations: The Peninsula, Silver Creek, Fremont and the Santa Clara Caltrain Station. These shuttles and bus services would continue under the proposed project.

Vehicle Mile Traveled Per Capita Heat Maps

The thresholds of significance for development projects, as established in the Transportation Analysis Policy, are based on the existing citywide average VMT level for residential uses and the existing regional average VMT level for employment uses. The heat maps within Appendix F of this Initial Study (Figure 3 and 4 of Appendix F) show the current VMT levels estimated by the City for residents and workers, respectively, based on the locations of residences and jobs. Developments in

the green-colored areas are estimated to have VMT levels that are below the thresholds of significance, while the orange- and pink-colored areas are estimated to have VMT levels that are above the thresholds of significance.

4.17.2 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle lanes and pedestrian facilities?	☐	☐	☐	☒
2) For a land use project, conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?	☐	☒	☐	☐
3) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	☐	☐	☐	☒
4) Result in inadequate emergency access?	☐	☐	☐	☒

Impact TRN-1: The project would not conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle lanes and pedestrian facilities. **(No Impact)**

Pedestrian, Bicycle, and Transit Facilities

Pedestrian, bicycle, and transit facilities in the project area include sidewalks, crosswalks, pedestrian signals at signalized intersections, bike lanes, and bus service provided by VTA. The network of sidewalks and crosswalks in the project area has adequate connectivity and provides pedestrians with safe routes to transit stops and other services in the vicinity.

There are existing Class II bike lanes along several roadways in the project vicinity, including along the project site's Union Avenue frontage. A Class II bike lane is also planned in the project area on Camden Avenue, between SR-17 and Hillsdale Avenue. The proposed project would not preclude the construction of planned bicycle facilities in the project area.

The nearest bus stop is located adjacent to the project site on Union Avenue. Additional bus route stops are located at the Union Avenue/Camden Avenue intersection, approximately a half-mile north of the project site. The effect of project traffic on transit vehicle delay was evaluated. During the AM and PM peak hours, the proposed traffic signal on Union Avenue at the relocated project driveway would increase delay for Route 62 by 20 seconds and five seconds, respectively. All other bus routes

would be relatively unaffected by the project.[48] VTA is making minor schedule changes to Route 37, which has a stop at Camden Avenue/Union Avenue[49]; however, the modified schedule would not result in the project conflicting with bus transit services in the area. For these reasons and those stated above, the proposed project would not conflict with adopted program, plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle lanes and pedestrian facilities. **(No Impact)**

Impact TRN-2:	The project would not conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b). **(Less than Significant Impact with Mitigation Incorporated)**

VMT Analysis Methodology and Threshold of Significance

As described above, the City's Transportation Analysis Policy (City Council Policy 5-1) includes screening criteria that have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to a have a less than significant VMT impact. The proposed private school, which would increase total VMT, does not meet the screening criteria. Therefore, a detailed VMT analysis was completed to evaluate project transportation impacts.

The City of San José VMT Evaluation Tool (Sketch Tool) was used to estimate the project VMT, based on the project location, type of development, project description, and proposed trip reduction measures. Because thresholds of significance for private schools have not been established, the project cannot be evaluated directly using the Sketch Tool. Using the best-fit of travel patterns and equivalency comparison between the different uses, the VMT analysis for the proposed middle school project was conducted by converting the project trip generation estimates (trips generated by school staff and parents of students) to equivalent general office square footage using ITE trip generation rates. The equivalent office square footage was inputted in the Sketch Tool to estimate the project VMT. The calculated project VMT was then compared against the VMT threshold. The VMT threshold is the existing regional average VMT level (14.37 per employee) minus 15 percent, which is 12.21 VMT per employee. Therefore, if the project were to result in a VMT that exceeds 12.21 VMT per employee, the project's VMT impact would be considered potentially significant and would require mitigation measures.

The project site is located in a high-VMT area (i.e., an area where the existing VMT is above the established threshold). Projects in high-VMT areas are required to include VMT reduction measures to project VMT to the extent possible. The Sketch Tool evaluates the VMT reduction measures included in the project. There are four strategy tiers whose effects on VMT can be calculated with the tool:

1. Project characteristics (e.g. density, diversity of uses, design, and affordability of housing) that encourage walking, biking and transit uses.

[48] The VTA has not established policies or significance criteria related to transit vehicle delay. Thus, this data is presented for informational purposes only.
[49] VTA. "July Service Changes". Accessed June 27, 2019. http://www.vta.org/notice?id=a0W1H00000McdLSUAZ

2. Multimodal network improvements that increase accessibility for transit users, bicyclists, and pedestrians.

3. Parking measures that discourage personal motorized vehicle-trips.

4. Transportation Demand Management (TDM) measures that provide incentives and services to encourage alternatives to personal motorized vehicle trips.

The first three strategies listed above are physical design strategies that can be incorporated into the project design. TDM includes programmatic measures that aim to reduce VMT by decreasing personal motorized vehicle mode share and by encouraging more walking, biking, and riding transit. TDM measures are enforced through annual trip monitoring to assess the project's status in meeting the VMT reduction goals.

VMT Impact Analysis

Based on trip generation counts conducted as part of the transportation analysis (Appendix F), the existing Harker Middle School site at 3800 Blackford Avenue in San José (with an enrollment of approximately 600 students) generates 906 gross trips during the AM peak hour. This is equivalent to trips that would be generated by 781,000 square feet of office use. The AM peak hour trip generation of the middle school was utilized for the VMT analysis because the AM peak hour trip generation is much greater (more than twice the number of peak hour vehicle trips) than the PM peak hour trip generation.

The project VMT estimated by the Sketch Tool is 13.83 per employee/student. The project VMT, therefore, exceeds the threshold of 12.21 VMT per employee/student and would result in a significant VMT impact.

