

Initial Study/Addendum and Environmental Assessment

McEvoy Affordable Housing Project

GP17-015, C18-034, SP18-059, T19-017

Prepared by



In Consultation with



January 2020

ADDENDUM TO THE DIRIDON STATION AREA PLAN FINAL ENVIRONMENTAL IMPACT REPORT (SCH# 2011092022)

Pursuant to Section 15164 of the CEQA Guidelines, the City of San José has prepared an Addendum to the Diridon Station Area Plan Final Environmental Impact Report (DSAP FEIR) because minor changes made to the project, as described below, do not raise important new issues about the significant impacts on the environment.

Project Title: McEvoy Affordable Housing Project

File Nos. GP17-015, C18-034, SP18-059, T19-017: A General Plan Amendment to amend the Envision San José 2040 General Plan Land Use/transportation Diagram designation from Mixed Use Commercial to Transit Residential, a Conforming Rezoning from the HI Heavy Industrial Zoning District to the R-M Multiple-Residence Zoning District, and a tentative map to merge and reconfigure six of the parcels (APNs 261-38-001, -004, -030, -047, -048 and -049) into three. A Special Use Permit to demolish two buildings totaling approximately 11,380 square feet, remove three (3) ordinance sized trees, and construct a 100-percent affordable housing (excluding the manager’s units) project with 365 affordable, multi-family residential units with two towers with an alternative parking arrangement, back-up generator, and up to 12.5-foot tall retaining wall on a 1.13-acre portion of the 1.22-acre site. One building (Family Building) is an approximately 194,246-square foot, 13-story building with a rooftop garden, and the second building (Workforce Building) is approximately 150,082-square feet and 13-stories with a rooftop garden. A State Density Bonus is requested including a 29-percent increase in density and waivers to increase in building height; reduce the required setbacks along McEvoy Street and Dupont Street, and reduce the amount of required motorcycle parking.

Location: The 1.22-acre project site is comprised of seven contiguous parcels located at 280 McEvoy Street; north of the West San Carlos Street bridge ramp between McEvoy Street and Dupont Street.

Assessor’s Parcel Numbers: 261-38-001, -004, -005, -030, -047, -048, and -049 **Council District:** 6

The environmental impacts of this project were addressed in the DSAP FEIR adopted by City Council Resolution No. 77096 on June 17, 2014.

The proposed project is eligible for an addendum pursuant to CEQA Guidelines §15164, which states that “a lead agency or responsible agency shall prepare an addendum to a previously certified Environmental Impact Report (EIR) if some changes or additions are necessary but none of the conditions described in CEQA Guidelines §15162 calling for preparation of a subsequent EIR have occurred.” Circumstances which would warrant a subsequent EIR include substantial changes in the project or new information of substantial importance which would require major revisions of the previous EIR due to the occurrence of new significant impacts and/or a substantial increase in the severity of previously identified significant effects.

The following impacts were reviewed and found to be adequately considered by the EIR cited above:

- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> Aesthetics | <input checked="" type="checkbox"/> Agriculture Resources | <input checked="" type="checkbox"/> Air Quality |
| <input checked="" type="checkbox"/> Biological Resources | <input checked="" type="checkbox"/> Cultural Resources | <input checked="" type="checkbox"/> Geology and Soils |
| <input checked="" type="checkbox"/> Greenhouse Gas Emissions | <input checked="" type="checkbox"/> Hazardous Materials | <input checked="" type="checkbox"/> Hydrology & Water Quality |
| <input checked="" type="checkbox"/> Land Use | <input checked="" type="checkbox"/> Mineral Resources | <input checked="" type="checkbox"/> Noise |
| <input checked="" type="checkbox"/> Population and Housing | <input checked="" type="checkbox"/> Public Services | <input checked="" type="checkbox"/> Recreation |
| <input checked="" type="checkbox"/> Transportation/Traffic | <input checked="" type="checkbox"/> Utilities & Service Systems | <input checked="" type="checkbox"/> Energy |
| <input checked="" type="checkbox"/> Growth Inducing | <input checked="" type="checkbox"/> Cumulative Impacts | <input checked="" type="checkbox"/> Mandatory Findings of Sig. |

ANALYSIS

In 2014, the City of San José approved the Diridon Station Area Plan (DSAP). The 250-acre DSAP area is generally bounded by Lenzen Avenue and the Union Pacific Railroad tracks to the north, Interstate 280 to the south, the Guadalupe River and Delmas Avenue to the east, and Sunol Avenue and the Diridon Station commuter rail tracks to the west. The DSAP allows up to 4,963,400 square feet of office/research and development/light industrial land uses, 424,100 square feet of retail/restaurant space, 2,588 residential units, and 900 hotel rooms. The development allowed under the DSAP is consistent with the planned growth in the Envision San José 2040 General Plan.

The DSAP FEIR is a program-level document that analyzed the overall development proposed within the DSAP area. The project site is located within the DSAP area and potential redevelopment of the project site was analyzed in the DSAP FEIR. The DSAP FEIR analyzed the project site with an assumed General Plan land use designation of *Transit Residential (TR)*, consistent with the currently proposed project. The City Council decided to retain the existing land use designation of *Mixed Use Commercial (MUC)* at the site. The analysis in the DSAP PEIR was certified in 2014. This Addendum to the DSAP FEIR has been prepared to identify any changes to the physical environment on and around the project site since certification of the DSAP FEIR, and confirm the findings of the DSAP FEIR relative to the project site.

The project proposes to change the General Plan land use designation on all seven parcels from *MUC - Mixed-Use Commercial* to *TR – Transit Residential*. The *TR* designation allows a residential density of 50 to 250 dwelling units per acre with a floor area ratio of 2.0 to 12.0 and buildings ranging in height from 5 to 25 stories. This change in land use could result in a future development of 170 to 850 residential units on the project site.

The project site is in a *Heavy Industrial (HI)* zoning district. Under the project, the site would be rezoned to *Multiple Residence (R-M)* Zoning District.

The project applicant has requested a density bonus consistent with the State Density Bonus Law, for an up to 35 percent increase over the maximum allowable residential density for affordable housing. With the maximum allowable density bonus, up to 381 affordable dwelling units could be developed on the 1.13-acre site. The project proposes development of 365 units.

The project would request incentives for development standards that would result in identifiable and actual cost reductions to allow the affordable housing costs and rents. The project would request an incentive to extend the maximum building height to 164 feet, 44 feet above the maximum height of 120 feet allowed on the site under the Diridon Station Area Plan. The project would also request an incentive to reduce the project's parking and motorcycle parking ratio to be lower than the DSAP parking ratio. The project would also request an incentive to allow reduced setbacks along McEvoy Street and Dupont Street (0.33 feet and 0 feet, respectively).


With the density bonus and requested incentives, the project would be consistent with the development density evaluated in the DSAP FEIR. The proposed General Plan Amendment from Mixed Use Commercial to Transit Residential would be consistent with the site's originally evaluated DSAP land use designation. The DSAP PEIR did not identify any environmental impacts associated with the change in land use.

No new or more significant environmental impacts beyond those identified in the DSAP FEIR have been identified, nor have any new mitigation measures or alternatives been identified which are considerably different from those analyzed in the EIR. The project would not result in a substantial increase in the magnitude of any significant environmental impact previously identified in the EIRs. For these reasons, a supplemental or subsequent EIR is not required and an Addendum to the DSAP FEIR has been prepared for the proposed project.

The attached Initial Study provides background on the project description, specific project impacts, and the relationship between previous mitigation measures and the revised project. This Addendum and supporting Initial Study will not be circulated for public review, but will be attached to the DSAP FEIR pursuant to CEQA Guidelines §15164(c).

Rosalynn Hughey, Director
Planning, Building and Code Enforcement

January 10, 2020
Date


Deputy

Environmental Project Manager: Reema Mahamood

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- Appendix J: Explosive and Fire Hazards Review

ACRONYMS AND ABBREVIATIONS

AASHTO	American Association of State Highway and Transportation Officials
AB	Assembly Bill
ABAG	Association of Bay Area Governments
ABC	American Bird Conservancy
ACE	Altamont Commuter Express
ACM	asbestos-containing material
ADA	Americans with Disabilities Act
AGL	above ground level
AIA	Airport Influence Area
AP	Alquist-Priolo Earthquake Fault Zoning
APE	Area of Potential Effect
APN	Assessor's Parcel Number
ASD	Acceptable Separation Distance
AST	aboveground storage tank
ASTM	American Society for Testing and Materials
ATCM	air toxic control measures
BAAQMD	Bay Area Air Quality Management District
BART	Bay Area Rapid Transit
BCDC	Bay Conservation and Development Commission
BMP	best management practice
BMR	below market rate
Btu	British thermal unit
CAA	Clean Air Act
CalARP	California Accidental Release Program
CalEEMod	California Emissions Estimator Model
CalEPA	California Environmental Protection Agency
CAL FIRE	California Department of Forestry and Fire Protection
CalGreen	California Green Building Standards
Cal/OSHA	California Division of Occupational Safety and Health
CalRecycle	California Department of Resources Recycling and Recovery
Caltrans	California Department of Transportation
CAM	California Heavy Metals Test
CAP	Clean Air Plan
CARB	California Air Resources Board

CBIA	California Building Industry Association
CCL	Candidate City Landmark
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CEQA	California Environmental Quality Act
CESA	California Endangered Species Act
CFR	Code of Federal Regulations
CGS	California Geological Survey
CH ₄	methane
CHMIRS	California Hazardous Materials Incident Reporting System
CIWMB	California Integrated Waste Management Board
CLUP	Comprehensive Land Use Plan
CMP	Congestion Management Program
CNEL	Community Noise Equivalent Level
CNPS	California Native Plant Society
CO ₂	carbon dioxide
CO ₂ e	carbon dioxide equivalent
CPD	Office of Community Planning and Development
CPT	Core Penetration Test
CRHR	California Register of Historical Resources
CS	Contributing Structure
CUPA	Certified Unified Program Agency
CWA	Clean Water Act
dB	decibel
dBA	A-weighted sound level
DNL	Day-Night Level
DPF	Diesel Particulate Filters
DPM	diesel particulate matter
DSAP	Diridon Station Area Plan
DTSC	Department of Toxic Substances Control
du/ac	dwelling units per acre
EA	Environmental Assessment
EDD	Employment Development Department
EIR	Environmental Impact Report

ERR	Environmental Record Review
ESL	environmental screening level
EVA	emergency vehicle access
FAA	Federal Aviation Administration
FAR	Federal Aviation Regulations
FEIR	Final Environmental Impact Report
FEMA	Federal Emergency Management Agency
FINDS	Facility Index System
FIRM	Flood Insurance Rate Map
FMMP	Farmland Mapping and Monitoring Program
FTA	Federal Transit Administration
g	acceleration due to gravity
GHG	greenhouse gas
GPA	General Plan Amendment
GWh	gigawatt hour
Habitat Plan	Santa Clara Valley Habitat Plan
HI	Hazard Index
HI	Heavy Industrial
HIP	Housing Investment Plan
HMP	Hydromodification Management Plan
HOME	HOME Investment Partnerships Program
HSP	health and safety plan
HUD	Housing and Urban Development
IS	Initial Study
ITE	Institute of Transportation Engineers
IWM	Santa Clara County Integrated Watershed Management
IWMP	Integrated Waste Management Plan
kBtu	thousand British thermal units
kWh	kilowatt hour
LEED	Leadership in Energy and Environmental Design
L_{eq}	Noise Equivalent Level
LID	Low Impact Development
LIHTC	Low-Income Housing Tax Credit
L_{max}	Maximum Sound Level
LPG	liquefied petroleum gas

LOS	Level of Service
LRT	Light Rail Transit
m ³	cubic meter
MBTA	Migratory Bird Treaty Act
MLD	Most Likely Descendant
MND	Mitigated Negative Declaration
mpg	mile per gallon
MRP	Municipal Regional Permit
MSL	mean sea level
MT	metric ton
MTC	Metropolitan Transportation Commission
MUC	Mixed Use Commercial
NAHC	Native American Heritage Commission
NCS	Non-Contributing Structure
NEPA	National Environmental Policy Act
NESHAP	National Emission Standards for Air Pollution
NFIP	National Flood Insurance Program
N ₂ O	nitrous oxide
NOI	Notice of Intent
NO _x	nitrogen oxide
NPDES	National Pollutant Discharge Elimination System
NRHP	National Register of Historic Places
NS	Non-Significant
NWIC	Northwest Information Center
PAH	polynuclear aromatic hydrocarbon
PBCE	City of San José Department of Planning, Building and Code Enforcement
PCB	polychlorinated biphenyl
PDO	Park Dedication Ordinance
PEIR	Program Environmental Impact Report
PG&E	Pacific Gas and Electric Company
PI	Plasticity Index
PIO	Park Impact Ordinance
PM	particulate matter
PM ₁₀	coarse particulate matter
PM _{2.5}	fine particulate matter

ppm	part per million
PPV	peak particle velocity
RAP	Removal Action Plan
RCRA	Resource Conservation and Recovery Act
R-M	Multiple Residence
RMP	Risk Management Plan
ROG	reactive organic gas
RPS	Renewables Portfolio Standard
RTP	Regional Transportation Plan
RWF	Regional Wastewater Facility
RWQCB	Regional Water Quality Control Board
SB	Senate Bill
SCCDEH	Santa Clara County Department of Environmental Health
SCEC	Southern California Earthquake Center
SCS	Sustainable Communities Strategy
SCVWD	Santa Clara Valley Water District
SHMA	Seismic Hazards Mapping Act
SHPO	State Historic Preservation Officer
SJCE	San José Clean Energy
SJFD	San José Fire Department
SJPD	San José Police Department
SJUSD	San José Unified School District
SJWC	San José Water Company
SLF	Sacred Land Files
SM	Structure of Merit
SMP	Site Management Plan
SR	State Route
STC	Sound Transmission Class
SUV	sport utility vehicle
SWPPP	Stormwater Pollution Prevention Plan
SWRCB	State Water Resources Control Board
TAC	toxic air contaminant
TCR	Tribal Cultural Resource
TDM	Transportation Demand Management
TPH	total petroleum hydrocarbon

TR	Transit Residential
µg	microgram
µm	micrometer
UPRR	Union Pacific Railroad
USEPA	United States Environmental Protection Agency
USFWS	United States Fish and Wildlife Service
UST	Underground storage tank
VCP	vitriified clay pipe
VdB	vibration velocity level
VMT	vehicle miles traveled
VOC	volatile organic compound
VTA	Santa Clara Valley Transit Authority

SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE ADDENDUM

This Initial Study in support of an Addendum to the Diridon Station Area Plan (DSAP) Program Environmental Impact Report (PEIR) has been prepared by the City of San José (City) as the Lead Agency, in conformance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (Title 14, California Code of Regulations §15000 et seq.), and the regulation and policies of the City of San José.

In 2014, the City approved the Diridon Station Area Plan. The 250-acre DSAP area is generally bounded by Lenzen Avenue and the Union Pacific Railroad (UPRR) tracks to the north, Interstate 280 to the south, the Guadalupe River and Delmas Avenue to the east, and Sunol Avenue and the Diridon Station commuter rail tracks to the west. The DSAP allows up to 4,963,400 square feet of office/research and development/light industrial land uses, 424,100 square feet of retail/restaurant space, 2,588 residential units, and 900 hotel rooms. The development allowed under the DSAP is consistent with the planned growth in the Envision San José 2040 General Plan (General Plan).

The DSAP PEIR is a program-level document that analyzed the overall development proposed within the DSAP area. The project site is located within the DSAP and potential redevelopment of the project site was analyzed in the DSAP PEIR. The DSAP PEIR analyzed the project site with an assumed General Plan land use designation of *Transit Residential (TR)*, consistent with the currently proposed project. The City Council decided to retain the existing land use designation of *Mixed Use Commercial (MUC)* at the site. The analysis in the DSAP PEIR was certified in 2014. This Addendum to the DSAP PEIR has been prepared to identify any changes to the physical environment on and around the project site since certification of the DSAP PEIR, and confirm the findings of the DSAP PEIR relative to the project site.

This Initial Study in support of the Addendum has been prepared as part of the subsequent environmental review process needed to evaluate the proposed project in terms of the overall development envisioned in the DSAP. In accordance with CEQA Guidelines Section 15162, the Addendum tiers from the DSAP PEIR.

1.2 PURPOSE OF THE ENVIRONMENTAL ASSESSMENT

This Environmental Assessment (EA) has been prepared by the City of San José as the Responsible Entity, in conformance with the National Environmental Policy Act (NEPA) and U.S. Department of Housing and Urban Development (HUD; 24 Code of Federal Regulations [CFR] 58.36) requirements. The project is subject to federal as well as State environmental review requirements because the project proponent, First Community Housing, proposes the use of federal HOME Investment Partnerships Program (HOME) funds, federal Low-Income Housing Tax Credits (LIHTC), and tax-exempt bonds.