Mitigation Measures: The project proposes to implement the following measures to reduce the VMT impact to a less than significant level:

MM TR-2.1: Prior to the issuance of any public works clearances, the project applicant shall implement the following Transportation Demand Management (TDM) measures:

- **Free Direct Shuttle Service.** The project shall provide free shuttle service from various locations in San José and the surrounding areas to the new Harker Union Avenue campus to serve the school's students and employees.
- **School Carpool/Transit Pool Program.** A school carpool and transit pool program shall be open to all families of Harker school and shall include carpooling and organizing small groups to travel together via public transit.
- **TDM Coordinator.** Contact information for the TDM coordinator shall be posted on the school's website.
- **Availability.** Information regarding the TDM program shall be distributed to all families of Harker students and shall be posted on the school website prior to program implementation.

- **Annual Monitoring.** An annual monitoring requirement establishing a trip cap of 679 AM Peak-Hour-Trip and 315 PM Peak-Hour-Trip.

A traffic engineer shall prepare and submit the TDM plan to the Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement, and Director's designee of the City of San Jose Department of Public Works

MM TR-2.2: **On-Going Monitoring and Reporting.** Consistent with MM TR-2.1, the project applicant shall implement an annual monitoring plan for the TDM program to confirm whether the project meets the trip cap of 679 AM PHT and 315 PM PHT. The monitoring results shall be submitted to the City for review within 15 days following the anniversary of the first year of operation, unless otherwise directed by the City of San Jose Department of Public Works.

If the TDM program does not meet the established trip cap, additional TDM measures shall be implemented. A follow up report within six months of the annual monitoring approval shall be submitted to the Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement, and Director's designee of the City of San Jose Department of Public Works for review.

The addition of the TDM measures described above would reduce the project VMT to 10.37 per employee/student, equivalent to a 25% reduction in VMT, which would reduce the project impact to a less than significant level. **(Less than Significant Impact with Mitigation Incorporated)**

Impact TRN-3:	The project would not 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 Impact)**

Site access was evaluated by *Hexagon* to determine the adequacy of the site's driveways with regard to geometric design and corner sight distance. On-site vehicular circulation and parking layout were reviewed in accordance with generally accepted traffic engineering standards and transportation planning principles.

Project Driveway Location

Vehicular access to the project site would be provided by two driveways along Union Avenue. The existing northern driveway on Union Avenue would be relocated approximately 150 feet to the south in order to increase separation distance from Barrett Avenue. This driveway would be centrally located along the project frontage and would be signalized to facilitate left turns in and out of the site. Without a signal, vehicles turning left from the site would be forced to wait for sufficient gaps in traffic before crossing multiple lanes of traffic along Union Avenue, resulting in long vehicle delays and excessive queuing on site. Additionally, vehicles turning left into the site from northbound Union Avenue would conflict with vehicles turning left out of the site, making the outbound left-turn movement infeasible during the peak morning drop-off and afternoon pick-up periods. As a result, without a signal, outbound vehicle movements would need to be restricted to right turns only, which would result in vehicles finding alternative routes to the north (e.g., neighborhood cut-through traffic via Cole Drive, additional trips onto northbound SR 85, and some vehicles utilizing westbound

Samaritan Drive). The proposed traffic signal would eliminate the need to cut through the neighborhood to the east, substantially reduce the project's effect on the southbound left-turn/U-turn movement at the Union Avenue/Cole Drive intersection, and reduce the number of project-generated trips entering SR 85 and using Samaritan Drive to access Bascom Avenue and travel north. The southern driveway would remain at its existing location and would be restricted right turns in and out. No inbound access would be allowed at the southern driveway during the school peak hours.

The north project driveway measures 32 feet wide (to provide adequate bus/shuttle access) and the south project driveway measures 26 feet wide, which would satisfy the City's requirement for a two-way driveway. Based on review of the project site plan and field observations by the project traffic engineer, the project driveways would meet the Caltrans minimum stopping sight distance standards. Vehicles exiting the southern driveway would be able to see approaching traffic on southbound Union Avenue, and the proposed traffic signal at the relocated northern project driveway would provide gaps in traffic to allow vehicles to turn onto southbound Union Avenue. **(Less than Significant Impact)**

Impact TRN-4:	The project would not result in inadequate emergency access. **(Less than Significant Impact)**

Emergency vehicle access (EVA) would be provided via the project driveways on Union Avenue. The City of San Jose Fire Code requires driveways to provide 32 feet of width for fire access. The north project driveway measures 32 feet wide and the south project driveway measures 26 feet wide; therefore, six feet of red curb should be added to the south driveway to provide the 32 feet required to comply with the City's fire code. In addition, the existing EVA easement along the southern property boundary on the adjacent property would remain in place. **(Less than Significant Impact)**

4.17.3 Non-CEQA Effects

Senate Bill 743, the revised CEQA Guidelines, and Council Policy 5-1 promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses. Due to that, the vehicle miles traveled metric promotes those statutory purposes better than level of service and was determined to be the significance metric under CEQA. Therefore, the following analysis is provided for informational purposes only.

4.17.3.1 *Local Transportation Analysis*

As stated previously, San José City Council Policy 5-1 establishes the thresholds for transportation impacts under CEQA based on VMT instead of LOS. However, a Local Transportation Analysis (LTA) was completed for the project in accordance with City policy. The LTA consists of an analysis of AM and PM peak hour traffic conditions for seven signalized intersections, and two freeway ramps in the vicinity of the project site that were evaluated for operational issues. All study intersections evaluated are located within the City of San José and were evaluated based on the City of San José LOS standard. The following intersections and freeway ramps were evaluated:

1. Union Avenue and Camden Avenue (CMP)
2. Union Avenue and Woodard Road
3. Union Avenue and Charmeran Avenue

4. Union Avenue and Cole Drive
5. Union Avenue and SR-85 Westbound Ramps
6. Union Avenue and Samaritan Drive/SR Eastbound On-Ramp
7. Samaritan Drive and SR-85 Eastbound Off-Ramp
8. SR-85 northbound diagonal on-ramp from Union Avenue – AM peak-hour
9. SR-85 southbound diagonal on-ramp from Union Avenue – PM peak-hour

Traffic Operations

The results of the LOS analysis are presented in Table 4.17-1. As shown in Table 4.17-1, all the signalized study intersections are currently operating at acceptable levels of service (LOS D or better) under existing and background conditions during the AM and PM peak hours of traffic, except for the intersection of Union Avenue and Camden Avenue, which operates at an unacceptable LOS E during the PM peak hour. Under background plus project conditions and cumulative conditions, it is assumed that the traffic signal proposed by the project would be installed on Union Avenue, south of the existing northern project driveway. As shown in Table 4.17-1, all the study intersections would operate at an acceptable LOS D or better under background, background plus project, and cumulative conditions, except for the intersection of Union Avenue and Camden Avenue. The intersection of Union Avenue and Camden Avenue would continue to operate at an unacceptable LOS E during the PM peak hour under background plus project conditions and operations would degrade to LOS E during both the AM and PM peak hour under cumulative conditions. Since the project would not cause the intersection's critical-movement delay to increase by four or more seconds and the V/C to increase by 0.01 or more compared to background conditions, however, the project would not have an adverse effect on traffic operations at this intersection. A detailed discussion of the intersection LOS analysis is provided in Appendix F of this Initial Study.

Table 4.17-1: Intersection Level of Service Summary

		Existing		Background		Background+Project				Cumulative	
Signalized Intersection	***Peak Hour***	***Avg. Delay (sec)***	***LOS***	***Avg. Delay (sec)***	***LOS***	***Avg. Delay (sec)***	***LOS***	***Incr. in Crit. Delay (sec)***	***Incr. in Crit. V/C***	***Avg. Delay (sec)***	***LOS***
Union/ Camden*	AM	50.8	D	51.1	D	53.0	D	3.2	0.031	**55.9**	**E**
	PM	**59.0**	**E**	**62.3**	**E**	**63.6**	**E**	1.7	0.010	**71.8**	**E**
Union/ Woodard	AM	16.7	B	16.7	B	15.5	B	-0.9	0.010	14.8	B
	PM	17.4	B	17.4	B	16.1	B	-1.7	0.009	15.5	B
Union/ Charmaran	AM	20.8	C	20.9	C	20.3	C	-0.3	0.035	21.1	C
	PM	12.4	B	12.5	B	12.2	B	-0.1	0.013	12.0	B
Union/Cole	AM	24.8	C	24.8	C	24.7	C	0.6	0.039	24.7	C
	PM	19.2	B	19.1	B	18.7	B	-0.2	0.025	18.6	B
Union/85(N)	AM	15.8	B	16.5	B	16.5	B	0.2	0.032	16.9	B
	PM	16.3	B	16.4	B	16.2	B	-0.1	0.015	16.6	B
Union/85(S)/ Samaritan	AM	21.3	C	21.5	C	22.3	C	-0.4	0.009	22.9	C
	PM	23.0	C	23.1	C	23.5	C	0.2	0.013	23.9	C
85/Samaritan	AM	21.0	C	22.9	C	24.7	C	2.3	0.038	25.2	C
	PM	9.2	A	8.7	A	8.9	A	0.2	0.010	9.2	A

Notes: * Denotes CMP intersection, **Bold** indicates a substandard level of service

Intersection Queuing Analysis

The intersection queuing analysis evaluates vehicle queuing for high-demand left-turn movements at intersections. The following six left-turn movements were examined as part of the queuing analysis for this project:

- Westbound and northbound left-turn at Camden Avenue and Union Avenue
- Eastbound left-turn at Union Avenue and SR-85 NB Ramps
- Southbound and eastbound left-turn at Union Avenue and SR-85 SB Ramp
- Southbound left-turn at Samaritan Drive and SR-85 SB Ramp

The queuing analysis indicates that the vehicle queues for the northbound and westbound left-turn pockets at the Union Avenue and Camden Avenue intersection currently exceed their vehicle storage capacities during the AM and PM peak hours. Lengthening the northbound left-turn pocket at Camden Avenue could be achieved only by shortening the back-to-back (southbound) left-turn pocket at Woodard Road, and is therefore not recommended. Extending the westbound left-turn pocket along Camden Avenue beyond the planned 400 feet would not be possible due to a proposed new signalized driveway along Camden Avenue as part of the Cambrian Park Mixed-Use Village Development and, therefore, is not recommended. More detailed information regarding the queuing analysis is contained in Appendix F.

Freeway On-Ramp Meter Analysis

An analysis of metered freeway on-ramps providing access to SR-85 from the project site was performed to identify the effects of project traffic on the vehicle queues and wait times at the metered on-ramps. It should be noted that the evaluation of metered freeway on-ramps is not required based on the City's transportation analysis guidelines but was provided for informational purposes.

SR-85 Northbound On-Ramp from Union Avenue

The longest vehicle queue that was observed at the SR-85 northbound on-ramp from Union Avenue was 58 vehicles in length within the two mixed-flow lanes (or about 29 vehicles per lane) during the AM peak-hour. The maximum vehicle queue that was observed nearly extended along the entire length of the on-ramp; however, it was never observed to extend beyond the on-ramp and onto Union Avenue. With the addition of traffic generated by approved development projects in the area, the queue length for this on-ramp is projected to increase by one vehicle to a maximum of 59 vehicles, and the back-of-queue wait time is projected to increase by six seconds during the AM peak-hour under background conditions at the ramp meter.

The additional queued vehicles due to the project could likely be accommodated within the exclusive southbound right-turn lane on Union Avenue at the northbound on-ramp intersection, which has storage capacity for eight or nine vehicles. Therefore, the addition of project traffic to this metered on-ramp would likely not block southbound through traffic on Union Avenue.