HUD's responsibility for environmental review, consultation, and any other action required in accordance with applicable federal laws for this project is being carried out by the City of San José, which has been delegated by HUD as the Responsible Entity for this project. The EA discloses the

direct, indirect, and cumulative environmental impacts that would result from implementation of the proposed action and alternatives.

1.3 AVAILABILITY FOR REVIEW

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

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

McEvoy Affordable Housing Project

2.2 CEQA LEAD AGENCY / NEPA RESPONSIBLE ENTITY

City of San José
Planning Division
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, T-3
San José, CA 95113-1905
Contact: Reema Mahamood, Planner III
408-535-6872; reema.mahamood@sanjoseca.gov

2.3 CERTIFYING OFFICER

Rosalynn Hughey, Director of Planning, Building and Code Enforcement, City of San José

2.4 PROJECT APPLICANT / GRANT RECIPIENT

First Community Housing, Inc.
75 East Santa Clara Street, Suite 1300
San José, CA 95113
Contact: Regina Celestin Williams, Deputy Director of Development
408-291-8650 extension 11; ReginaCW@firshousing.org

2.5 CONSULTANT

David J. Powers and Associates, Inc.
1871 The Alameda, Suite 200
San José, CA 95126
Contact: Hannah Darst, Project Manager
hdarst@davidjpowers.com

SECTION 3.0 PROJECT DESCRIPTION

3.1 PROJECT LOCATION

The project site is located at 280 McEvoy Street in the City of San José. The project site (Assessor's Parcel Numbers [APNs] 261-38-001, -004, -005, -030, -047, -048, and -049) is within the DSAP, north of the West San Carlos Street bridge ramp between McEvoy Street and Dupont Street. The location of the project site is shown on the following figures:

- Figure 3.1-1 Regional Map
- Figure 3.1-2 Vicinity Map
- Figure 3.1-3 Aerial Photograph and Surrounding Land Uses

3.2 DESCRIPTION OF THE PROPOSED PROJECT [24 CFR 50.12 & 58.32; 40 CFR 1508.25]

3.2.1 Existing Conditions

The 1.22-acre site is currently developed with industrial uses. The southern, 1.13-acre property (699 West San Carlos Street) includes a large metal-sided industrial warehouse, a two-vehicle garage, and uncovered parking and storage areas. The property is currently occupied by S&S Welding, Inc. The northern, 0.09-acre property (254 McEvoy Street) contains a concrete warehouse currently occupied by Pipe Bending Cutting & Threading. The San Carlos Street frontage is landscaped, and the remainder of the property is paved and surrounded by slatted chain link fencing. Site access is provided via driveways on McEvoy Street and Dupont Street.

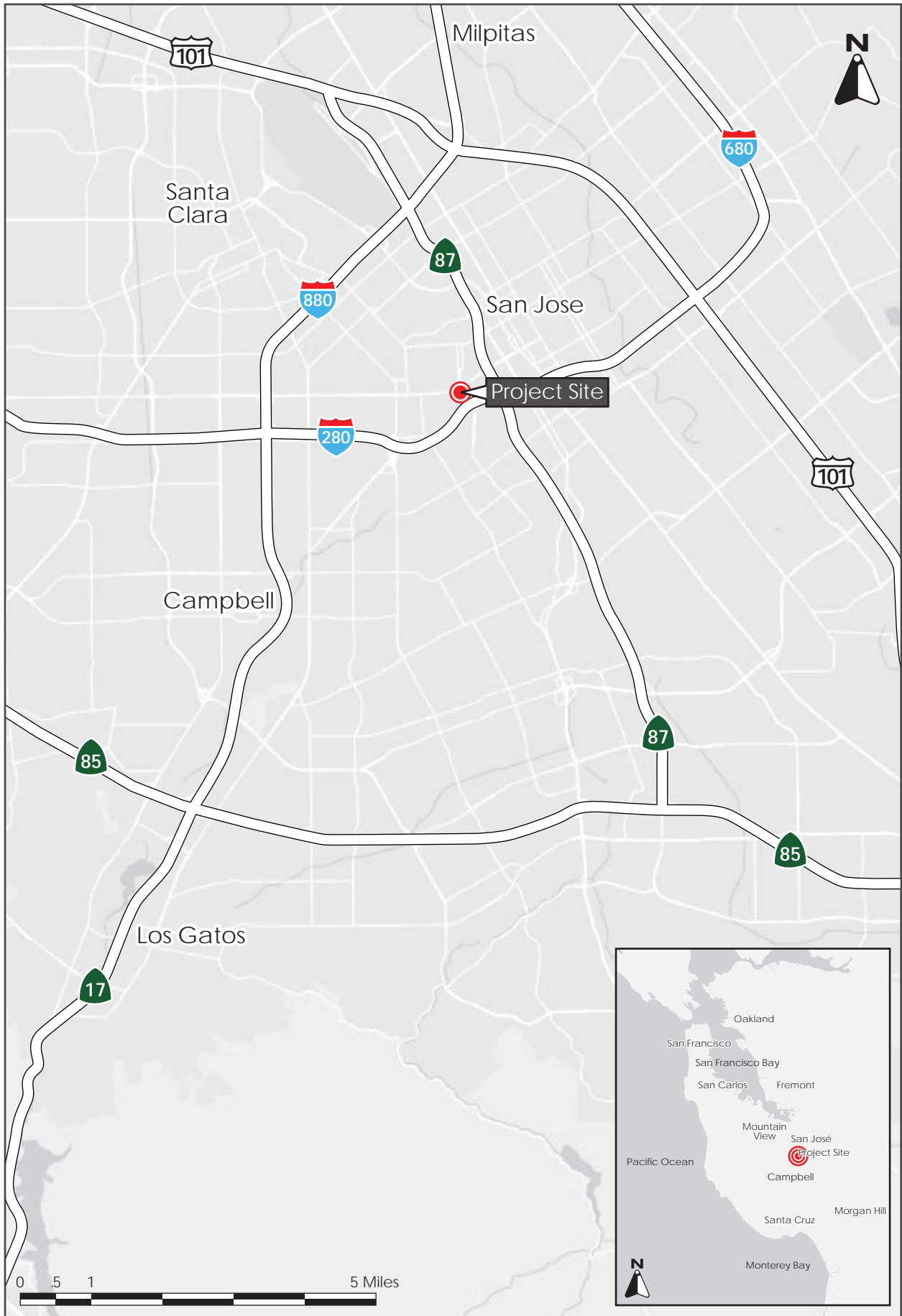
The project site is zoned *Heavy Industrial (HI)* and has a land use designation of *Mixed Use Commercial (MUC)* under the General Plan. The DSAP PEIR (2014) evaluated a General Plan land use designation of *Transit Residential (TR)* at the project site. However, the *Transit Residential* land use designation has not been adopted by the San José City Council.

3.2.2 Overview

The proposed development would include development of a 13-story building with two residential towers, consisting of 365 affordable dwelling units, with an alternative parking arrangement, over a single, one-story podium containing a parking garage and amenities. The eastern tower would consist of one- to three-bedroom units, and the western tower would consist of studio and junior one-bedroom units. The proposed apartments would range from studios to three-bedroom units. Vehicular access to the site would be provided via a driveway on McEvoy Street. Vehicle parking (94 spaces), motorcycle parking (16 spaces), and bicycle parking (401 spaces) would be provided in the parking podium on the first floor of the building.

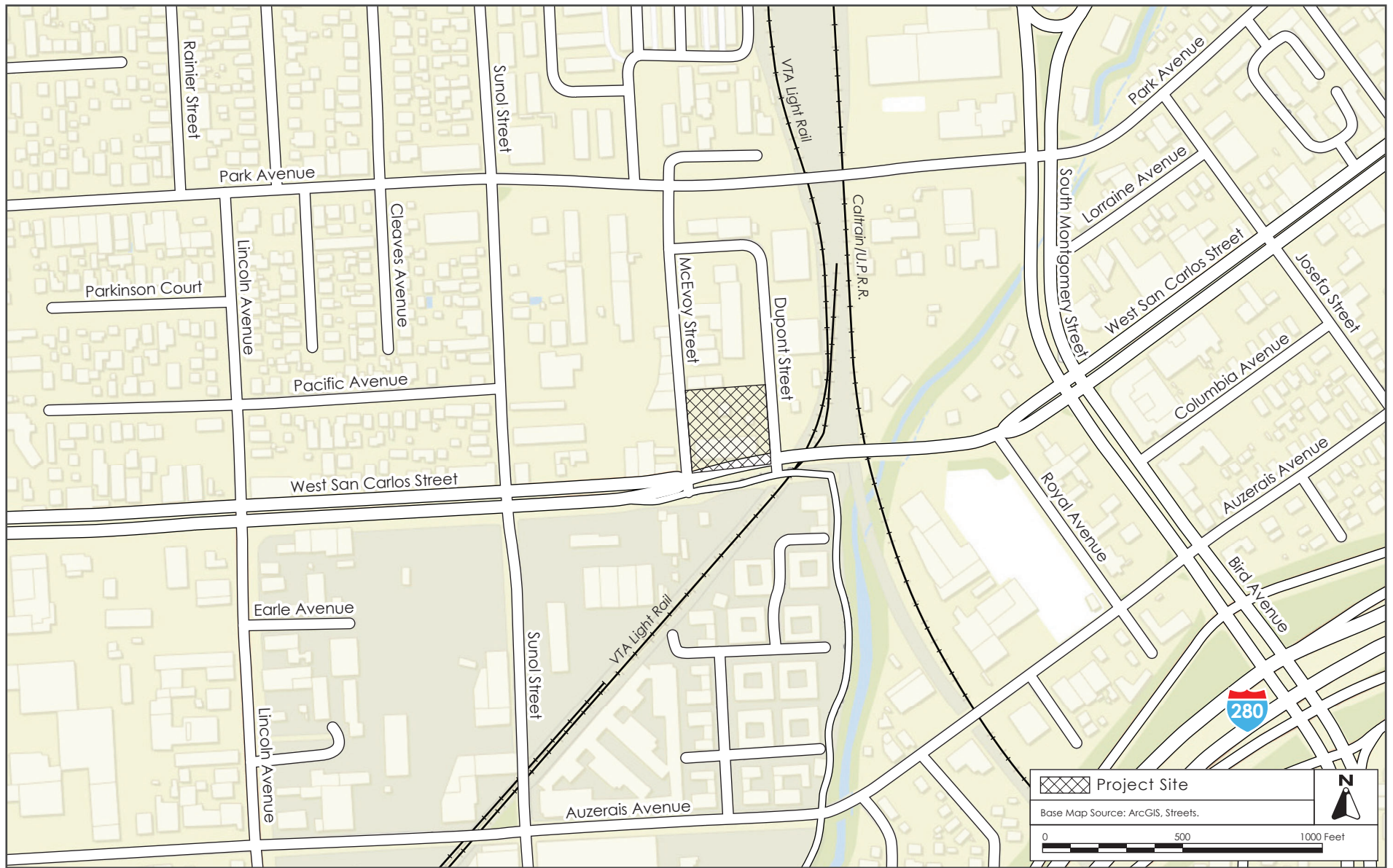
The proposed residential density is 323 dwelling units per acre (du/ac). A site and podium plan is shown on Figure 3.2-1, with a plan for the residential towers shown on Figure 3.2-2. An elevation plan is shown on Figure 3.2-3.

No development is proposed at 254 McEvoy Street (APN 261-38-005). The existing warehouse would remain.