SR-85 Southbound On-Ramp from Union Avenue

The longest vehicle queue that was observed at the SR-85 southbound on-ramp from Union Avenue was 44 vehicles in length within both mixed-flow lanes (or about 22 vehicles per lane) during the PM

peak-hour. The maximum vehicle queue observed nearly extended along the entire length of the on-ramp; however, it was never observed to extend beyond the on-ramp storage and onto Union Avenue. With the addition of traffic generated by the approved Samaritan Medical Office Expansion project, the queue length for this on-ramp is projected to increase by ten vehicles to a maximum of 54 vehicles, and the back-of-queue wait time is projected to increase by more than one minute during the AM peak-hour. The additional 10 vehicles added to the maximum on-ramp queue under background conditions would result in inadequate storage capacity being provided on the on-ramp, and the maximum queue length spilling back onto Union Avenue during the PM peak-hour.

The additional queued vehicles due to the project could be accommodated within the two exclusive southbound left-turn lanes on Union Avenue at the southbound on-ramp intersection, which has a combined storage capacity of 18 vehicles. Therefore, the addition of project traffic to this metered on-ramp would likely not block southbound through traffic on Union Avenue. Additional details regarding the freeway ramp analysis is contained in Appendix F.

CMP Freeway Segment Operations

The project would add more than 100 net new peak-hour vehicle trips to the roadway network. As a result, a CMP freeway analysis was prepared to be consistent with the methodologies set forth in the VTA's Transportation Impact Analysis Guidelines. The following freeway segments were evaluated for level of service:

1. SR-85, between South De Anza Boulevard and Saratoga Avenue
2. SR-85, between Saratoga Avenue and Winchester Boulevard
3. SR-85, between Winchester Boulevard and SR-17
4. SR-85, between SR-17 and Bascom Avenue
5. SR-85, between Bascom Avenue and Union Avenue
6. SR-85, between Union Avenue and Camden Avenue
7. SR-85, between Camden Avenue and Almaden Expressway

The results of the evaluation show that mixed-flow lanes on 11 directional study freeway segments currently operate at an unacceptable LOS F during at least one of the peak traffic hours. The results also show that eight directional HOV lane segments analyzed currently operate at an unacceptable LOS F during at least one of the peak hours. The CMP defines an acceptable level of service for freeway segments as LOS E or better.

The results of the freeway segment level of service analysis show that the project would not substantially increase traffic volumes (one percent or more of freeway capacity) on the study freeway segments currently operating at an unacceptable LOS F, and none of the study freeway segments currently operating at an acceptable LOS E or better would worsen to LOS F as a result of the project.

Parking

Vehicle Parking

The City of San José Zoning Code states that schools (K-8) are required to provide one parking space per teacher plus one parking space per other employee. Based on information provided by the

applicant, there will be a total of 100 employees during school hours. Therefore, the project should provide 100 parking spaces on site. The site plan shows a total of 110 on-site parking spaces, which exceeds the City's parking requirement. Per the 2016 California Building Code (CBC), five ADA accessible spaces are required for projects with 101 to 150 parking spaces. Of the required accessible parking spaces, one van accessible space is required. The project plans show a total of five accessible spaces, which meets the CBC requirement.

Bicycle Parking

The project site currently contains bike racks that accommodate up to 20 bicycles. According to the City's Bicycle Parking Standards (Chapter 20.90, Table 20-210) for elementary and middle schools (grades K through 8), the project is required to provide bicycle parking at a rate of one space per full-time employee and six spaces per classroom. There would be a total 49 full time employees and 51 classrooms on the proposed middle school campus; therefore, the project is required to provide a total of 355 bicycle parking spaces. Note that based on the zip code data for current enrollment of the middle school students at the Blackford campus, the majority of students would commute via passenger cars or use alternative modes such as carpool or shuttle bus. The project currently proposes 12 bicycle parking spaces.

Project Driveway Operations

Traffic volume projections at the proposed new signalize driveway were checked to determine whether installation of a traffic signal would be justified on the basis of peak-hour traffic volumes. With the addition of project trips, the AM peak hour traffic volumes at the intersection of Union Avenue and the relocated northern project driveway would exceed the levels that meet the signal warrant.

Furthermore, *Hexagon's* analysis of the project driveway operations concluded that the northern project driveway, with the signalized intersection configured with one left-turn lane and two through lanes for the northbound approach, one through lane and one shared through-right lane for the southbound approach, and a shared left-right lane for the eastbound approach (project driveway), and assuming a 90-second cycle length and protected left-turn phasing for the northbound approach, would operate at an acceptable LOS B during the AM peak hour, and an acceptable LOS A during the PM peak hour. The unsignalized southern driveway would operate at an acceptable LOS A for the entire intersection and LOS B for the eastbound right-turn movement (outbound vehicles) during the AM peak hour. It would operate at an acceptable LOS A with 1.6 seconds of average intersection delay and 26.8 seconds of delay (LOS D) for the eastbound/outbound movement during the PM peak hour. Trip generation estimates for these driveway intersections are provided in Appendix F.

A queuing analysis for the project inbound movements at the relocated northern project driveway indicates a queue length of 450 feet (a queue of 18 cars) for the northbound left-turn lane and a queue length of 225 feet (a queue of 9 cars) for the southbound shared through/right-turn lane during the AM school peak hour. For the northbound left-turn movement, a maximum queue of 375 feet (about 15 vehicles) can be accommodated within the left-turn pocket/ center turn-lane on Union Avenue. The projected queue length of 450 feet for the northbound left-turn lane would extend into the adjacent through lane on Union Avenue and potentially extend into the upstream intersection of Cole Drive during the school peak 30 minutes in the morning. The Union Avenue/Cole Drive intersection is signalized, however, and would not likely be impacted by the queuing from the northbound left-

turn pocket. Since the new traffic signal would be located approximately 245 feet south of Barrett Avenue, the projected queue length of 225 feet for the southbound right-turn movement would not extend to Barrett Avenue (unsignalized intersection) during the school peak 30 minutes in the morning.

On-Site Circulation

The project would provide 90-degree parking stalls throughout the surface parking lot. The City's standard minimum width for two-way drive aisles is 26 feet wide where 90-degree parking is provided. This would allow sufficient room for vehicles to back out of the parking spaces. According to the site plan, the two-way drive aisles with parking available on either side measure 26 feet wide throughout the parking areas and adheres to the City's minimum width for two-way drive aisles.

The site plan shows that drop-off/pick up operations would occur on the south side of the site at the back of the school, adjacent to the basketball courts. Vehicles would enter the site from the northern driveway and circulate through the school parking lot in a counterclockwise direction to access the drop-off/pick-up area. A turn-around would be provided at the end of the drop-off/pick-up aisle for vehicles to turn around and exit the school via the northern driveway for destinations to the north or via the southern driveway for destinations to the south. The site plan shows that the drop-off/pick-up aisle would measure approximately 575 feet long and would accommodate approximately 23 cars inbound and 23 cars outbound (assuming a car length of 25 feet). Additional queueing space for approximately six vehicles inbound and six vehicles outbound would be facilitated by the two parking aisles located to the south of the proposed signalized project driveway. In order to facilitate on-site student pick-up/drop-off operations by shuttle buses and guarantee efficient circulation of these shuttles within the parking aisles, it is recommended that the project implement the on-site circulation patterns in Appendix F.

Truck Access and Circulation

The project site plan was reviewed for truck access using truck turning-movement templates for a SU-30 truck type, which represents small emergency vehicles, garbage trucks, and small to medium delivery trucks. Based on the site plan configuration, adequate access would be provided for SU-30 trucks to access the project site via the project driveways and maneuver through the parking aisles.

Garbage collection activities for the project are expected to occur on-site. The site plan shows the trash room to be located on the south side of the school adjacent to the drop-off/pick-up lane and near the west parking aisle. After garbage pick-up, garbage trucks could back into the west parking aisle or travel the length of the pick-up/drop off lane to turn around and exit via either of the two project driveways. Garbage collection should occur outside of the school's peak hours of operation as to not impact school peak-hour on-site vehicular circulation.

4.18 TRIBAL CULTURAL RESOURCES

4.18.1 Environmental Setting

4.18.1.1 *Regulatory Framework*

State

Assembly Bill (AB) 52, effective July of 2015, established a new category of resources for consideration by public agencies when approving discretionary projects under CEQA, called Tribal Cultural Resources (TCRs). AB 52 requires lead agencies to provide notice of projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified. Where a project may have a significant impact on a tribal cultural resource, consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource or when it is concluded that mutual agreement cannot be reached.

Under AB 52, a TCRs are defined as follows:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are also either:
    - Included or determined to be eligible for inclusion in the California Register of Historic Resources[50]
    - Included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)
- A resource determined by the lead agency to be a TCR.

While consultation is not required for Addendums, the tribal representatives will be notified of the project as interested stakeholders.

Local

Envision San José 2040 General Plan

The City of San José sets forth the following policies pertaining to tribal cultural resources in its General Plan.

Envision San José 2040 Tribal Cultural Resources Policies

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

[50] See Public Resources Code section 5024.1. The State Historical Resources Commission oversees the administration of the CRHR and is a nine-member state review board that is appointed by the Governor, with responsibilities for the identification, registration, and preservation of California's cultural heritage. The CRHR "shall include historical resources determined by the commission, according adopted procedures, to be significant and to meet the criteria in subdivision (c) (Public Resources Code, Section 5024.1 (a)(b)).

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 their discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
Policy ER-10.3	Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

4.18.1.2 *Existing Conditions*

Tribal resources are defined as "sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe. Under Assembly Bill 52, a lead agency can, at its discretion and supported by substantial evidence, choose to treat a resource as a tribal resource. No tribes have sent written project notification requests to the City of San José except for projects in Coyote Valley (approximately 14 miles southeast of the site). Additionally, on September 5, 2017, the City of San José resent notification letters via certified mail to the Native American Heritage Commission identified tribal contacts. At the time of preparation of this Initial Study, the City of San José had yet to receive any requests for notification from tribes. No known tribal resources occur on the site.

4.18.2 **Impact Discussion**

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
1. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?	☐	☐	☒	☐
2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☐	☒	☐

Impact TCR-1:	The project would not cause a substantial adverse change in the significance of a tribal cultural resource that is 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). **(Less than Significant Impact)**

The project site is not known to contain any tribal cultural resources, however, there is the possibility that tribal cultural resources are uncovered during project construction. As described in CUL-2 in *Section 4.5, Cultural Resources,* the project would implement the City's standard permit conditions to avoid impacts to subsurface cultural resources. These conditions would be applicable to tribal cultural resources and would function to avoid impacts to such resources if they are discovered on-site. Therefore, the proposed project would not cause a substantial adverse change in the significance of a tribal cultural resource that is listed on local or state registers. **(Less than Significant Impact)**

Impact TCR-2:	The project would not cause a substantial adverse change in the significance of a tribal cultural resource that is 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. **(Less than Significant Impact)**

No tribal cultural features, including sites, features, places, cultural landscapes or sacred places have been identified on the project site based on available information. In addition, any prehistoric surface features or landscapes have been modified due to development of the project site and area.

AB 52 requires lead agencies to conduct 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 if the tribes have sent written requests for notification of projects to the lead agency. At the time of preparation of this Initial Study, no Native American tribes that are or have been traditionally and/or culturally affiliated within the project vicinity have requested notification from the City of San José under AB 52 regarding projects in the area and their effects on a tribal cultural resource.

Any subsurface artifacts found on-site would be addressed consistent with the conditions listed in *Section 4.5, Cultural Resources.* Therefore, the proposed project would have a less than significant impact on tribal cultural resources. **(Less than Significant Impact)**

4.19 UTILITIES AND SERVICE SYSTEMS

4.19.1 Environmental Setting

4.19.1.1 *Regulatory Framework*

State and Regional

Urban Water Management Plan

Pursuant to The State Water Code, water suppliers providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet (approximately 980 million gallons) of water annually must prepare and adopt an urban water management plan (UWMP) and update it every five years. As part of a UWMP, water agencies are required to evaluate and describe their water resource supplies and projected needs over a 20-year planning horizon, water conservation, water service reliability, water recycling, opportunities for water transfers, and contingency plans for drought events. The City of Santa Clara adopted its most recent UWMP in November 2016.