REGIONAL MAP

FIGURE 3.1-1



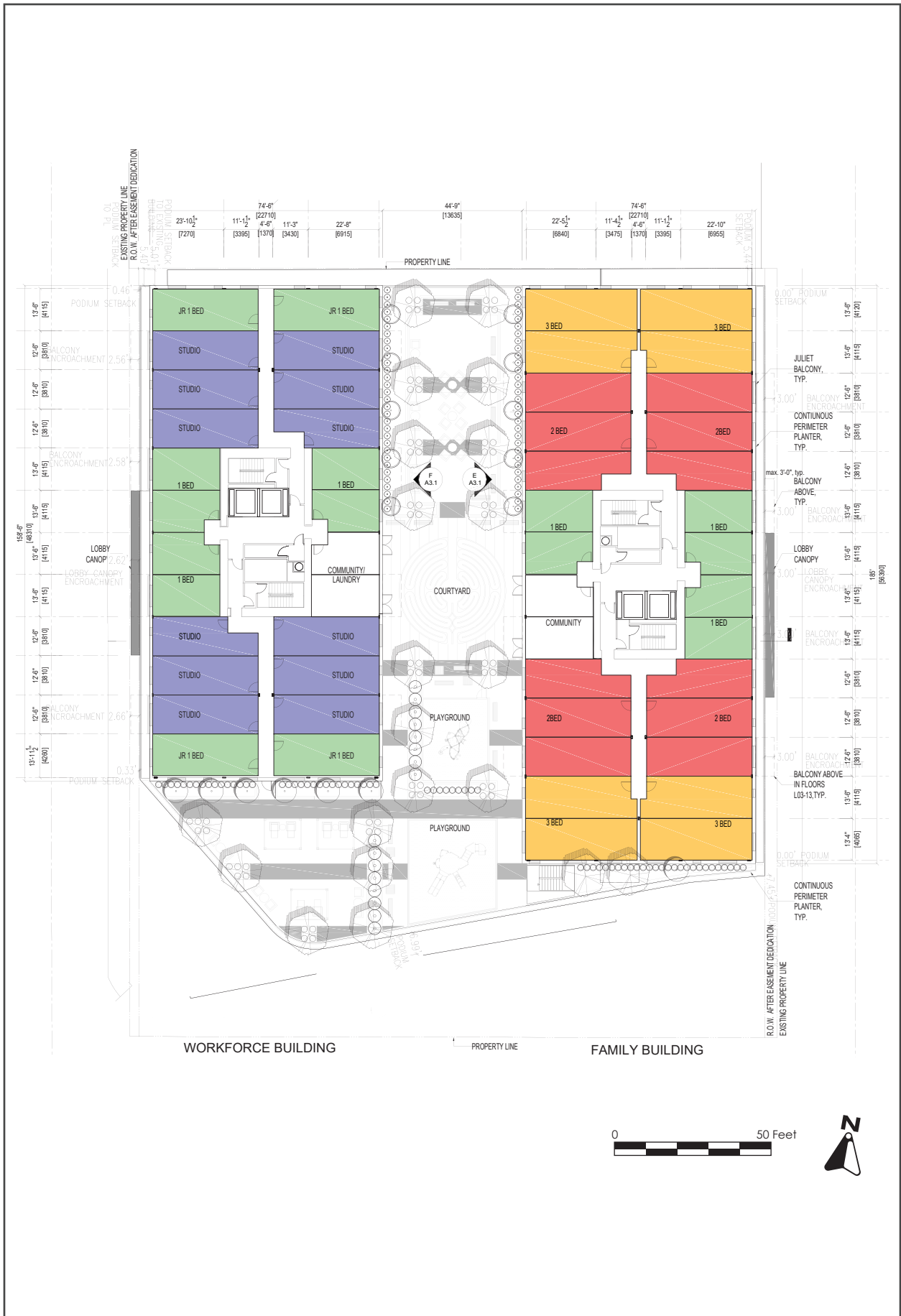
VICINITY MAP

FIGURE 3.1-2



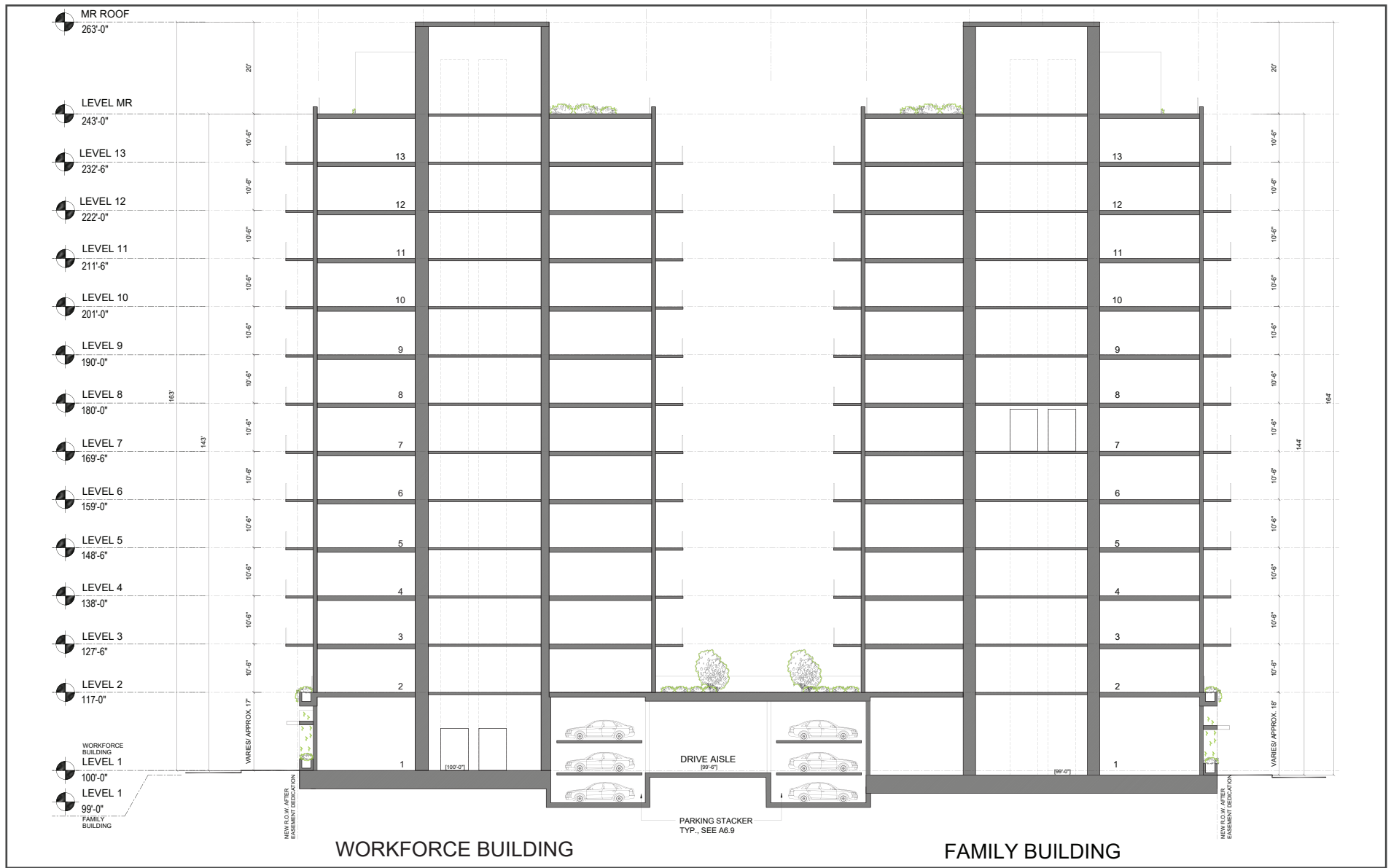
AERIAL PHOTOGRAPH AND SURROUNDING LAND USES

FIGURE 3.1-3



RESIDENTIAL TOWERS PLAN

FIGURE 3.2-2



ELEVATION PLAN

FIGURE 3.2-3

Construction of the proposed project would begin in July 2020 and would take approximately 30 months. The family apartment building, parking structure, and courtyard would be constructed in the first phase of development, and the workforce building would be constructed in the second phase. Prefabricated apartment units would be transported to the site independently, and the residential towers would be constructed on-site.

The project would require a General Plan Amendment (GPA) to *Transit Residential* and a rezoning to the *Multiple Residence (R-M)* Zoning District. The GPA and rezoning would include the entire 1.22-acre site.

3.2.2.1 *Family Building*

The project proposes to construct two residential towers over a single, one-story garage podium. The eastern residential tower (Family Building) would include 12 stories of dwelling units, with a maximum roof height of 164 feet. Family housing would include 58 one-bedroom units, 37 two-bedroom units, and 46 three-bedroom units for a total of 141 dwelling units. Two manager units would be located on the second floor. Apartments would be located on the second through 13th stories of the building.

3.2.2.2 *Workforce Building*

The western tower (Workforce Building) would consist of 12 stories over the one-story podium for a maximum height of 164 feet. It would contain studio and junior one-bedroom dwelling units. These dwelling units would include 142 studio apartments and 82 junior one-bedroom apartments for a total of 224 dwelling units. Two manager units would be located on the second floor. Apartments would be located on the second through 13th stories of the building.

3.2.3 Green Building Features

The project proposes to design the building as a Leadership in Energy and Environmental Design (LEED) Platinum project and would include the following green building features:

- Rooftop urban farm
- Free Santa Clara Valley Transportation Authority (VTA) Eco Passes for residents
- Low-volatile organic compound (VOC) paints, sealants, adhesives, and finishes
- Formaldehyde-free insulation, cabinets, counters, and shelving;
- WeGo Wise water and energy monitoring
- Solar water heating
- Energy-efficient windows, lighting, water heaters, and appliances
- Water-conserving fixtures
- Drip-irrigated native and low-water landscaping with bioswale stormwater retention and rain gardens

3.2.4 Funding Sources

The project would be completed using federal funds. In addition to CEQA review, the use of federal funds necessitates NEPA review meeting the requirements of the HUD (24 CFR 58.36).

Estimated HUD program funds: \$45 million
Estimated funding from other sources: \$125 million
Estimated total project cost: \$170 million

3.3 STATEMENT OF PURPOSE AND NEED FOR THE PROPOSAL [40 CFR 1508.9(B)]

The purpose of the project is to provide affordable housing for low income persons in the City of San José. The proposed project would include 365 below market rate (BMR) apartments. First Community Housing proposes to finance the construction of the project through federal HOME funds, federal LIHTC, and tax-exempt bonds. The project would include 30 percent very low income units and 70 percent low income units.

The 1988 Mayor’s Task Force on Housing developed the initial policies that governed the City’s affordable housing program. Since that time, the City has adopted a series of five-year plans to govern the allocation of affordable housing funding. Policies included in the Consolidated Plan, the Ten-Year Plan to End Chronic Homelessness, and the Housing Element are incorporated into the City’s Affordable Housing Investment Plan (HIP). The most recent HIP was adopted by the City Council in November 2015 for Fiscal Year 2016/17-2017/18.

These policies contribute to the creation of a comprehensive Citywide housing vision and ensure that affordable housing resources are distributed equitably and serve those most in need. Faced with competing priorities and limited resources, the City must develop policies that balance these concerns while continuing to provide the greatest good to the largest number of residents.

The proposed action would help meet the City of San José’s goals for housing that are listed in the General Plan, including: (1) providing housing in a range of housing densities, especially higher densities, and product types, including rental and for-sale housing, to address the needs of an economically, demographically, and culturally diverse population; (2) increasing, preserving, and improving San José’s affordable housing stock; (3) creating and maintaining safe and high quality housing that contributes to the creation of great neighborhoods and great places; and (4) providing housing that minimizes the consumption of natural resources and advances the City’s fiscal, climate change, and environmental goals. The proposed action would make a positive impact in addressing the need for affordable housing in San José while enhancing the overall look and feel of the neighborhood.

3.4 EXISTING CONDITIONS AND TRENDS [24 CFR 58.40(A)]

3.4.1 Regional Outlook

The Bay Area continues to be one of the most expensive real estate markets in the country. Most Bay Area homes are unaffordable for families with average household incomes. As detailed in the San José Housing Element, despite the prevalence of highly skilled, high-wage workers in Silicon Valley, data from the California Employment Development Department (EDD) show a divergent trend in the region: while about one-third of Santa Clara County’s workforce command high salaries in the range of approximately \$86,000 to \$144,000 per year, nearly half of all jobs pay low-income wages between \$19,000 and \$52,000 annually. Further, projections from EDD anticipate that more than half

of the new jobs created in the County over the next few years will pay \$15.00 per hour or less. These working class wages are not enough to pay for housing costs without creating a housing burden, defined as housing costs that exceed 30 percent of income. Low levels of housing production, relative to demand, contribute to this region’s high housing costs. Further, the market has not produced housing that is naturally affordable to low-income households, and public resources for affordable housing have been significantly diminished in recent years. As such, both the existing and future need for affordable housing in San José is considerable and far exceeds available supply.

The low housing availability also contributes to higher home prices. In many Bay Area communities, mostly large single-family homes are planned for and built. This trend offers consumers limited choice in housing types, especially relatively more affordable smaller homes, condominiums, townhomes, or apartments.

Multi-family housing can provide affordable options for individuals and families. Multi-family housing comes in a range of prices, but it can often include more affordable options than single-family homes. The proportion of multi-family housing built in the Bay Area has increased in the last few years. About one third of the region’s total housing stock is in multi-family structures.

3.4.2 Local Perspective

According to the Santa Clara County Housing Needs Allocation, 2015 to 2023 (see Table 3.4-1) prepared by the Association of Bay Area Governments (ABAG), the City of San José should add 35,080 new units by 2022 (of which 9,233 would be very low, 5,428 would be low, and 6,188 would be moderate income units) in order to meet the needs for affordable housing.

Jurisdiction	Very Low <50 Percent	Low < 80 Percent	Moderate <120 Percent	Above Moderate	Total
Campbell	253	138	151	391	933
Cupertino	356	207	231	270	1,064
Gilroy	236	160	217	475	1,088
Los Altos	169	99	112	97	477
Los Altos Hills	46	28	32	15	121
Los Gatos	201	112	132	174	619
Milpitas	1,004	570	565	1,151	3,290
Monte Sereno	23	13	13	12	61
Morgan Hill	273	154	185	316	928
Mountain View	814	492	527	1,093	2,926
Palo Alto	691	432	278	587	1,988
San José	9,233	5,428	6,188	14,231	35,080
Santa Clara	1,050	695	755	1,593	4,093
Saratoga	147	95	104	93	439
Sunnyvale	1,640	906	932	1,974	5,452
Unincorporated	22	13	214	28	277
Total	16,158	9,542	10,636	22,500	58,836

Source: Association of Bay Area Governments. *Final Regional Housing Needs Allocation – Santa Clara County*. Adopted July 18, 2013.

3.4.3 Physical Setting/Existing Conditions

The 1.22-acre project site is located north of West San Carlos Street, east of McEvoy Street and west of Dupont Street within an urbanized area of San José. The project site is bounded by industrial uses to the north and east, commercial uses to the west, and multi-family residential uses to the south. The site is currently developed with two industrial warehouses and associated parking and storage.

3.5 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

General Plan Designation: *Mixed Use Commercial*

Zoning District: *Heavy Industrial*

3.6 PROJECT APPROVALS, AGREEMENTS, AND PERMITS

Development of the proposed project requires the following approvals and permits:

- General Plan Amendment to change the land use designation from *Mixed Use Commercial* to *Transit Residential*
- Conforming Rezoning from *Heavy Industrial (HI)* Zoning District to *Multiple Residence (R-M)* Zoning District
- Special Use Permit for development of the proposed project
- Tentative Map Permit
- Tree Removal Permit

SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND IMPACT DISCUSSION

This combined Initial Study (IS) and EA identifies and analyzes the potential environmental impacts of the McEvoy Affordable Housing Project (proposed project) at a project-level. The information and analysis described in this document is organized in accordance with the order of the CEQA checklist in Appendix G of the CEQA Guidelines. Other sections required by NEPA, which are not covered by Appendix G of the CEQA Guidelines, are also included in this document. If the analysis provided in this document identifies potentially significant environmental effects of the project, mitigation measures that should be applied to the project are prescribed.

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

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

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.
- **Impact Discussion** – This subsection 1) includes the recommended checklist questions from Appendix G of the CEQA Guidelines to assess impacts and 2) discusses the project’s impact on the environmental subject as related to the checklist questions. For significant impacts identified in the DSAP PEIR, feasible mitigation measures are identified consistent with the measures in the PEIR. “Mitigation measures” are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). The language of the mitigation measures has been revised for clarity, but the intent and purpose of the measures are consistent with the DSAP PEIR.

Each impact is numbered to correspond to the checklist question being answered. For example, BIO-1 answers the first checklist question in the Biological Resources section. Mitigation measures are also numbered to correspond to the impact they address. For example, MM BIO-1.3 refers to the third mitigation measure for the first impact in the Biological Resources section.

National Environmental Policy Act

This section provides key regulatory context information for NEPA, and identifies where the regulatory requirements are addressed within this combined IS/EA. This IS/EA includes all of the information necessary to satisfy the Department of Housing and Urban Development's recommended EA format per 24 CFR 58.36.

Statutory Checklist [24 CFR §58.5]: Refer to *Section 5.0, Other Sections Required by NEPA* for a full discussion of each listed statute, executive order or regulation and HUD Environmental Standards.

Environmental Assessment Checklist [Environmental Review Guide HUD Office of Community Planning and Development [CPD] 782, 24 CFR 58.40; Ref. 40 CFR 1508.8 & 1508.27]: Refer to *Section 4.0, Environmental Setting, Checklist, and Impact Discussion* and *Section 5.0, Other Sections Required by NEPA* for a full discussion of resource issues.

Important Note to the Reader

The California Supreme Court in a December 2015 opinion (*California Building Industry Association [CBIA] v. Bay Area Air Quality Management District [BAAQMD]*, 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. One of the exceptions is affordable housing, for which hazardous materials, geotechnical hazards, and flooding are still considered CEQA impacts.

In addition, the City of San José currently has policies that address existing conditions (e.g., air quality and noise) 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., Environmental Impact Report or Initial Study) can include information of interest even if such information is not an “environmental impact” as defined by CEQA.

4.1 AESTHETICS

4.1.1 Environmental Setting

4.1.1.1 *Regulatory Framework*

California Scenic Highway Program

The intent of the California Scenic Highway Program (Streets and Highway Code Sections 260 et seq.) is to provide and enhance California’s natural beauty and protect the social and economic values provided by the State’s scenic resources. The California Department of Transportation (Caltrans) defines a scenic highway as any freeway, highway, road, or other public right-of-way that traverses an area of exceptional scenic quality.

Suitability for designation as a State Scenic Highway is based on vividness, intactness, and unity. Caltrans’ California Scenic Highway Mapping System lists one Officially Designated Scenic Highway in Santa Clara County.¹ California State Route 9 is approximately 7.7 miles southwest of the project site, and is not visible from the site.

City of San José 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

Policy	Description
Policy CD-1.1	Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
Policy CD-1.8	Create an attractive street presence with pedestrian-scaled building 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-1.12	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
Policy CD-1.13	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 April 16, 2018. Available at: http://www.dot.ca.gov/hq/LandArch/16_livability/scenic_highways/index.htm.

Envision San José 2040 General Plan Relevant Aesthetics Policies

Policy	Description
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.

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

- San José Outdoor Lighting Policy (City Council Policy 4-3, as revised 6/20/00)
- San José Residential Design Guidelines

Diridon Station Area Plan

The DSAP Design Guidelines are separated into three categories: 1) Built Form and Site Planning, 2) Open Space Network, and 3) Streetscape Design. The Design Guidelines encourage new buildings that are oriented to the street with articulated facades, small blocks, broken-up building masses, and integrated plazas. The visual effect of service areas, garage entrances, and utilities should be minimized by locating them away from public streets. The Design Guidelines discourage large surface parking lots. Parking should be accommodated in parking structures that are screened from the street. The Design Guidelines encourage preservation, planting, and maintenance of trees on private development sites.

The DSAP PEIR identifies Gateways as key roadways into the City that provide substantial views of the natural environment within or adjacent to the City. The General Plan requires Gateways to adhere to streetscape and private design guidelines. Gateways are locations where views should be preserved, including the segment of Bird Avenue over I-280, adjacent to the DSAP area. Other key roadways in the vicinity of the Plan area with views of hillside areas include Interstate 280, State Route 87, and “Grand Boulevards” (i.e., The Alameda/Santa Clara Street and San Carlos Street).

4.1.1.2 *Existing Conditions*

Project Site

The 1.22-acre project site is located at 280 McEvoy Street within the DSAP, north of West San Carlos Street and west of Dupont Street. The site is relatively flat and is currently developed with industrial uses.

The northernmost site parcel (APN 261-38-005) is developed with an industrial warehouse. The warehouse is concrete with a metal addition at the rear and was constructed in 1986. The center parcels (APNs 261-38-004, -030, -047, -048, and -049) are developed with an industrial warehouse, concrete ancillary building, and paved parking, and are surrounded by chain-link fencing. The warehouse is metal-framed and -clad with a shallow gabled roof and roll-up entries for vehicle access (Photos 4.1-1 and 4.1-2). One street tree is located along the western boundary of the project site (Photo 4.1-3). The southernmost site parcel (APN 261-38-001) is currently undeveloped and unpaved, and contains three fan palm trees (Photo 4.1-4).

Surrounding Area

The project site is located in an area developed with a mix of industrial, commercial, and residential buildings. The site is bordered to the south by the West San Carlos Street bridge ramp (Photo 4.1-5). The site is surrounded by industrial uses and a rail yard to the east and south; a gallery, theater, and retail store to the west (Photo 4.1-6); and industrial warehouses to the north. Adjacent properties are one to two stories in height. Multi-family residential buildings in the project vicinity are up to seven stories in height.