Wastewater

The San Francisco Bay Regional Water Quality Board (RWQCB) includes regulatory requirements that each wastewater collection system agency shall, at a minimum, develop goals for the City's Sewer System Management Plan to provide adequate capacity to convey peak flows.

Assembly Bill 939

The California Integrated Waste Management Act of 1989, or Assembly Bill 939 (AB 939), established the Integrated Waste Management Board, required the implementation of integrated waste management plans, and mandated that local jurisdictions divert at least 50 percent of solid waste generated (from 1990 levels), beginning January 1, 2000, and divert at least 75 percent by 2010. Projects that would have an adverse effect on waste diversion goals are required to include waste diversion mitigation measures.

Assembly Bill 341

Assembly Bill (AB) 341 sets forth the requirements of the statewide mandatory commercial recycling program in the Public Resources Code. All businesses that generate four or more cubic yards of garbage per week and multi-family dwellings with five or more units in California are required to recycle. AB 341 sets a statewide goal for 75 percent disposal reduction by the year 2020.

Senate Bill 1383

Senate Bill (SB) 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. The bill grants CalRecycle the regulatory authority required to achieve the organic waste disposal reduction targets and establishes an additional target that not less than 20 percent of currently disposed edible food is recovered for human consumption by 2025.

California Green Building Standards Code

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

Envision San José 2040 General Plan

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

Envision San José 2040 Relevant Utilities and Service System Policies

Policy	Description
Policy MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
Policy MS-3.2	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 nonresidential and residential uses.
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-3.5	Require development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D", to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.
Policy IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
Policy IN-3.10	Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES) permit.
Action 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.

San José Zero Waste Strategic Plan/Green Vision

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

Private Sector Green Building Policy

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

4.19.1.2 *Existing Conditions*

Water Supply

The project site is currently occupied by a pre-school, which generates a water supply demand of approximately 6,969,353 gallons of water per year. Currently, there are no recycled water lines in the project area. The nearest recycled water line is at Curtner Avenue and Little Orchard Street, approximately 5.5 miles northeast of the project site.[51]

Wastewater

Sanitary sewer lines in the area are owned and maintained by the City of San José. The Envision San José 2040 General Plan FPEIR states that average wastewater flow rates are approximately 70 to 80 percent of domestic water use and 85 to 95 percent of business use (assuming no internal recycling or reuse programs). It is assumed that the project site generates approximately 0.020 million gallons of wastewater per day (mgd), which is 85 percent of the site's estimated water usage.

Based on the General Plan FPEIR, the City's average dry weather flow of wastewater is approximately 69.8 million gallons per day (mgd). The City's capacity allocation at the San José Santa Clara Regional Wastewater Facility (Regional Wastewater Facility) is approximately 108.6 mgd, leaving the City with approximately 38.8 mgd of excess treatment capacity.

Storm Drainage

The City of San José owns and maintains the municipal storm drainage system that serves the project site and surrounding area. An existing 12-inch storm drain line located in Union Avenue serves the project site. The storm drain system in the project area drains into Los Gatos Creek (2.5 miles north of the project site), which is a major tributary to the Guadalupe River. The Guadalupe River flows north, carrying the runoff from the storm drain systems into San Francisco Bay. There is no overland

[51] South Bay Water Recycling. *Recycled Water Pipeline System.* Map. July 28, 2011.

release of stormwater directly into any water body from the project site. Approximately 28 percent of the existing project site is comprised of impervious surfaces, which generate runoff that enters the City's storm drainage system.

Solid Waste

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California Integrated Waste Management Board in 1996 and was reviewed in 2004 and 2007. Each jurisdiction in the County has a landfill diversion requirement of 50 percent per year. In 2008, the City of San José diverted approximately 60 percent of the waste generated in the City. According to the IWMP, the County has adequate disposal capacity beyond 2022. In October 2007, the San José City Council adopted a Zero Waste Resolution, which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022. The City landfills approximately 700,000 tons per year of solid waste including 578,000 tons per year at landfill facilities in San José. The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year.

San José granted Republic Services a 15-year exclusive franchise to collect most standard garbage, recycling, and organics from businesses, which went into effect on July of 2012. Pursuant the City's solid waste ordinances and Republic's agreement for providing solid waste services in the City of San José, Republic has the exclusive right and duty to collect, transport, and dispose of all commercial solid waste in the City of San José.

4.17.3 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☒	☐
2) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☒	☐
3) Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☒	☐
4) 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?	☐	☐	☒	☐

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
5) Be noncompliant with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☒	☐

Impact UTL-1: The project would not require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects. **(Less than Significant Impact)**

Wastewater/Sanitary Sewer

The treatment capacity of the RWF is 167 mgd. The RWF, however, is currently operating under a 120 mgd (dry weather) flow requirement. This requirement is based upon the SWRCB and the San Francisco Bay RWQCB concerns over the effects of additional freshwater discharges from the RWF on saltwater marsh habitat and pollutant loading to the Bay from the RWF. The RWF currently treats an average of 110 mgd.