The project area is developed with a mix of land uses and architectural styles. As a result, no single design aesthetic is dominant.

Scenic Views and Resources

The City has many scenic resources including the hills and mountains that frame the valley floor, the baylands, and the urban skyline itself, particularly high-rise development. The project site is relatively flat and is located in an urbanized area of San José. As shown in the preceding photos, views from the project site consist of the development immediately surrounding the site, including commercial and residential buildings, landscape and street trees, City streets, and the San Carlos Street bridge. Mid-range views include higher-density development several blocks from the site.

Prominent long-range views of the mountains are limited because buildings, trees, and infrastructure (e.g., utility lines) obscure viewpoints. The project area is developed, and no natural scenic resources such as rock outcroppings are present on the site or in the project area. There are no existing visual landmarks that are visible from the project site or its vicinity, due to existing urban development surrounding the area. The project site is adjacent to West San Carlos Street, which is identified as a Grand Boulevard in the DSAP PEIR.²

Scenic Corridors

The City's General Plan identifies Gateways and Urban Throughways (urban corridors) where preservation and enhancement of views of the natural and man-made environment are crucial. Gateways include Coleman Avenue at Interstate 880 (1.8 miles north of the site), 13th Street at US-101 (2.8 miles northeast of the site), and US-101 in the vicinity of the Highway 85 interchange (9

² As defined in the Envision San José 2040 General Plan, Grand Boulevards are major transportation corridors in the City, which would accommodate moderate to high volumes of through traffic within and beyond the City, which have enhanced landscaping with wide and comfortable sidewalks, which have exclusive transit lanes and signal priority where appropriate, where transit is a primary mode of transportation and has priority over other modes, and the role of which is to shape the image of the City with major urban design elements on a Citywide scale.



Photo 4.1-1 – Parking and storage at 280 McEvoy Street.



Photo 4.1-2 – Industrial warehouse at 280 McEvoy Street.



Photo 4.1-3 – Street tree at 280 McEvoy Street.



Photo 4.1-4 – Undeveloped southern area of project site.



Photo 4.1-5 – West San Carlos Street bridge ramp south of project site.



Photo 4.1-6 – Gallery, theater, and retail uses west of project site.

miles southeast of the site). Due to the flat topography of the project site and surrounding urban development, the project site is not visible from any Gateway segment.

The City has designated State Route 87, from the US-101 interchange to State Route 85, and Interstate 280 from the Interstate 880 intersection to Fair Oaks Avenue in Sunnyvale, as Urban Throughways. The nearest Urban Throughway segment to the project site is State Route 87, 0.6 mile east of the site. The site is not visible from either State Route 87 or Interstate 280.

4.1.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
1) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) In non-urbanized areas, substantially degrade the existing visual character or quality of public views ³ 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Note: Certain projects within transit priority areas need not evaluate aesthetics (Public Resources Code Section 21099).

AES-1: Would the project have a substantial adverse effect on a scenic vista? [Same Impact as Approved Project (Less than Significant Impact)]

The project site is not located along a State scenic highway, rural scenic corridor, or City Gateway. Due to the flat topography of the site, views from the site are limited to the surrounding residential, industrial, and commercial developments and adjacent streets. The project is located within a developed urban area, and there are no scenic vistas that would be impacted by the proposed project.

The project proposes to build a 365-unit concrete high-rise apartment building with two 12-story towers on a common, one-story podium. Although the project is consistent with development approved under the DSAP PEIR, the proposed building would be taller than the surrounding one- to seven-story buildings. As such, the proposed building may be visible from the nearby State Route 87

³ Public views are those that are experienced from publicly accessible vantage points.

Urban Throughway segment; however, the project would not block scenic views because of the lack of scenic views from the surrounding area.

The DSAP Design Guidelines established building height limits to ensure that new development is integrated and compatible with existing neighborhoods. The height limits provide a transition zone between new larger buildings and the existing smaller buildings. As part of the City’s design review process, the project would be evaluated for conformance with the DSAP Design Guidelines, Zoning Ordinance, General Plan Policies, Municipal Code standards, and other relevant regulations. The project would be reviewed for compatibility with surrounding development to minimize the potential for land use conflicts and ensure that views of the developed project site would be consistent with the urban character of the surrounding area. **[Same Impact as Approved Project (Less than Significant Impact)]**

AES-2: Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? **[Less Impact than Approved Project (No Impact)]**

The project site is not located along a State scenic highway and no scenic resources such as heritage trees or rock outcroppings are located on the site. None of the buildings or structures adjacent to the site have been designated as historic resources by the City of San José or Santa Clara County.⁴⁵ **[Less Impact than Approved Project (No Impact)]**

AES-3: Would the project substantially degrade the existing visual character or quality of public views of the site and its surroundings? Would the project conflict with applicable zoning and other regulations governing scenic quality? **[Same Impact as Approved Project (Less than Significant Impact)]**

The project site is currently developed with industrial uses. The project proposes to develop a 365-unit residential building. The building would include a one-story parking podium with two 12-story towers above the podium level. The surrounding area consists of one- to seven-story residential, industrial, and commercial properties. The proposed project would alter the visual character of the site and its surroundings with construction of a new residential structure with two towers 13 stories (164 feet) in height. The proposed building would be modern in style, with aluminum siding, composite cladding, and metal railings.

The project site is surrounded by a mix of industrial, commercial, and multi-family residential development. The project would be generally compatible with the varied visual character of the surroundings. Consistent with the DSAP Design Guidelines, the proposed residential development would include articulated facades, with residential units in two towers overlooking a courtyard area. Parking would be within a podium and shielded by trees and plantings.

⁴ City of San José. *Historic Resources Inventory*. Accessed February 1, 2018. Available at: <http://www.sanjoseca.gov/DocumentCenter/View/35475>.

⁵ Santa Clara County. *Heritage Resource Inventory*. Accessed February 1, 2018. Available at: <https://www.sccgov.org/sites/dpd/Programs/HistoricPreservation/Pages/Inventory.aspx>.

The DSAP PEIR concluded that buildout of development under the DSAP would alter the visual character of the area. As stated in the PEIR, DSAP development would enhance visual character by facilitating the redevelopment of underutilized properties and creating a pedestrian-oriented environment with less emphasis on vehicle circulation and parking. Consistent with the DSAP PEIR, the project would replace the site's one-story industrial warehouse and surface parking lot with high-density residential development.

Development under the proposed project would be reviewed in accordance with the City's Residential Design Guidelines and DSAP Design Guidelines during the Planning Permit stage as part of the City's planning review process to ensure consistency with the relevant guidelines. For this reason and those stated above, the proposed project would not substantially degrade the existing visual character of the site or its surroundings. **[Same Impact as Approved Project (Less than Significant Impact)]**

AES-4: Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? **[Same Impact as Approved Project (Less than Significant Impact)]**

The project site is currently developed with industrial uses and is located in an urban area with industrial, commercial, and residential development.

The project proposes to construct two 12-story residential towers over a single-story garage podium. The project would include security lights, parking garage lights, and decorative outdoor lighting. The project would incrementally increase the amount of nighttime lighting on the project site. San José City Council Policy 4-3 calls for private development to use energy-efficient outdoor lighting that is fully shielded and not directed skyward. All lighting installed by the project would be full-cutoff lighting, designed in conformance with City Council Policy 4-3. Design and construction of the project in conformance with General Plan design and lighting policies would not adversely affect views.

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

4.2 AGRICULTURE AND FORESTRY RESOURCES

4.2.1 Environmental Setting

4.2.1.1 *Regulatory Framework*

State Regulations

The California Farmland Mapping and Monitoring Program (FMMP) produces maps and statistical data for analyzing impacts on California’s agricultural resources. Agricultural land is rated according to soil quality and irrigation status, and the best quality land is categorized as Prime Farmland. The maps are updated every two years with the use of a computer mapping system, aerial imagery, public review, and field reconnaissance.

The California Land Conservation Act of 1965 (Williamson Act) enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or related open space use.

City of San José 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:

Envision San José 2040 General Plan Relevant Agricultural Resources Policies

Policy	Description
Policy LU-12.3	<p>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:</p> <ul style="list-style-type: none">• 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	<p>Preserve agricultural lands and prime soils in non-urban areas in order to retain the aquifer recharge capacity of these lands.</p>

4.2.1.2 *Existing Conditions*

The project site is not used for agricultural or timberland purposes, and is located within an existing developed area of Santa Clara County. According to the *Santa Clara County Important Farmland 2016* map, the project site is designated as Urban and Built-Up Land, meaning that the land contains a building density of at least six units per 10-acre parcel. Common examples of Urban and Built-Up Land include residential, industrial, and commercial purposes; golf courses; landfills; airports; sewage treatment; and water control structures.

The site is not designated by the California Resources Agency as farmland of any type and is not the subject of a Williamson Act contract. No land adjacent to the project site is designated or used as farmland, timberland, or forest land.

4.2.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) Result in a loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

AG-1: Would the project 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? **[Same Impact as Approved Project (No Impact)]**

The project site is not used for agricultural purposes. The site is not designated by the California Department of Conservation as farmland of any type. For these reasons, the proposed project would not result in impacts to agricultural resources. **[Same Impact as Approved Project (No Impact)]**

AG-2: Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract? **[Same Impact as Approved Project (No Impact)]**

The project site is not zoned for agriculture, and it is not the subject of a Williamson Act contract. The project would not conflict with existing zoning for agriculture. **[Same Impact as Approved Project (No Impact)]**

AG-3: Would the project conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production? **[Less Impact than Approved Project (No Impact)]**

The project site and surrounding area are developed with urban uses, and are not zoned for forest land or timberland. The project would not conflict with existing zoning for forest land, timberland, or timberland production. **[Less Impact than Approved Project (No Impact)]**

AG-4: Would the project result in a loss of forest land or conversion of forest land to non-forest use? **[Less Impact than Approved Project (No Impact)]**

Neither the project site, nor any of the properties adjacent to the project site or in the vicinity, is used for forest land or timberland. The proposed project, therefore, would not impact forest land or timberland. **[Less Impact than Approved Project (No Impact)]**

AG-5: Would the project involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use? **[Less Impact than Approved Project (No Impact)]**

According to the *Santa Clara County Important Farmland 2016* map, the project site and surrounding area are designated as Urban and Built-Up Land. Development of the project site would not result in conversion of any forest or farmlands. **[Less Impact than Approved Project (No Impact)]**

4.3 AIR QUALITY

The discussion in this section is based in part on the *Air Quality Assessment* prepared by Illingworth & Rodkin, Inc. on October 26, 2018. This report is included in this IS/EA as Appendix A.⁶

4.3.1 Environmental Setting

4.3.1.1 *Regulatory Framework*

Regional Air Quality Thresholds

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the Lead Agency and must be based to the extent possible on scientific and factual data. These thresholds were designed to establish the level at which the Bay Area Air Quality Management District believes air pollution emissions would cause significant environmental impacts. The City of San José has carefully considered the thresholds updated by BAAQMD in May 2017 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin and conservative in terms of the assessment of health effects associated with toxic air contaminants (TACs) and fine particulate matter. The significance thresholds identified by BAAQMD and used in this analysis are summarized in Table 4.3-1.

⁶ The *Air Quality Assessment* included an analysis of 381 dwelling units, while the project proposes construction of 365 units. Because the number of units evaluated under the *Air Quality Assessment* is greater than the number proposed, the analysis is conservative and serves to overstate project impacts; however, the difference is slight and does not affect the report's conclusions.

Table 4.3-1: BAAQMD Air Quality Significance Thresholds			
Pollutant	Construction Thresholds	Operational Thresholds	
	Average Daily Emissions (pounds/day)	Average Daily Emissions (pounds/day)	Annual Average Emissions (tons/year)
Criteria Air Pollutants			
ROG	54	54	10
NO _x	54	54	10
PM ₁₀	82 (Exhaust)	82	15
PM _{2.5}	54 (Exhaust)	54	10
CO	Not Applicable	9.0 ppm (8-hour average) or 20.0 ppm (1-hour average)	
Fugitive Dust	Construction Dust Ordinance or other Best Management Practices	Not Applicable	
Health Risks and Hazards for Single Sources			
Excess Cancer Risk	>10 per one million		
Hazard Index	>1.0		
Incremental annual PM _{2.5}	>0.3 µg/m ³		
Health Risks and Hazards for Combined Sources (Cumulative from all sources within 1,000 foot zone of influence)			
Excess Cancer Risk	>100 per one million		
Hazard Index	>10.0		
Annual Average PM _{2.5}	>0.8 µg/m ³		
Notes: ROG = reactive organic gases, NO _x = nitrogen oxides, PM ₁₀ = coarse particulate matter or particulates with an aerodynamic diameter of 10 micrometers (µm) or less, PM _{2.5} = fine particulate matter or particulates with an aerodynamic diameter of 2.5µm or less, µg/m ³ = micrograms per cubic meter, ppm = parts per million.			
Sources: Bay Area Air Quality Management District. <i>CEQA Thresholds Options and Justification Report</i> . 2009. Bay Area Air Quality Management District. <i>CEQA Air Quality Guidelines</i> . May 2017.			

Envision San José 2040 General Plan

In connection with the implementation of BAAQMD’s Bay Area 2017 Clean Air Plan (CAP), various policies in the General Plan have been adopted for the purpose of avoiding or mitigating air quality impacts from development projects. The proposed project would be subject to the air quality policies listed in the General Plan, including the following:

Envision San José 2040 General Plan Relevant Air Quality Policies

Policy	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.
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-11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
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 Airborne Toxic Control Measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.
Policy CD-3.3	Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.
Policy 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.

Diridon Station Area Plan

Consistent with the BAAQMD CEQA Guidelines and City of San José General Plan policies, the DSAP PEIR identified construction emissions control measures (PEIR p. 203) to be implemented by all future DSAP projects. Control measures include watering of exposed surfaces, covering haul trucks, use of vacuum street sweepers, limiting idling times, and maintaining construction equipment. The DSAP PEIR determined that future projects that incorporate these control measures would not result in significant impacts related to construction emissions of regional criteria pollutants.

4.3.1.2 Existing Conditions

Climate and Topography

The City of San José is located in the Santa Clara Valley within the San Francisco Bay Area Air Basin. The project area's proximity to both the Pacific Ocean and the San Francisco Bay has a moderating influence on the climate. This portion of the Santa Clara Valley is bounded by the San Francisco Bay to the north and the Santa Cruz Mountains to the southwest, and the Diablo Range to the east. The surrounding terrain greatly influences winds in the valley, resulting in a prevailing wind that follows the valley's northwest-southwest axis.

Regional and Local Criteria Pollutants

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

Violations of ambient air quality standards are based on air pollutant monitoring data and are judged for each air pollutant. 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}) and State standards for particulate matter (PM₁₀). The area is considered in attainment or unclassified for all other pollutants.

Local Community Risks/Toxic Air Contaminants and Fine Particulate Matter

Besides criteria air pollutants, there is another group of substances found in ambient air referred to as toxic air contaminants. TACs tend to be localized and are found in relatively low concentrations in ambient air. Exposure to low concentrations over long periods, however, can result in adverse chronic health effects. Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs (based on the Bay Area average).

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

Mobile TAC sources within 1,000 feet of the project site are the surrounding streets, including State Route 82, West San Carlos Street, and Park Avenue, and the Union Pacific Railroad tracks. Stationary sources of TACs include gas dispensing facilities Plant #G7956 (107956) and Plant #G4113 (104113) and emergency diesel generator Plant #21808.

Sensitive Receptors

BAAQMD defines sensitive receptors as facilities where sensitive receptor population groups (children, the elderly, the acutely ill, and the chronically ill) are likely to be located. These land uses include residences, school playgrounds, child-care centers, retirement homes, convalescent homes,

hospitals, and medical clinics. The closest sensitive receptors to the project site are the multi-family residences located south of the site across West San Carlos Street, with additional nearby residences to the west, north, and south of the site. There is also a closed high school (Edge School) located on Sunol Street, 160 feet west of the project site.⁷

4.3.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
1) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

AIR-1: Would the project conflict with or obstruct implementation of the applicable air quality plan? [**Same Impact as Approved Project (Less than Significant Impact)**]

BAAQMD is the agency primarily responsible for assuring the federal and State ambient air quality standards are maintained in the San Francisco Bay Area. BAAQMD’s most recent adopted plan is the Bay Area 2017 CAP. Determining consistency with the 2017 CAP involves assessing whether applicable control measures in the 2017 Clean Air Plan are implemented. Implementation of control measures improve air quality and protect health. The project’s consistency with applicable control measures is summarized in Table 4.3-2 below. As shown in Table 4.3-2, the project is consistent with applicable control measures and with the San José General Plan by developing a high-density, transit-oriented infill development, installing energy efficient features, and planting a net increase of trees. In addition, the project would not exceed the BAAQMD thresholds for operational criteria air pollutant emissions, as discussed below. For these reasons, the project would not conflict with or obstruct implementation of the CAP. [**Same Impact as Approved Project (Less than Significant Impact)**]

⁷ The nearest operational school to the project site, Gardner Elementary School, is located 0.4 mile from the site. Project effects at Gardner Elementary School would be less than those at Edge School.

Table 4.3-2: Bay Area 2017 Clean Air Plan Applicable Control Measures

Control Measures	Description	Project Consistency
<i>Transportation Control Measures</i>		
Trip Reduction Programs	Encourage trip reduction policies and programs in local plans, e.g., general and specific plans. Encourage local governments to require mitigation of vehicle travel as part of new development approval, to develop innovative ways to encourage rideshare, transit, cycling, and walking for work trips.	The project proposes multi-family residential development at an infill, urban location in proximity to bus routes and 0.4 mile from the San José Diridon Station rail depot. The project includes 401 bicycle parking spaces to promote automobile-alternative modes of transportation. The project, therefore, is consistent with this measure.
Bicycle and Pedestrian Access and Facilities	Encourage planning for bicycle and pedestrian facilities in local plans, e.g., general and specific plans, fund bike lanes, routes, paths and bicycle parking facilities.	The project would include 401 bicycle parking spaces. The project area is well equipped with pedestrian facilities including sidewalks and crosswalks. The project, therefore, is consistent with this measure.
Land Use Strategies	Support implementation of Plan Bay Area, maintain and disseminate information on current climate action plans and other local best practices.	The project proposes residential development of multi-family dwelling units at an infill, urban location in proximity to bus routes and the Diridon Station rail depot. The project, therefore, is consistent with this measure.
<i>Building Control Measures</i>		
Green Building	Identify barriers to effective local implementation of the CalGreen (Title 24) Statewide building energy code; develop solutions to improve implementation/enforcement. Engage with additional partners to target reducing emissions from specific types of buildings.	The project would comply with the City’s Green Building Program and the California Green Building Standards Code (CalGreen). The project, therefore, is consistent with this measure.
Decarbonize Buildings	Update Air District guidance documents to recommend that commercial and multi-family developments install ground source heat pumps and solar hot water heaters.	The project would include solar water heating and energy-efficient appliances. The project, therefore, is consistent with this measure.
Urban Heat Island Mitigation	Develop and urge adoption of a model ordinance for “cool parking” that promotes the use of cool surface treatments for new parking facilities. Develop and promote adoption of model building code requirements for new construction or re-roofing/roofing upgrades for	The project would locate vehicle parking in a parking garage on the first floors of the proposed building. In addition, the project would plant new landscaping and trees, including a rooftop urban farm. These features would reduce the project’s heat island effect. The project, therefore, is consistent with this measure.

Table 4.3-2: Bay Area 2017 Clean Air Plan Applicable Control Measures

Control Measures	Description	Project Consistency
	commercial and residential multi-family housing.	
<i>Waste Management Control Measures</i>		
Recycling and Waste Reduction	Develop or identify and promote model ordinances on community-wide zero waste goals and recycling of construction and demolition materials in commercial and public construction projects.	The project would provide recycling services to project residents as mandated by Assembly Bill 341 and the City’s Multi-family Recycling Program. The project, therefore, is consistent with this measure.
<i>Water Control Measures</i>		
Support Water Conservation	Develop a list of best practices that reduce water consumption and increase on-site water recycling in new and existing buildings; incorporate into local planning guidance.	The project would comply with CalGreen and reduce potable indoor water consumption and outdoor water use by including water efficient fixtures and planting drip-irrigated native and low-water landscaping. The project, therefore, would be consistent with this measure.

AIR-2: Would the project 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 Impact than Approved Project (Less than Significant Impact)**]

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 California Clean Air Act. The area is also considered non-attainment for PM₁₀ under the California Clean Air Act, but not the federal act. The area has attained both State and federal ambient air quality standards for carbon monoxide. As part of an effort to attain and maintain ambient air quality standards for ozone and particulate matter, BAAQMD has established thresholds of significance for these air pollutants and their precursors (refer to Table 4.3-1). These thresholds are for ozone precursor pollutants (reactive organic gas [ROG] and nitrogen oxide [NOx]), PM₁₀, and PM_{2.5}, and apply to both construction period and operational period impacts.

Air Quality Standards

As discussed below, the project would have emissions below the BAAQMD thresholds for ozone precursors and particulate matter. Therefore, the project would not contribute substantially to existing or projected violations of those standards. 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 highly localized concentrations of carbon monoxide. Air pollutant monitoring data indicate that carbon monoxide levels have been at levels that are below State and federal standards in the Bay Area since the early 1990s. As a result, the region has been designated as in attainment for the carbon monoxide standard.

The highest measured level of carbon monoxide over any eight-hour period during the last three years in the Bay Area is less than 3.0 parts per million (ppm), compared to the ambient air quality standard of 9.0 ppm. The DSAP PEIR concluded that buildout of the Diridon Station Area Plan and cumulative projects could increase local carbon monoxide concentrations by up to 0.4 ppm, and would not result in exceedances of the BAAQMD threshold. Intersections affected by the project would have traffic volumes below the BAAQMD screening criteria⁸ and, therefore, would not cause a violation of an ambient air quality standard or have a considerable contribution to cumulative violations of these standards. **[Same Impact as Approved Project (Less than Significant Impact)]**

Construction Period Emissions

Construction period emissions were modeled based on an equipment list and schedule information provided by the applicant. Refer to Appendix A for more detail about the modeling, data inputs, and assumptions.⁹ Construction activities, particularly during site preparation and grading, would temporarily generate fugitive dust in the form of PM₁₀ and PM_{2.5}. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying uncovered loads of soils. Unless properly controlled, vehicles leaving the site would deposit mud on local streets, which could be an additional source of airborne dust after it dries. Table 4.3-3 below summarizes the project’s estimated construction emissions of ROG, NO_x, PM₁₀ exhaust, and PM_{2.5} exhaust.

Table 4.3-3: Summary of Project Construction Period Emissions				
Emissions	ROG	NO_x	PM₁₀ Exhaust	PM_{2.5} Exhaust
Average Daily Emissions (pounds)	10.2	23.7	0.4	0.4
<i>BAAQMD Thresholds (pounds per day)</i>	<i>54</i>	<i>54</i>	<i>82</i>	<i>54</i>
Exceed BAAQMD Threshold?	No	No	No	No

The calculated ROG, NO_x, PM₁₀ exhaust, and PM_{2.5} exhaust emissions are below the BAAQMD thresholds of significance. BAAQMD considers construction emissions impacts that are below the thresholds of significance (such as those of the project) less than significant if Best Management Practices (BMPs) are implemented. Consistent with the control measures identified in the DSAP PEIR, the project shall implement the following Standard Permit Condition as a condition of approval.

⁸ The BAAQMD CEQA Air Quality Guidelines state that a proposed project would result in a less than significant impact to localized carbon monoxide concentrations if the project would not increase traffic at affected intersections with more than 44,000 vehicles per hour.

⁹ The *Air Quality Assessment* assumed a construction period of 22 months, while the project proposes construction over a period of 30 months. Because the *Air Quality Assessment*’s condensed schedule would result in higher construction emissions, the analysis is conservative and serves to overstate project impacts; however, the difference is slight and does not affect the report’s conclusions.

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

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- 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 five minutes (as required by the California airborne toxics control measures Title 13, Section 2485 of the California Code of Regulations [CCR]). Provide clear signage for construction workers at all access points.
- Maintain and properly 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.

With implementation of the Standard Permit Conditions listed above, the project would have a less than significant impact on construction emissions. [**Less Impact than Approved Project (Less than Significant Impact)**]

Operational Period Emissions

The project proposes development of up to 365 dwelling units. Operational air emissions from the project would be generated primarily from vehicles driven by future residents.

Operational period emissions were modeled for up to 381 dwelling units based on trip generation rates, natural gas and electricity use, and building evaporative emissions calculated for the project (see Appendix A). Based on a construction period of 30 months, the earliest the project could begin operating would be 2023. Calculations assumed an operative year of 2023; however, vehicle emissions associated with later buildout would be lower.

Table 4.3-4 below summarizes the project's estimated operational emissions of ROG, NO_x, PM₁₀, and PM_{2.5}.

Table 4.3-4: Summary of Project Operational Emissions				
Emissions	ROG	NO_x	PM₁₀	PM_{2.5}
2023 Project Operational Emissions (tons per year)	1.7	1.2	1.1	0.3
2023 Existing Use Emissions (tons per year)	0.1	0.1	0.1	0.01
Net Annual Emissions (tons per year)	1.6	1.1	1.0	0.3
<i>BAAQMD Thresholds (tons per year)</i>	<i>10</i>	<i>10</i>	<i>15</i>	<i>10</i>
Exceed BAAQMD Threshold?	No	No	No	No
2023 Project Operational Emissions (pounds per day)	8.9	6.0	5.6	1.6
<i>BAAQMD Thresholds (pounds per day)</i>	<i>54</i>	<i>54</i>	<i>82</i>	<i>54</i>
Exceed BAAQMD Threshold?	No	No	No	No

The calculated ROG, NO_x, PM₁₀, and PM_{2.5} emissions are below the BAAQMD thresholds of significance for daily and yearly emissions; therefore, operation of the proposed project would not contribute substantially to the Bay Area’s existing air quality violations of ground-level ozone, PM₁₀, or PM_{2.5}, or to any projected violations. In addition, the proposed project (and all development under the DSAP PEIR) is required to implement a transportation demand management (TDM) program to reduce emissions associated with vehicle travel (DSAP PEIR pp. 200-201). **[Same Impact as Approved Project (Less than Significant Impact)]**

AIR-3: Would the project expose sensitive receptors to substantial pollutant concentrations? **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

Project impacts related to increased community risk can occur either by introducing a new sensitive receptor, such as a residential use, in proximity to an existing source of toxic air contaminants (see Section 4.3.3 below) or by introducing a new source of TACs with the potential to adversely affect existing sensitive receptors in the project vicinity.¹⁰ The project would introduce a new source of temporary TACs during project construction near existing sensitive receptors and would introduce new sensitive receptors in proximity to air pollutant or contaminant sources.¹¹ BAAQMD

¹⁰ Toxic air contaminants are a broad class of compounds known to cause morbidity or mortality (usually because they cause cancer) and include, but are not limited to, the criteria air pollutants. TACs are found in ambient air, especially in urban areas, and are caused by industry, agriculture, fuel combustion, and commercial operations (e.g., dry cleaners). TACs are typically found in low concentrations, even near their source (e.g., diesel particulate matter [DPM] near a freeway). Because chronic exposure can result in adverse health effects, TACs are regulated at the regional, State, and federal level. Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs (based on the Bay Area average). Additional details about air pollutants and their regulations are included in Appendix A.

¹¹ The project would not be introducing a substantial source of operational-related, localized TACs. The project would generate vehicle trips, but few diesel truck trips, and these would not result in localized health risks. Therefore, an impact analysis of project operational TACs on existing sensitive receptors was not completed.

recommends using a 1,000-foot screening radius around a project site for purposes of identifying community health risk from siting a new sensitive receptor or a new source of TACs.

Construction activities, particularly during site preparation and grading, would temporarily generate fugitive dust in the form of PM₁₀ and PM_{2.5}. With implementation of the Standard Permit Condition listed above, fugitive dust impacts would be less than significant.

Construction equipment and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC. As discussed above, these exhaust air pollutant emissions would not contribute substantially to existing or projected air quality violations. Construction exhaust emissions, however, may still pose community health risks for sensitive receptors such as nearby residents. The closest sensitive receptors to the project site are residences located to the south, across West San Carlos Street.

The primary community risk impact issues associated with construction emissions are cancer risk and exposure to PM_{2.5}. Diesel exhaust poses both a potential health and nuisance impact to nearby receptors. A community risk assessment (see Appendix A) was completed to evaluate potential health effects to sensitive receptors at nearby residences.

Particulate Matter

The maximum-modeled PM_{2.5} concentration, which is based on combined exhaust and fugitive dust emissions, was 0.28 microgram per cubic meter ($\mu\text{g}/\text{m}^3$) and would occur at a residence southeast of the project site (see Appendix A). The maximum annual PM_{2.5} concentration would not exceed the BAAQMD significance threshold of 0.3 $\mu\text{g}/\text{m}^3$. **[Same Impact as Approved Project (Less than Significant Impact)]**

Non-Cancer Hazards

The maximum-modeled DPM concentration (i.e., from construction exhaust) was 0.1199 $\mu\text{g}/\text{m}^3$. The maximum computed hazard index (HI) based on this DPM concentration is 0.02, which would not exceed the BAAQMD significance criterion of HI greater than 1.0. **[Same Impact as Approved Project (Less than Significant Impact)]**

Cancer Risks

Results of the community risk assessment (see Appendix A) indicate that the maximum excess residential cancer risk would be 34.0 in one million for an infant exposure and 0.6 in one million for an adult exposure. The maximum residential excess cancer risk would exceed the BAAQMD significance threshold of 10 in one million. The maximum increased child (school student) cancer risk at the Edge School would be 1.2 in one million, which would not exceed the BAAQMD significance threshold.

In addition to the BAAQMD-recommended BMPs listed under AIR-2 above, the project would be required to reduce equipment exhaust emissions in accordance with USEPA and CARB standards. The DSAP PEIR identified measures (DSAP PEIR pp. 203-204) to limit construction emissions, including requiring future project applicants to develop a plan to reduce off-road equipment

emissions. Consistent with the measures identified in the DSAP PEIR, the project applicant would implement the following mitigation measure during all demolition and construction activities to reduce exhaust emissions at nearby sensitive receptors.

MM AIR-3.1: Exhaust emissions reduction: 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 to the Director of Planning, Building and Code Enforcement or the Director's designee. The plan shall demonstrate that the off-road equipment used on-site to construct the project would achieve a fleet-wide average 70 percent reduction in PM₁₀ exhaust emissions (assumed to be diesel particulate matter) or more. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth in these mitigation measures. Feasible methods to achieve this reduction would include the following:

- All mobile diesel-powered off-road equipment larger than 25 horsepower and operating on the site for more than two days continuously shall meet, at a minimum, USEPA particulate matter emissions standards for Tier 4 engines or equivalent.
- The use of equipment that includes Tier 2 engines and CARB-certified Level 3 Diesel Particulate Filters (DPF), or alternatively-fueled equipment (i.e., non-diesel) would meet this requirement.

With implementation of **MM AIR-3.1** and the Standard Permit Conditions described above, consistent with the DSAP PEIR, the maximum increased cancer risk would be less than 5.7 in one million, below the BAAQMD threshold of 10 per one million. Therefore, the project would have a less than significant impact with respect to community risk caused by construction activities. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

AIR-4: Would the project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people? **[Less Impact than Approved Project (No Impact)]**

Odors are generally considered an annoyance rather than a health hazard. Land uses that have the potential to be sources of odors that generate complaints include, but are not limited to, wastewater treatment plants, landfills, composting operations, and food manufacturing facilities. Residential developments, such as the proposed project, do not typically generate objectionable odors. **[Less Impact than Approved Project (No Impact)]**

4.3.3 Non-CEQA Effects

Per *California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 (*CBIA 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.

Traffic on high-volume roadways is a source of TAC emissions that may adversely impact sensitive receptors in proximity to the roadway. The significance criteria used by the City of San José are that a significant TAC or PM_{2.5} exposure would occur if the project would result in:

- An excess cancer risk level of more than 10 in one million, or a non-cancer (chronic or acute) HI greater than 1.0; or
- An incremental increase of more than 0.3 µg/m³ annual average PM_{2.5}.

Community risk impacts from combined sources upon the project site are reported in Table 4.3-5 below.

Table 4.3-5: Community Risk Impact to New Project Residences			
Source	Cancer Risk (per million)	Annual PM_{2.5} (µg/m³)	Hazard Index
State Route 82 (800 feet)	0.2	<0.01	<0.01
Railroad line (215 feet)	4.6	0.01	<0.01
West San Carlos Street (30 feet)	5.4	0.16	<0.01
Park Avenue (530 feet)	1.0	0.04	<0.01
Plant #G7956 (107956) (700 feet)	0.2	NA	<0.01
Plant #G4113 (104113) (775 feet)	0.5	NA	<0.01
Plant #21808 (670 feet)	0.3	<0.01	<0.01
<i>BAAQMD Single-Source Threshold</i>	<i>>10</i>	<i>>0.3</i>	<i>>1.0</i>
Exceed BAAQMD Single-Source Threshold?	No	No	No
Cumulative Total	12.2	<0.23	<0.07
<i>BAAQMD Cumulative Threshold</i>	<i>>100</i>	<i>>0.8</i>	<i>>10.0</i>
Exceed BAAQMD Cumulative Threshold?	No	No	No

As shown in Table 4.3-5, single-source and cumulative TAC sources within 1,000 feet of the project site would be below the BAAQMD single-source and cumulative risk thresholds. Future residents of the proposed project would not be exposed to TACs or PM_{2.5} levels in excess of BAAQMD or City of San José standards; therefore, the project is consistent with General Plan Policy MS-11.1 as it relates to mobile and stationary sources of TACs.