Based on the total square footage of the existing buildings on the site, the project site currently generates approximately 13,918 gallons of wastewater per day (0.014 mgd). The proposed project would generate approximately 19,584 gallons per day (0.020 mgd).[52] The project would, therefore, increase the wastewater generation on the site by approximately 0.006 mgd. The City of San José generates approximately 69.8 mgd of dry weather sewage flow. The City's share of the RWF treatment capacity is 108.6 mgd, which leaves the City with approximately 38.8 mgd of excess treatment capacity.[53] The .006 mgd increase in wastewater generated by the proposed project would not cause the RWF to exceed its capacity or discharge limit, and would be within San José's treatment allocation. No wastewater treatment facilities would need to be constructed or expanded; therefore, the project would have a less than significant impact regarding the City's wastewater treatment facilities. **(Less than Significant Impact)**

Stormwater Drainage

Implementation of the project would increase on-site impervious surfaces by approximately 10 percent, incrementally increasing the amount of stormwater runoff generated by the site. Currently, the existing storm drainage system has sufficient capacity to support the project site, and it is anticipated that the project would not exceed the capacity of the storm drain system serving the site.

The project must comply with applicable General Plan policies, which would require implementation of stormwater best management practice and will be required to comply with the NPDES Municipal Regional Permit and all applicable plans, polices, and regulations (including RWQCB permits) for

[52] Based on sewage generation rates of 0.183 gal./day/s.f for daycare and 0.197 gal./day/s.f. for school uses.
[53] San José, City of. *Envision* San José *General Plan Integrated Final Program EIR*. November 2011.

the treatment of stormwater. For these reasons, implementation of the proposed project would not have a significant impact on the City's storm drainage system. **(Less than Significant Impact)**

Water Facilities

As discussed below in UTL-2, the proposed project is served by water retailers with adequate supply to meet the increased demand generated by the project. The project is already connected to the City's water delivery system and would not necessitate expansion of existing facilities or construction of new facilities. Therefore, the project would have a less than significant impact on the City's water facilities. **(Less than Significant Impact)**

Electric Power, Natural Gas, and Telecommunication Utilities

The site is currently served by electric power, natural gas, and telecommunication utilities. The proposed redevelopment of the site would not require the expansion of these utilities. Therefore, the proposed project would not result in a significant impact due to the expansion or relocation of electric power, natural gas, or telecommunication facilities. **(Less than Significant Impact)**

Impact UTL-2:	The project would not have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years. **(Less than Significant Impact)**

As part of the conversion to a 600-student middle school campus, the proposed project would demolish existing buildings on the 120-student pre-school campus and construct new buildings using current California Plumbing Code requirements. The number of students and staff would increase on the site as a result of the proposed project. The proposed project would use approximately 1,300,000 gallons of water per year for landscaping and interior uses, which would be lower than existing water use. The project will be required to use water efficient plants in conformance with the City's Landscape Ordinance.

The General Plan FPEIR determined that the three water suppliers for the City could serve planned growth under the General Plan until 2025. Water demand could exceed water supply with implementation of the General Plan during dry and multiple dry years after 2025. The General Plan has specific policies to reduce water consumption including expansion of the recycled water system and implementation of water conservation measures. The General Plan FPEIR concluded that with implementation of existing regulations and adopted General Plan policies, full build out under the General Plan would not exceed the available water supply under standard conditions and drought conditions.

The proposed project is consistent with planned growth in the General Plan and will comply with the policies and regulations identified in the General Plan FPEIR. Therefore, implementation of the proposed project would have a less than significant impact on the City's water supply. **(Less than Significant Impact)**

Impact UTL-3:	The project would not result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments. **(Less than Significant Impact)**

As discussed previously, the .006 mgd increase in wastewater generated by the proposed project would not cause the RWF to exceed its capacity or discharge limit and would be within San José's treatment allocation. Therefore, the project would have a less than significant impact regarding wastewater treatment capacity at the RWF. **(Less than Significant Impact)**

Impact UTL-4:	The project would not 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 Impact)**

The proposed project would increase enrollment from 120 students to 600 students, and the faculty would increase from 50 to 100 employees. Using CalEEMod solid waste 2016 generation rates, the existing site generates approximately 62 tons of solid waste a year, and the proposed project would generate approximately 188 tons of solid waste a year. As such, the proposed project would create an additional 126 tons of solid waste a year to be served by local landfills.

According to the General Plan FPEIR, planned growth under the 2040 General Plan could increase the amount of solid waste sent to landfills by approximately 571,500 tons per year through 2035, using current generation rates. The estimate represents the upper limit of potential landfilling needs, given that disposal rates will likely continue to decrease over time. Based on the upper limit, the existing landfills in San José would have sufficient permitted capacity of 5.3 million tons per year to receive the additional waste generated by new development in the City. Without additional waste reduction, however, local landfills could reach actual capacity by 2025.

The City intends to extend the lifespan of existing landfills through implementation of the Zero Waste Strategic Plan, which supports the City's goal of 100 percent diversion by 2022. Under the Zero Waste Strategic Plan, the City will utilize techniques such as a source reduction, reuse, and composting. Compliance with the CALGreen Code and California Air Resources Board's Mandatory Commercial Recycling Measure would complement local efforts and further reduce demand for landfill facilities. As redevelopment proceeds and diversion rates increase over time, the City will ensure adequate landfill capacity through monitoring the availability of collection, transfer, recycling, disposal, and waste processing services, periodically assessing infrastructure needs, and working with Material Recovery Facilities (MRF) and landfill operators to expand capacity as needed (Envision San José 2040 General Plan Policies IN-5.1, IN-5.4, and IN-5.15).

Future development in San José, including the proposed project, will be required to comply with existing local and State programs and regulations. For example, in accordance with the current CALGreen Code, specific projects are required to provide on-site recycling facilities, develop a construction waste management plan, salvage at least 50 percent of nonhazardous construction/demolition debris (by weight), and implement other waste reduction measures.