4.4 BIOLOGICAL RESOURCES

The discussion in this section is based in part on the *Arborist Tree Report* prepared by Fujiitrees, Inc. on April 10, 2018. This report is included in this IS/EA as Appendix B.

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.

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 could otherwise lead to nest abandonment. Any 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 (CDFW and the U.S. Fish and Wildlife Service [USFWS]).

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 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: <ol style="list-style-type: none"> 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. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.

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.

Riparian Corridor Policy Study

The City of San José Riparian Corridor Policy Study (updated in 1999) establishes development guidelines for site design, buildings, and landscaping within riparian corridors. The policy includes guidelines for setback areas to provide a buffer between development and the riparian corridor. Urban development should have a setback of at least 100 feet, and night-lighted facilities should have a setback of 200-300 feet.

Bird-Safe Building Design Standards

Pursuant to public comments received on the DSAP PEIR, the City of San José released voluntary Bird-Safe Building Design Standards in September 2014. The voluntary standards are based upon American Bird Conservancy (ABC) guidelines and include the following:

1. Reduce large areas of transparent or reflective glass.
2. Locate water features and other bird habitat away from building exteriors to reduce reflection.
3. Reduce or eliminate the visibility of landscaped areas behind glass.
4. Reduce or eliminate spotlights on buildings.
5. Turn non-emergency lighting off at night, especially during bird migration season (February-May and August-November).

These standards are designed to reduce bird building strikes, which have been linked to several specific factors. Strikes occur because birds fly into reflective glass that they perceive to be trees or sky, or transparent glass while attempting to reach habitat and sky seen through glass corridors, windows positioned opposite each other in a room, ground floor lobbies, glass balconies, or where glass walls meet at corners. Building up-lighting can also disorient birds. At night, interior lighting can attract birds, increasing the potential for bird strikes.

4.4.1.2 Existing Conditions

The project site is in an urban area surrounded by existing industrial, residential, and commercial development. The site is currently developed with an industrial warehouse and associated parking, storage, and outbuildings. A crape myrtle street tree is located along the western site boundary, adjacent to McEvoy Street (*Lagerstroemia spp.*, see Photo 4.1-3). The southern area of the site (APN 261-38-001) is unpaved and supports three California fan palm trees (*Washingtonia filifera*, see Photo 4.1-4).

Developed, urban areas are generally low in species diversity. Common species that occur in urban environments include rock pigeons, mourning doves, house sparrows, finches, and European starlings. Raptors and other avian species could forage in the project area or nest in surrounding landscaping or within buildings.

There are no sensitive habitats or wetlands on or adjacent to the project site. The project site is located approximately 290 feet west of the Los Gatos Creek riparian corridor, and is separated from the creek by the Union Pacific Railroad tracks and rail yard. Existing development in the area, including the West San Carlos Street bridge overpassing the creek, diminishes the habitat quality of the creek corridor.

Due to the lack of sensitive habitats, and the human disturbance and development, at the project site, special-status plant and animal species are not expected to occur.

4.4.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

BIO-1: Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS? [**Same Impact as Approved Project (Less than Significant Impact)**]

The project site is located in an urban area and is currently developed with industrial uses. No sensitive habitats or habitats suitable for special-status plant or wildlife species occur on or adjacent to the project site; therefore, development of the project site under the proposed project would not directly impact special-status species. [**Same Impact as Approved Project (Less than Significant Impact)**]

BIO-2: Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS? [**Same Impact as Approved Project (Less than Significant Impact)**]

The project site is in an urban area and does not contain any riparian habitats or other sensitive natural communities. The nearest riparian corridor to the site is Los Gatos Creek, approximately 290 feet east of the project site and separated from the site by Union Pacific Railroad tracks and rail yard. The proposed residential buildings would be located at a minimum of 300 feet from the creek, consistent with City of San José riparian corridor policies requiring a setback of 200-300 feet for night-lighted facilities. Noise-generating activity, including building entrances and loading/delivery areas, would be oriented away from the creek and outside the riparian corridor.

Existing development in the area, including the West San Carlos Street bridge overpassing the creek, diminishes the habitat quality of the creek corridor. As described in the DSAP PEIR (p. 269), wildlife inhabiting the riparian corridor is habituated to high levels of disturbance, and invasive plant species limit the growth of native plants. The proposed project would not substantially affect riparian habitat or sensitive natural communities. **[Same Impact as Approved Project (Less than Significant Impact)]**

BIO-3: Would the project have a substantial adverse effect on state or federally protected wetlands through direct removal, filling, hydrological interruption, or other means? **[Less Impact than Approved Project (No Impact)]**

The project site is surrounded by urban uses and is devoid of wetlands, marshes, and vernal pools. The project would not impact any State or federally protected wetlands. **[Less Impact than Approved Project (No Impact)]**

BIO-4: Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

The site does not support a watercourse or provide habitat that facilitates the movement of any native resident or migratory fish or wildlife species. The nearest watercourse to the project site, Los Gatos Creek, is located 290 feet east of the site. The site is separated from Los Gatos Creek by existing development, including railroad tracks, a rail yard, and the West San Carlos Street bridge. Therefore, the site has limited potential to serve as a migratory corridor for wildlife.

Consistent with the City's 2014 voluntary Bird-Safe Building Design Standards, the project plans include bird-safe design elements to reduce the potential for bird strikes. Building windows would be tinted, rather than transparent or reflective. Private and common outdoor areas would include metal balustrades, avoiding glass balconies and obscuring views of glass doors. No glass elements would be constructed adjacent to the proposed green roof. The project would not construct spotlights on buildings, windows positioned opposite each other, or glass walls meeting at corners. In addition, non-emergency lighting would be reduced at night, and the project would implement timers, photo sensors, and motion detectors to further limit lighting and the potential for nighttime bird strikes.

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 USFWS. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute an impact. 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.

The DSAP PEIR identified measures (DSAP PEIR p. 278) to avoid impacts to nesting migratory birds, consistent with the MBTA and the California Fish and Game Code. DSAP PEIR measures require avoidance of the nesting bird season, completion of pre-construction surveys, and establishment of construction-free buffer zones, and submittal of a report indicating the results of the survey and buffer zones. Consistent with the PEIR, the project applicant would incorporate the following mitigation measures to avoid impacts to migratory nesting birds prior to and during construction.

MM BIO-4.1: 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 30th (inclusive), as amended.

MM BIO-4.2: Nesting Bird Surveys: If it is not possible to schedule demolition and construction between September 1 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. The plan for conducting pre-construction surveys shall be prepared by a qualified ornithologist and submitted to the Director of Planning, Building and Code Enforcement or the Director's designee prior to issuance of a grading permit. 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 30th 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-4.3: 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-4.4: Reporting: Prior to any tree removal, or approval of any grading permits (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the City's Director of Planning, Building and Code Enforcement or the Director's designee.

Implementation of mitigation measures **MM BIO-4.1** through **MM BIO-4.4** above, consistent with the measures in the DSAP PEIR, would reduce potential impacts to migratory birds and raptors to a less than significant level. Consistent with the DSAP PEIR, the project would not result in a significant impact to native or migratory fish or wildlife species. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

BIO-5: Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? [**Same Impact as Approved Project (Less than Significant Impact)**]

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.

The DSAP PEIR concluded that redevelopment under the Diridon Station Area Plan could result in tree removal, reduction in ground space available for landscaping, and damage to tree health and persistence. However, implementation of General Plan policies and Standard Permit Conditions (DSAP PEIR pp. 273-275) would reduce DSAP impacts to a less than significant level. In addition, preparation of a tree survey by a certified arborist is required for all development projects within the DSAP area.

An *Arborist Tree Report* was completed for the project (see Appendix B). The project site currently supports three ordinance-sized California fan palm trees and one non-ordinance crepe myrtle street tree. Development of the site with multi-family residential uses would be expected to result in the removal of the existing trees. The proposed project would be required to offset the impact to the urban forest through compliance with the Standard Permit Condition below.

Standard Permit Condition: The trees removed by the proposed project would be replaced according to tree replacement ratios required by the City, as provided in Table 4.4-1 below.

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 container
19 – 38 inches	3:1	2:1	None	15-gallon container
Less than 19 inches	1:1	1:1	None	15-gallon container

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 is 12.1 inches in diameter. One 24-inch box tree = two 15-gallon trees.

- The species of trees to be planted shall be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.
- If replacement trees cannot be fully planted on the subject project site, the project proponents shall make payment to the City for funding to plant any additional trees within the City boundary prior to the issuance of any building permits. These funds will be used for tree planting and maintenance of planted trees for approximately three years. The project

proponent shall provide the payment receipt for “off-site tree planting” to the Planning Project Manager prior to issuance of any building permit.

Through compliance with the Standard Permit Condition above, the project would offset the loss of the existing trees and reduce the impacts of tree removal to a less than significant level. [**Same Impact as Approved Project (Less than Significant Impact)**]

BIO-6: Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? [**Same Impact as Approved Project (Less than Significant Impact)**]

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. The project site is not identified as important habitat for endangered and threatened species. Therefore, the proposed project would not result in direct impacts to the Habitat Plan’s covered species.

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 federally endangered Bay checkerspot butterfly. Mitigation for 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. Fees collected under the Habitat Plan for new vehicle trips can be used to purchase conservation land for the Bay checkerspot butterfly. The Habitat Plan requires nitrogen deposition fees for all study area projects that generate new vehicle trips in order to address cumulative nitrogen deposition impacts. Consistent with the DSAP PEIR, the project shall implement the following Standard Permit Condition as a condition of approval for the project.

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

- The project applicant shall submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning, Building and Code Enforcement or the Director’s designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit. The Habitat Plan 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. [**Same Impact as Approved Project (Less than Significant Impact)**]

4.5 CULTURAL RESOURCES

The discussion of cultural resources in this section is based on the *Section 106 Archaeological Literature Search and Native American Consultation* prepared by Holman & Associates on May 15, 2018. This report is on file with the City of San José Department of Planning, Building and Code Enforcement.

The discussion in this section also utilizes the *Historic Resources Survey and Report* prepared by Archives & Architecture, LLC on April 23, 2018. This report is included in this IS/EA as Appendix C.

4.5.1 Environmental Setting

4.5.1.1 *Regulatory Framework*

Federal

Historic Resources

The National Register of Historic Places (NRHP) is the National Park Service’s official list of historic places worthy of preservation, and is part of a national program to identify, evaluate, and protect historic and archaeological resources. National Register Bulletin Number 15, *How to Apply the National Register Criteria for Evaluation*, describes the Criteria for Evaluation as being composed of two factors. First, the property must be “associated with an important historic context,” and second the property must retain integrity of those features necessary to convey its significance.

The National Register identifies four possible context types or criteria, at least one of which must be applicable at the National, State, or local level. As listed under Section 8, “Statement of Significance,” of the NRHP Registration Form, these are:

- A. Property is associated with events that have made a significant contribution to the broad patterns of our history.
- B. Property is associated with the lives of persons significant in our past.
- C. Property embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction.
- D. Property has yielded, or is likely to yield, information important to prehistory or history.

State

Historic Resources

The California Register of Historical Resources (CRHR) includes buildings and sites significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of the State. The California Office of Historic Preservation’s Technical Assistance Series #6, *California Register and National Register: A Comparison*, outlines the differences between the federal and State processes. The context types to be used when establishing the significance of a property for listing on the CRHR are very similar, with emphasis on local and State significance. They are:

1. It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States; or
2. It is associated with the lives of persons important to local, California, or national history; or
3. It embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values; or
4. It has yielded, or is likely to yield, information important to prehistory or history of the local area, California, or the nation.

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	Require 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 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.

The ordinance defines the term “historical, architectural, cultural, aesthetic, or engineering interest or value of an historic nature as deriving from, based on, or related to any of the following factors:

1. Identification or association with persons, eras or events that have contributed to local, regional, State or national history, heritage or culture in a distinctive, significant or important way;
2. Identification as, or association with, a distinctive, significant or important work or vestige:
 - a. Of an architectural style, design or method of construction;
 - b. Of a master architect, builder, artist or craftsman;
 - c. Of high artistic merit;
 - d. The totality of which comprises a distinctive, significant or important work or vestige whose component parts may lack the same attributes;
 - e. That has yielded or is substantially likely to yield information of value about history, architecture, engineering, culture or aesthetics, or that provides for existing and future generations an example of the physical surroundings in which past generations lived or worked; or
 - f. That the construction materials or engineering methods used in the proposed landmark are unusual or significant of uniquely effective.
3. The factor of age alone does not necessarily confer a special historical, architectural, cultural, aesthetic, or engineering significance, value or interest upon a structure or site, but it may have such effect if a more distinctive, significant or important example thereof no longer exists (Section 13.48.020 A). The ordinance also provides a designation of a district: “a geographically definable area of urban or rural character, possessing a significant concentration or continuity of site, building, structures or objects unified by past events or aesthetically by plan or physical development (Section 13.48.020 B). Although the definitions listed are the most important determinants in evaluating the historic value of San José resources, the City of San José also has a numerical tally system that must be used in identifying potential historic resources. The “Historic Evaluation Sheet” requires resources to be rated according to visual quality/design; history/association; environment/context; integrity; reversibility; interior quality and conditions; and NRHP/CRHR status. A points-based rating system is used to score each building according to the extent to which it meets the criteria listed above. The final tallies are divided into three categories:

- Candidate City Landmark (CCL)
- Structure of Merit (SM) and/or Contributing Structure (CS)
- Non-Significant (NS)/Non-Contributing Structure (NCS)

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.” The preservation of Structures of Merit “should be a high priority” but these structures are not considered significant historic resources for the purposes of CEQA.

4.5.1.2 *Existing Conditions*

Archaeological Resources

The site is located within an area of high archaeological sensitivity at depth.¹² No known archaeological resources are located within or adjacent to the project site. The potential for accidental discovery of archaeological materials is considered moderate to high due to the historical development of the project footprint and the proximity to a waterway.

In this area of San José, Native American sites have been identified within a half mile of the two major waterways, Coyote Creek and Guadalupe River. Approximately 60 percent of these Native American cultural resources were buried under alluvium or historical/recent layers. The project site is located approximately 290 feet from Los Gatos Creek on part of a large valley terrace about 0.5 mile south of its confluence with the Guadalupe River. There is a high potential for intact prehistoric archaeological deposits and cultural materials within the project area.¹³

Based upon the cultural resources literature review, there is a high potential for intact historic-era archaeological deposits within the project area.

Historic Resources

The project site is situated on a block that was initially developed with single-family residences in the 1890s. Prior to development, the project area was part of the larger agricultural lands known as the Los Coches Rancho. Around 1900, commercial buildings were constructed on the site along West Carlos Street. The commercial uses were replaced with worker housing associated with nearby canneries. Housing on the site was demolished and replaced with the existing industrial uses around between 1968 and 1980.

The S&S Welding building located on the project site (699 West San Carlos Street) is about 38 years old, and the small concrete block building in the parking lot is slightly older. The S&S Welding building is a metal-framed and -clad building with a gabled roof and roll-up entries for vehicle access. The concrete ancillary building has garage and pedestrian doors facing McEvoy Street.

¹² City of San José. *Envision San José 2040 General Plan FEIR, Appendix J*. Page 22. July 2009.

¹³ Holman & Associates. *Section 106 Archaeological Literature Search and Native American Consultation*. May 15, 2018.

Because the buildings are less than 50 years in age, the site is not associated with any significant events or persons, and the buildings are common mass-produced industrial buildings, the property is not eligible for listing on the National Register of Historic Places.

There are six properties located adjacent to the project site and within the project’s Area of Potential Effect (APE) for historical resources (see Appendix C). None of the properties within the project site, nor the adjacent properties within the APE, are on any local, State, or federal lists of historically or architecturally significant structures and/or sites, landmarks, or points of interest.¹⁴

The buildings at 751 West San Carlos Street, west of the project site across McEvoy Street, were determined to be eligible for listing on the San José Historic Resources Inventory. The buildings are vernacular commercial buildings constructed around 1910, and are currently occupied by the Black Cat Licorice Theater and the Black and Brown resale store.

4.5.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
1) Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) Cause a substantial adverse change in the significance of an archaeological resource as pursuant to CEQA Guidelines Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3) Disturb any human remains, including those interred outside of dedicated cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

CUL-1: Would the project cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5? [**Same Impact as Approved Project (Less than Significant Impact)**]

As discussed above, the project site and adjacent properties do not appear on any local, State, or federal lists of historically or architecturally significant structures and/or sites, landmarks, or points of interest. The project site is currently developed with vernacular industrial and ancillary buildings that do not have distinctive architectural features. Therefore, the buildings are not eligible for listing on the NRHP, CRHR, City of San José Historic Resources Inventory, or Santa Clara County Heritage Resource Inventory.

¹⁴ Santa Clara County. *Heritage Resource Inventory*. Accessed June 26, 2018. Available at: <https://www.sccgov.org/sites/dpd/Programs/HistoricPreservation/Pages/Inventory.aspx>.

One property within the project APE, 751 West San Carlos Street, was determined to be eligible for local listing on the San José Historic Resources Inventory. The proposed development is located across McEvoy Street from 751 West San Carlos Street and would not significantly change the character of the existing neighborhood, which is developed with modern residential, commercial, and industrial uses. The project would not impact significant or potentially significant architectural resources. **[Same Impact as Approved Project (Less than Significant Impact)]**

CUL-2: Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?
[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]

Although there are no known archaeological sites within or adjacent to the project site, the site is located approximately 290 feet from Los Gatos Creek within an area of high archaeological sensitivity. The potential for accidental discovery of archaeological materials is considered moderate to high due to the historical development of the project site and the proximity to a waterway. The project proposes to excavate to approximately 11 feet below grade during construction.

As discussed in the DSAP PEIR, without incorporation of control measures, construction activities during DSAP development could impact previously unknown archaeological deposits. The DSAP PEIR identified measures (DSAP PEIR pp. 223-224) to reduce and avoid impacts to as yet unidentified archaeological resources. Measures include preparation of a site-specific archaeological resources report, archaeological monitoring, and evaluation of any archaeological finds. Consistent with the DSAP PEIR, the project applicant would implement the following mitigation measures to reduce and avoid impacts to unknown archaeological resources during construction.

MM CUL-2.1: Preliminary Investigation: Once the site has been cleared, a qualified archaeologist shall complete mechanical trenching to explore for buried historical and Native American resources. Trenching depths shall be consistent with the depths and range of excavation proposed, and the stratigraphy of the parcel. This investigation shall be completed prior to any construction or other ground disturbing activities required as part of the project. The results of the presence/absence exploration shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer for review and approval prior to issuance of any grading permit. Based on the findings of the presence/absence exploration, an archaeological resources treatment plan (as described in **MM CUL-2.2**) shall be prepared by a qualified archaeologist, if necessary.

MM CUL-2.2: Treatment Plan: If required by **MM CUL-2.1**, the project applicant shall retain a qualified archaeologist to prepare a treatment plan that reflects the permit-level detail pertaining to depths and locations of all ground disturbing activities. The treatment plan shall be prepared and submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer prior to approval of any grading permit. The treatment plan shall contain, at a minimum:

- Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations.
- Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).
- Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information).
- Detailed field strategy to record, recover, or avoid the finds and address research goals.
- Analytical methods.
- Report structure and outline of document contents.
- Disposition of the artifacts.
- Appendices: all site records, correspondence, and consultation with Native Americans, etc.

Implementation of the plan, by a qualified archaeologist, shall be required prior to the issuance of any grading permits. The treatment plan shall utilize data recovery methods to reduce impacts on subsurface resources.

In addition, the project applicant would be required to implement the following Standard Permit Condition as a condition of approval.

Standard Permit Condition: The project shall implement the following condition to reduce the impacts to subsurface cultural resources:

- If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist shall examine the find. The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and 2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials. The project applicant shall implement the recommendations of the qualified archaeologist.

Consistent with the DSAP PEIR, implementation of mitigation measures **MM CUL-2.1** and **MM CUL-2.2** and Standard Permit Condition above would ensure that the project would not have a significant impact on buried archaeologist resources. [**Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)**]

CUL-3: Would the project disturb any human remains, including those interred outside of dedicated cemeteries? [**Same Impact as Approved Project (Less than Significant Impact)**]

The project site is not located on or near a known archaeological site or cemetery. Although the likelihood of encountering human remains is low, the disturbance of these remains, if they are encountered during construction, could result in an impact. The DSAP PEIR identified measures (DSAP PEIR p. 24) to reduce impacts to unidentified archaeological resources. Consistent with the DSAP PEIR, the project shall implement the following Standard Permit Condition.

Standard Permit Condition: The following measures shall be applied to the project to reduce and/or avoid impacts to human remains:

- If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement or the Director's designee and the qualified archaeologist, who shall 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 Native American Heritage Commission (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.

Implementation of the above Standard Permit Condition would reduce and/or avoid impacts to unknown human remains to a less than significant level, consistent with the DSAP PEIR. [**Same Impact as Approved Project (Less than Significant Impact)**]

4.6 ENERGY

The discussion in this section is based in part on the *Air Quality Assessment* prepared by Illingworth & Rodkin, Inc. on October 26, 2018. This report is included in this IS/EA as Appendix A.

4.6.1 Environmental Setting

4.6.1.1 *Regulatory Framework*

Federal

At the federal level, energy standards set by the USEPA apply to numerous consumer products and appliances (e.g., the EnergyStar™ program). The USEPA 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 Senate Bill (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.

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, 2017.¹⁵ Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.¹⁶

CalGreen establishes mandatory green building standards for buildings in California. CalGreen was developed to reduce greenhouse gas (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 in to effect on January 1, 2017, and covers five categories: planning and design, energy efficiency, water efficiency and conservation, material and resource efficiency, and indoor environmental quality.

¹⁵ California Building Standards Commission. "Welcome to the California Building Standards Commission". Accessed February 6, 2018. Available at: <http://www.bsc.ca.gov/>.

¹⁶ California Energy Commission (CEC). "2016 Building Energy Efficiency Standards". Accessed February 6, 2018. Available at: <http://www.energy.ca.gov/title24/2016standards/index.html>.

Regional

BAAQMD's 2017 Clean Air Plan includes de-carbonization of our energy system as one of the four key priorities. For buildings and energy, the key elements in the control strategy are to:

- Expand the production of low-carbon, renewable energy by promoting on-site technologies such as rooftop solar, wind, and ground-source heat pumps;
- Support the expansion of community choice energy programs throughout the Bay Area;
- Promote energy and water efficiency in both new and existing buildings; and
- Promote the switch from natural gas to electricity for space and water heating in Bay Area buildings.

Local

Climate Smart San José

Approved by the City Council in February 2018, Climate Smart San José utilizes a people-focused approach, encouraging the entire San José community to join an ambitious campaign to reduce greenhouse gas emissions, save water, and improve quality of life. The adoption of Climate Smart San José made San José one of the first U.S. cities to chart a path to achieving the greenhouse gas emissions reductions contained in the international Paris Agreement on climate change. Climate Smart San José focuses on three areas: energy, mobility, and water. Climate Smart San José encompasses nine overarching strategies:

- Transition to a renewable energy future
- Embrace our California climate
- Density our city to accommodate our future neighbors
- Make homes efficient and affordable for families
- Create clean, personalized mobility choices
- Develop integrated, accessible public transportation infrastructure
- Create local jobs in our city to reduce vehicle miles traveled
- Improve our commercial building stock
- Make commercial goods movement clean and efficient

Sustainable City Strategy

The Sustainable City Strategy is a statement of the City's commitment to becoming an environmentally and economically sustainable city by ensuring that development is designed and built in a manner consistent with the efficient use of resources and environmental protection. Programs promoted under this strategy include recycling, waste disposal, water conservation, transportation demand management, and energy efficiency.

Envision San José General Plan

The 2040 General Plan includes the following policies for the purpose of reducing or avoiding impacts related to energy.

Envision San José 2040 General Plan Relevant Energy Policies

Policy	Description
Policy MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City’s Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
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-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-14.4	Implement the City’s Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, and passive solar building design and planting of trees and other landscape materials to reduce energy consumption.
Policy IN-5.3	Use solid waste reduction techniques, including source reduction, reuse, recycling, source separation, composting, energy recovery and transformation of solid wastes to extend the life span of existing landfills and to reduce the need for future landfill facilities and to achieve the City’s Zero Waste goals.
Policy TR-1.4 ¹⁷	Through the entitlement process for new development fund needed transportation improvements for all modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.
Policy TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.

Municipal Code

The City’s Municipal Code includes regulations associated with energy efficiency and energy use. City regulations include a Green Building Ordinance (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); a Construction and Demolition Diversion Deposit Program that fosters recycling of construction and demolition

¹⁷ Policy TR-1.4, as shown, is modified in this list to reflect only those items relevant to the discussion of energy.

materials (Chapter 9.10); and an Energy and water Building Performance Ordinance (Section 17.85.100 of Chapter 17) that provides criteria for energy and water efficiency measures and a process for benchmarking and auditing.

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 the 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. Since the proposed residential project would exceed 10 units and 75 feet in height, the project would be required to achieve LEED certification.¹⁸ San José Municipal Code, Chapter 17.84.300 Green Building Refundable Deposit requires that all projects must certify to pay a deposit fee prior to issuance of any Building Permit. The fee will be refunded when a written request for the refund, accompanied by documentation of certification from either the U.S. Green Building Council or Build It Green, is submitted to the City of San José Permit Center.

4.6.1.2 Existing Conditions

Total energy usage in California was approximately 7,830 trillion British thermal units (Btu) in the year 2016, the most recent year for which this data was available. Out of the 50 states, California is ranked second 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.¹⁹ This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

Electricity

Electricity in Santa Clara County in 2017 was consumed primarily by the commercial sector (76 percent), followed by the residential sector consuming 24 percent. In 2017, a total of approximately 17,190 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.²⁰

San José Clean Energy (SJCE) is the electricity provider for residents and businesses in the City of San José. SJCE sources the electricity and the Pacific Gas and Electric Company (PG&E) delivers it to customers over their existing utility lines. SJCE customers are automatically enrolled in the GreenSource program, with an energy mix that is a minimum of 45 percent renewable and provides 80 percent GHG emission-free electricity. Customers can choose to enroll in SJCE's TotalGreen

¹⁸ City of San José. *Private Sector Green Building*. Accessed April 1, 2019. Available at: <http://www.sanjoseca.gov/index.aspx?NID=3284>.

¹⁹ United States Energy Information Administration. *State Profile and Energy Estimates, 2016*. Accessed September 6, 2018. Available at: <https://www.eia.gov/state/?sid=CA#tabs-2>.

²⁰ CEC. Energy Consumption Data Management System. "Electricity Consumption by County". Accessed March 15, 2019. Available at: <http://ecdms.energy.ca.gov/elecbycounty.aspx>.

program at any time to receive 100 percent GHG emission-free electricity from entirely renewable sources.

PG&E was the sole electricity provider to the project site until February 2017, and could still be selected as the energy supplier for the project. PG&E's 2017 electricity mix was 33 percent renewable and as of 2019 is at least 75 percent carbon-free; thus, they have already met the requirements of Executive Order S-14-08.

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.²¹ 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.²²

Fuel for Motor Vehicles

In 2017, 15 billion gallons of gasoline were sold in California.²³ The average fuel economy for light-duty vehicles (autos, pickups, vans, and sport utility vehicles [SUVs]) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 22 mpg in 2016.²⁴ 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.^{25,26} In 2012, the federal government raised the fuel economy standard to 54.5 miles per gallon for cars and light-duty trucks by Model Year 2025.²⁷

²¹ California Gas and Electric Utilities. 2018 California Gas Report. Accessed March 15, 2019. Available at: https://www.socalgas.com/regulatory/documents/cgr/2018_California_Gas_Report.pdf.

²² CEC. "Natural Gas Consumption by County". Accessed February 21, 2019. Available at: <http://ecdms.energy.ca.gov/gasbycounty.aspx>.

²³ California Department of Tax and Fee Administration. Net Taxable Gasoline Gallons. Accessed February 16, 2018. Available at: http://www.cdtfa.ca.gov/taxes-and-fees/MVF_10_Year_Report.pdf.

²⁴ U.S. Environmental Protection Agency. Table 4-23: Average Fuel Efficiency of U.S. Light Duty Vehicles. Accessed August 28, 2018. Available at: <https://www.bts.gov/content/average-fuel-efficiency-us-light-duty-vehicles>.

²⁵ U.S. Department of Energy. Energy Independence & Security Act of 2007. Accessed February 8, 2018. Available at: <http://www.afdc.energy.gov/laws/eisa>.

²⁶ Public Law 110-140—December 19, 2007. Energy Independence & Security Act of 2007. Accessed February 8, 2018. Available at: <http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf>.

²⁷ National Highway Traffic Safety Administration. *Obama Administration Finalizes Historic 54.5 mpg Fuel Efficiency Standards*. August 28, 2012. Accessed February 8, 2018. Available at: <http://www.nhtsa.gov/About+NHTSA/Press+Releases/2012/Obama+Administration+Finalizes+Historic+54.5+mpg+Fuel+Efficiency+Standards>.

4.6.2

Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

EN-1: Would the project 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? [**Same Impact as Approved Project (Less than Significant Impact)**]

Development of project site with the proposed 365 multi-family dwelling units and associated infrastructure would consume energy during both the construction and operational phases of the project. The construction phase would require energy for the actual manufacture and transportation of building materials, preparation of the site (e.g., importing fill and grading), and the actual construction of the building. Implementation of General Plan policies and existing regulations and programs would reduce energy loss resulting from the disposal of construction and demolition materials through diversion and recycling.

The operational phase would consume energy for multiple purposes including, but not limited to, building heating and cooling, lighting, appliances, and electronics. Operational energy would also be consumed during each vehicle trip associated with the proposed uses. Operational energy use is shown in Table 4.6-1 below.

Table 4.6-1: Estimated Annual Operational Energy Use of Proposed Development			
Development	Electricity Use (kWh)	Natural Gas Use (kBtu)	Gasoline (gal/mi/yr)
Multi-family residential	1,666,387	3,291,630	124,568
Source: Illingworth & Rodkin, Inc. <i>Air Quality Assessment</i> . October 26, 2018. kWh = kilowatt hours kBtu = thousand Btu 9,833,961 vehicle miles traveled (VMT) / 22.0 mpg = 446,998 gallons of gasoline			

Implementation of the project would use approximately 1,666,387 kWh of electricity and approximately 3,291,630 kBtu of natural gas per year.²⁸ Annual gasoline consumption as a result of the project would increase by approximately 124,568 gallons. The project proposes to design the building to LEED Platinum standards and would include the following green building features:

- Rooftop urban farm
- Free Santa Clara VTA Eco Passes for residents
- Low-VOC paints, sealants, adhesives, and finishes
- Formaldehyde-free insulation, cabinets, counters, and shelving;
- WeGo Wise water and energy monitoring
- Solar water heating
- Energy-efficient windows, lighting, water heaters, and appliances
- Water-conserving fixtures
- Drip-irrigated native and low-water landscaping with bioswale stormwater retention and rain gardens

Although the proposed residential project would use energy, consistent with the DSAP PEIR, the consumption would not be wasteful, inefficient, or unnecessary. The project would comply with the CalGreen Building Code, Envision San José 2040 General Plan and Greenhouse Gas Reduction Strategy, San José Municipal Code, and the City’s Private Section Green Building Policy. As noted above, 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, energy efficiency, water efficiency and conservation, material and resource efficiency, and indoor environmental quality.

By complying with the mandatory provisions of CalGreen that pertain to energy consumption and energy efficiency, and implementation of the proposed green building features, the project would not result in wasteful, inefficient, or unnecessary consumption or wasteful use of energy resources.

[Same Impact as Approved Project (Less than Significant Impact)]

EN-2: Would the project conflict with or obstruct a state or local plan for renewable energy or energy efficiency? **[Same Impact as Approved Project (Less than Significant Impact)]**

As discussed above, although the proposed residential project would use energy, the project would comply with the CalGreen Building Code, Envision San José 2040 General Plan and Greenhouse Gas Reduction Strategy, San José Municipal Code, and Private Sector Green Building Policy. The project is required to comply with these codes and policies, but many of the details are to be determined during the Building Permit process and LEED certification process as the design and operation details of the residential building’s electrical, mechanical, and plumbing systems are further refined. Compliance with CalGreen and the Municipal Code’s Green Building requirements would be demonstrated after receipt of Planning entitlements. At the current planning stage, it is known that the project includes WeGo Wise water and energy monitoring; solar water heating; energy-efficient

²⁸ These estimates do not include deductions of the existing electricity, natural gas, and gasoline consumption associated with the current development on the site. Net increases in energy uses on the site would be lower.

windows, lighting, water heaters, and appliances; water-conserving fixtures; and free VTA Eco Passes for residents, thereby serving to reduce the consumption of fossil fuels from automobile travel to and from the site. For these various reasons, the project would not conflict with a State or local plan for renewable energy or energy efficiency. [**Same Impact as Approved Project (Less than Significant Impact)**]

4.7 GEOLOGY AND SOILS

The discussion in this section is based in part on the *Geotechnical Investigation* prepared by Rockridge Geotechnical, Inc. on April 27, 2018. This report is included in this IS/EA as Appendix D.