With implementation of the existing programs, State regulations, Envision San José 2040 General Plan polices, and the City's Zero Waste Strategic Plan, solid waste generated by the project would not exceed the permitted or actual capacity of existing landfills. **(Less than Significant Impact)**

Impact UTL-5:	The project would not be noncompliant with federal, state, and local management and reduction statutes and regulations related to solid waste. **(Less than Significant Impact)**

As mentioned above, the project would be required to comply with federal, state, and local statutes and regulations related to solid waste. Policies implemented at the local level would ensure that state and federal solid waste statutes and regulations are met by the project. **(Less than Significant Impact)**

4.20 WILDFIRE

4.20.1 Environmental Setting

4.20.1.1 *Regulatory Framework*

4.20.1.2 *Existing Conditions*

The proposed project is located in an urbanized area of San José which has not been designated as a very high fire hazard severity zone on CalFire maps. [54]

4.20.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	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:				
1) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
2) 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?	☐	☐	☐	☒
3) 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?	☐	☐	☐	☒
4) 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?	☐	☐	☐	☒

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones; therefore, the project would not result in wildfire impacts. **(No Impact)**

[54] CalFire. "California Fire Hazard Severity Zone Map Update Project". Accessed April 12, 2019. http://www.fire.ca.gov/fire_prevention/fire_prevention_wildland_statewide

4.21 MANDATORY FINDINGS OF SIGNIFICANCE

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
1) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☒	☐	☐	1-20
2) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☒	☐	☐	1-20
3) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☒	☐	☐	1-20

Impact MFS-1: The project does not 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 Impact with Mitigation Incorporated)**

As discussed in the individual sections, the proposed project would not degrade the quality of the environment with the implementation of identified Standard Permit Conditions and mitigation measures. As discussed in Section 4.4 Biological Resources, the project would implement MM BIO-1.1 - 1.4 to reduce potential disturbance to nesting birds and raptors in the project vicinity during project construction activities and would implement the Standard Permit Condition to comply with the Santa Clara Valley Habitat Plan. As discussed in Section 4.17 Transportation/Traffic, the project would implement MM TRN-2.1 and -2.2 to reduce VMT impacts to a less than significant level. **(Less than Significant with Mitigation Incorporated)**

Impact MFS-2:	The project does not have impacts that are individually limited, but cumulatively considerable. **(Less than Significant Impact with Mitigation Incorporated)**

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

The proposed development would result in temporary air quality, biology, and noise impacts during construction. With implementation of the identified mitigation measures, Standard Permit Conditions, and consistency with adopted City policies, the construction impacts would be mitigated to a less than significant level. As the identified impacts are temporary and would be mitigated, the project would not have cumulatively considerable impacts on air quality, biology, and noise in the project area.

The project would have a less than significant impact on aesthetics, geology and soils, hydrology and water quality, population and housing, recreation, tribal cultural resources and utilities, and would not contribute to cumulative impacts to these resources. The project would not impact agricultural and forest resources or mineral resources. Therefore, the project would not contribute to a significant cumulative impact on these resources.

The project's contribution to a cumulative impact on public services and transportation were analyzed in the certified General Plan FPEIR (as amended). The proposed project would not result in a more significant cumulative impact related to these issues than disclosed within the General Plan FPEIR.

The project would contribute to the significant cumulative transportation impact that would occur under full build out of the Envision San José 2040 General Plan. The project would not, however, result in any new or more significant cumulative impacts than the approved projects. Mitigation measures were adopted where feasible and statements of overriding considerations have been adopted for the General Plan. **(Less than Significant Impact with Mitigation Incorporated)**

Impact MFS-3:	The project does not have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly. **(Less than Significant Impact with Mitigation Incorporated)**

The project site is currently used as a pre-school. Urban development, including the proposed uses, are consistent with the long-term goals for the site outlined in the Envision San José 2040 General Plan. The construction of the project would result in the temporary disturbance of developed land as well as an irreversible and irretrievable commitment of resources and energy during construction.

Construction of the proposed project would not result in the conversion of a greenfield site to urban uses or otherwise commit resources in a wasteful or inefficient manner. The project proposes to redevelop a developed site in suburban San José; therefore, short-term effects resulting from construction would be substantially offset by meeting the long-term environmental goals (such as increased building energy efficiency) for this site. The operational phase would consume energy for multiple purposes including building heating and cooling, lighting, and electronics. While the project would result in a net increase in energy use, it would be subject to the Green Building Ordinance for Private Sector New Construction, which requires new development to incorporate energy conservation and efficiency through site design, architectural design, and construction techniques. Energy, in the form of fossil fuels, would be used to fuel vehicles traveling to and from the project site. The project would result in an increase in demand upon nonrenewable resources; however, the project is required to comply with the City's Private Sector Green Building Policy.

The project could result in a significant hazards and hazardous materials impact due to the potential presence of pesticide-contaminated soils under the site. The project would implement MM HAZ-2 to determine if levels of contamination in near surface soils exceed established construction worker safety and commercial/industrial standard environmental screening levels. If contaminated soils are discovered, the project would address potential health risks related to underlying soil in accordance with the identified mitigation measures.

With implementation of the mitigation measures and Standard Permit Conditions included in the project and compliance with City General Plan policies, the proposed project would not result in substantial adverse effects to human beings. **(Less than Significant Impact with Mitigation Incorporated)**

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SECTION 6.0 LEAD AGENCY AND CONSULTANTS

6.1 LEAD AGENCY

City of San José
Department of Planning, Building, and Code Enforcement
Rosalynn Hughey, *Director*
David Keyon, *Principal Planner*
Thai Chau-Le, *Supervising Environmental Planner*

6.2 CONSULTANTS

David J. Powers & Associates, Inc.
Environmental Consultants and Planners
Demetri Loukas, Principal Project Manager
Mike Campbell, AICP, CPSWQ, Project Manager
Daniel DeBrito, Assistant Project Manager
Zach Dill, Graphic Artist

Cornerstone Earth Group
Geotechnical Engineers
Stason I. Foster, P.E., Senior Project Engineer
Kurt M. Soenen, P.E., Principal Engineer

Hexagon Transportation Consultants, Inc.
Transportation Consultants
Brian Jackson, Senior Associate

HortScience, Inc.
Horticultural Consultants
James R. Clark, Ph.D., Certified Arborist, Registered Consulting Arborist

Illingworth & Rodkin, Inc.
Air Quality and Noise Consultants
James Reyff
Bill Popenuck
Mimi McNamara