4.7.1 Environmental Setting

4.7.1.1 *Regulatory Framework*

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning (AP) Act was passed into law following the destructive 1971 San Fernando earthquake. The AP Act regulates development in California near known active faults due to hazards associated with surface fault ruptures. 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. The project site is not located in an Alquist-Priolo Earthquake Fault Zone.

Seismic Hazards Mapping Act

The Seismic Hazards Mapping Act (SHMA) was passed by the California legislature in 1990 to protect the public from the effects of strong ground shaking, liquefaction, landslides, and other seismic hazards. The SHMA established a State-wide mapping program to identify areas subject to violent shaking and ground failure; the program is intended to assist cities and counties in protecting public health and safety. The California Geological Survey (CGS) is mapping SHMA Zones and has completed seismic hazard mapping for the portions of California most susceptible to liquefaction, ground shaking, and landslides, which include the central San Francisco Bay Area and Los Angeles Basin.

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.

California Building Code

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

Envision San José 2040 General Plan

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

Envision San José 2040 General Plan Relevant Geology and Soil 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-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-4.2	Approve development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
Policy EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
Policy EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 15 and April 15.
Action EC-4.11	Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.
Action EC-4.12	Require review and approval of grading plans and erosion control plans (if applicable) prior to issuance of grading permits by the Director of Public Works.
Policy ES-4.9	Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

City of San José Municipal Code

Title 24 of the San José Municipal Code includes the current California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. Requirements for building safety and earthquake hazard reduction are also addressed in Chapter 17.40 (Dangerous Buildings) and Chapter 17.10 (Geologic Hazards Regulations) of the Municipal Code. Requirements for grading, excavation, and erosion control are included in Chapter 17.10 (Building Code, Part 6 Excavation and Grading). In accordance with the Municipal Code, the Director of Public Works must

issue a Certificate of Geologic Hazard Clearance prior to the issuance of grading and building permits within defined geologic hazard zones, including State Seismic Hazard Zones for Liquefaction.

4.7.1.2 Existing Conditions

Regional Geology

The City of San José is located in the eastern portion of the Santa Clara Valley. The Santa Clara Valley, an alluvial basin, is oriented northwest to southeast and is bounded by the Santa Cruz Mountains to the west and the Hamilton/Diablo Range to the east. The Santa Clara Valley was formed when sediments derived from the Santa Cruz Mountains and the Hamilton/Diablo Range were exposed by continued tectonic uplift and regression of the inland sea that had previously inundated this area. Bedrock in this area is made up of the Franciscan Complex, a diverse group of igneous, sedimentary, and metamorphic rocks of Late Jurassic to Cretaceous age (70 to 140 million years old). Overlaying the bedrock at substantial depths are marine and terrestrial sedimentary rocks of Tertiary and Quaternary age.

Project Site

A subsurface exploration, including two soil borings and two Core Penetration Tests (CPTs), was completed in October 2015. Results of the subsurface exploration are included in the *Geotechnical Investigation*. Stiff clay fill was encountered to a depth of three to seven feet below grade. The fill is underlain by very stiff native clay to a depth of eight feet. Sand was encountered in the borings to a depth of 20 to 24 feet, with stiff clay extending to the maximum depth explored of 50 feet below grade.

Results of Plasticity Index (PI) tests showed high plasticity and expansion potential of the soils. Groundwater was measured between 35 and 44 feet below grade, with a historic high groundwater level in the project area of 25 feet below grade.

Seismicity and Seismic Hazards

The project site is located within the seismically active San Francisco Bay region. The faults in this region are capable of generating earthquakes of magnitude 7.0 or higher. Major faults in the area include the San Andreas Fault to the west and the Hayward and Calaveras Faults to the east. During an earthquake, very strong ground shaking could occur at the project site.

The project site is not located within an Alquist-Priolo Special Studies Zone or Santa Clara County Fault Hazard Zone.^{29 30} There are no known faults at the project site. Therefore, ground rupture on the site is unlikely.

Liquefaction and Lateral Spreading

²⁹ California Geological Survey. *Earthquake Zones of Required Investigation – San José West Quadrangle*. February 2, 2002.

³⁰ Santa Clara County Department of Planning and Development. *Santa Clara County Geologic Hazard Zones*. October 26, 2012.

Liquefaction is a seismic hazard and is characterized as the temporary transformation of soils to a liquid state during ground shaking. Lateral spreading, typically associated with liquefaction, is horizontal ground movement of flat-lying soil deposits toward a free face such as an excavation, channel, or open body of water.

According to the California Geological Survey, the project site is located within a State of California Seismic Hazard Zone for liquefaction. There is no known history of liquefaction-induced damage at the site. The project site is not located adjacent to a creek or open body of water.

Landslides

The project site is located within the relatively flat Santa Clara Valley. According to the California Geological Survey, the project site is not located within a State of California Seismic Hazard Zone for earthquake-induced landslides.

Paleontological Resources

The site is located in an area of high paleontological sensitivity at depth, but is not within an area of high paleontological sensitivity at the ground surface.³¹

4.7.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
<hr/> Would the project:					
1) 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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
- Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
- Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
- Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

³¹ City of San José. *Envision San José 2040 General Plan FEIR, Appendix J. Figure 1b.* July 2009.

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
3) Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4) Be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

GEO-1: Would the project 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? **[Same Impact as Approved Project (Less than Significant Impact)]**

Fault Rupture

The project site is not located within an Alquist-Priolo Earthquake Fault Zone or a Santa Clara County Fault Rupture Hazard Zone. No known surface expression of active faults is known to cross the site.³² Fault rupture through the site, therefore, is not anticipated. **[Less Impact than Approved Project (No Impact)]**

Seismic Ground Shaking

The project site is located within the seismically active San Francisco Bay region. The faults in this region are capable of generating earthquakes of magnitude 7.0 or higher. Major faults in the area include the San Andreas Fault to the west and the Hayward and Calaveras Faults to the east. During an earthquake, very strong ground shaking could occur at the project site. Consistent with the requirements of the DSAP PEIR, a *Geotechnical Investigation* was completed for the site (see

³² TRC Companies, Inc. *Geotechnical Investigation*. November 2016.

Appendix D). The *Geotechnical Investigation* calculated a peak ground acceleration of 0.50g³³ on the site.

In accordance with the City's General Plan and Municipal Code, and to avoid or minimize potential damage from seismic shaking, the proposed development would be built using standard engineering and seismic safety design techniques. The building foundation design would incorporate liquefaction control measures, including a concrete mat slab and a ground improvement system such as soil mixed columns or drilled displacement piles. Consistent with the DSAP PEIR, the project shall implement the following Standard Permit Condition as a condition of approval for the project.

Standard Permit Condition: To avoid or minimize potential damage from seismic shaking, the project shall be built using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes, including the 2016 California Building Code Chapter 16, Section 1613, as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on-site and off-site to the extent feasible and in compliance with the Building Code.

- All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
- The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

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. **[Same Impact as Approved Project (Less than Significant Impact)]**

Landslides

The project site is not located within a landslide hazard zone. The project site is relatively flat, and is not located in the vicinity of any slope that could be affected by a landslide. **[Less Impact than Approved Project (No Impact)]**

³³ 1g is equal to the acceleration due to gravity at the Earth's surface.

Liquefaction

The project site is located within a State of California Liquefaction Hazard Zone. Analyses completed for the *Geotechnical Investigation* indicated that silty soils on the site could potentially liquefy, resulting in up to 0.75 inch of total settlement following a major earthquake. The *Geotechnical Investigation* concluded that the potential for ground rupture and sand boils due to liquefaction is negligible.

Total settlement of the proposed building was estimated to be between four and six inches, with differential settlement of 1.5 to two inches over a horizontal distance of 30 feet. The building foundation design would include ground improvements to a depth of 40 feet below a concrete mat slab, reducing the settlement to less than 0.75 inch over a horizontal distance of 30 feet. Because clay recompression occurs relatively quickly, approximately 80 to 90 percent of the total settlement would be complete by the end of construction. The project shall implement the above Standard Permit Condition as a condition of approval for the project.

With implementation of the above Standard Permit Condition, and consistent with the DSAP PEIR, the proposed project would not expose people or structures to substantial adverse effects due to liquefaction. **[Same Impact as Approved Project (Less than Significant Impact)]**

Lateral Spreading

Lateral spreading typically occurs as a form of horizontal displacement of relatively flat-lying soil toward an open or “free” face such as an open body of water, channel, or excavation. This movement is often associated with liquefaction.

Los Gatos Creek is located approximately 290 feet southeast of the site boundary. Considering the relatively flat site grades and the absence of a free face in the site topography, as well as the depth and relative thickness of the potentially liquefiable layer, the *Geotechnical Investigation* concluded that the probability of lateral spreading occurring at the site is negligible. **[Less Impact than Approved Project (No Impact)]**

GEO-2: Would the project result in substantial erosion or the loss of topsoil? **[Same Impact as Approved Project (Less than Significant Impact)]**

Construction of the proposed project would disturb the ground and expose soils, thereby increasing the potential for wind- or water-related erosion and sedimentation at the site until the completion of construction. The City’s National Pollutant Discharge Elimination System (NPDES) General Permit, urban runoff policies, and the Municipal Code (which are discussed in *Section 4.10, Hydrology and Water Quality* of this IS/EA) are the primary means of enforcing erosion control measures. The DSAP PEIR concluded that incorporation of erosion control and grading Best Management Practices (see *Section 4.10, Hydrology and Water Quality* of this IS/EA) would prevent substantial erosion during Diridon Station Area Plan development. The City would require all phases of the project to comply with all applicable City regulatory programs pertaining to construction-related erosion, including the Standard Permit Conditions below.

Standard Permit Conditions: The following measures shall be applied to development of the project site to reduce and/or avoid erosion and loss of topsoil:

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

Construction activities would be subject to the requirements of the aforementioned policies and regulations. The project would not, therefore, result in substantial soil erosion or loss of topsoil.

[Same Impact as Approved Project (Less than Significant Impact)]

GEO-3: Would the project 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?
[Same Impact as Approved Project (Less than Significant Impact)]

As discussed under GEO-1 above, the project site is not located within a landslide hazard zone, and is not in the vicinity of a slope that could be affected by a landslide. The project site is located within a liquefaction hazard zone. With implementation of the Standard Permit Condition listed under GEO-1 above, and consistent with the DSAP PEIR, the project would not result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse. **[Same Impact as Approved Project (Less than Significant Impact)]**

GEO-4: Would the project be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property? **[Same Impact as Approved Project (Less than Significant Impact)]**

Expansive soils are common in the San Francisco Bay Area. Expansive soils on the project site could create risks to life or property. The DSAP PEIR identified measures to reduce expansive soil hazards, including replacement of expansive soils and foundation design measures (DSAP PEIR p. 290).

As part of the *Geotechnical Investigation*, and consistent with the DSAP PEIR, a Plasticity Index test was completed on a representative clay sample from soil borings. PI test results indicated high plasticity and expansive potential of the on-site soils.

All aspects of site grading, including the placement of fill and backfilling of excavations, would be completed under the observation of a Geotechnical Engineer's field representatives. Field representatives would monitor and test compaction of fill, backfill, and subgrades.

If grading work is scheduled to begin in the wintertime, the near-surface soils may become unstable under the heavy traffic loads of construction equipment. Consistent with the measures in the DSAP PEIR, the project would incorporate measures to stabilize the subgrade, such as: 1) removal of the wet soil and replacement with imported dry soil or aggregate baserock; 2) addition of geofabrics or geogrids to bridge minor unstable areas; 3) reduction of moisture content through aeration; and 4)

addition of quick lime, which reacts with and changes the chemical composition of the soil, resulting in soil with lower shrinkage and swelling potential and less moisture. In addition, the project shall implement the Standard Permit Condition listed below as a condition of approval for the project.

Standard Permit Condition: The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices will ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

The Standard Permit Condition above would ensure that development of the site would not exacerbate existing soil conditions on the project site, and that expansive soils on-site would not exacerbate risks to life and property. **[Same Impact as Approved Project (Less than Significant Impact)]**

GEO-5: Would the project have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water? **[Less Impact than Approved Project (No Impact)]**

The project site is located within an urbanized area of San José, and sewers are available to dispose of wastewater from the project site. Therefore, development of the site would not require septic tanks or alternative wastewater disposal systems. **[Less Impact than Approved Project (No Impact)]**

GEO-6: Would the project directly or indirectly destroy a unique paleontological resource or site or unique geological feature? **[Same Impact as Approved Project (Less than Significant Impact)]**

The project site is located in an area of high paleontological sensitivity at depth, but not of high sensitivity at the ground surface.³⁴ Soil on the project site has been previously disturbed during construction of the previous buildings.

Consistent with the conclusions of the DSAP PEIR, construction activities associated with the proposed project could significantly impact paleontological resources, if they are encountered. The project shall implement the following Standard Permit Condition as a condition of approval for the project.

Standard Permit Condition: The following measures shall be applied to development of the project site to reduce and/or avoid impacts to paleontological resources:

- If vertebrate fossils are discovered during construction, all work on the site shall stop immediately until a qualified professional paleontologist can assess the nature and importance of the find and recommend appropriate treatment. Treatment may include preparation and recovery of fossil materials so that they can be housed in an appropriate

³⁴ City of San José. *Envision San José 2040 General Plan Final Environmental Impact Report (FEIR)*. Figure 3.11-1. 2010.

museum or university collection, and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for submitting the paleontologist's report to the City's Director of Planning, Building and Code Enforcement or the Director's designee, and implementing the recommendations of the qualified professional paleontologist. The applicant shall submit a report to the City's Director of Planning, Building and Code Enforcement or the Director's designee indicating how the paleontologist's recommendations were complied with as soon as all measures have been incorporated into the project.

Implementation of the above Standard Permit Condition, in accordance with General Plan policies and the DSAP PEIR, would ensure that the proposed project would not significantly impact paleontological resources. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.8 GREENHOUSE GAS EMISSIONS

The discussion in this section is based in part on the *Air Quality Assessment* prepared by Illingworth & Rodkin, Inc. on October 26, 2018. This report is included in this IS/EA as Appendix A.

4.8.1 Environmental Setting

4.8.1.1 *Regulatory Framework*

Unlike emissions of criteria and toxic air pollutants, which are discussed in *Section 4.3, Air Quality* and have local or regional impacts, emissions of greenhouse gases have a broader, global impact. Global warming associated with the “greenhouse effect” is a process whereby GHGs accumulating in the atmosphere contribute to an increase in the temperature of the earth’s atmosphere over time. The principal GHGs contributing to global warming and associated climate change are carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), and fluorinated compounds. Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the transportation, industrial/manufacturing, utility, residential, commercial, and agricultural sectors.

4.8.1.2 *Regulatory Framework*

Federal

Clean Air Act

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

State

California Global Warming Solutions Act (Assembly Bill 32)

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

On September 8, 2016, SB 32 was signed into law, amending the California Global Warming Solution Act. SB 32 requires CARB to ensure that Statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. As a part of this effort, CARB is required to update the *Climate Change Scoping Plan* to express the 2030 target in terms of million metric tons of carbon dioxide equivalent. The most recent *Climate Change Scoping Plan* was adopted in November 2017.

In the updated *Climate Change Scoping Plan*, CARB recommends statewide targets of no more than six metric tons (MT) of carbon dioxide equivalent (CO₂e) per capita (statewide) by 2030 and no more than two MT of CO₂e per capita by 2050. The statewide per capita targets account for all

emissions sectors in the State, statewide population forecasts, and the statewide reductions necessary to achieve the 2030 statewide target under SB 32 and the longer-term State emissions reduction goal of 80 percent below 1990 levels by 2050.

Senate Bill 375 – Redesigning Communities to Reduce GHGs

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

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

Regional

Bay Area Air Quality Management District

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

The BAAQMD *CEQA Air Quality Guidelines* include information on legal requirements, BAAQMD rules, plans and procedures, methods of analyzing GHG emissions, mitigation measures, and background information. The *CEQA Air Quality Guidelines* recommend a GHG threshold of 1,100 MT or 4.6 MT per capita. These thresholds were developed based on meeting the 2020 GHG targets. Development of the project would occur beyond 2020, so a threshold that addresses a future target is appropriate. Although BAAQMD has not yet published a quantified threshold for 2030, the analysis in this section uses a “Substantial Progress” efficiency metric of 2.6 MT of CO₂e per capita per year and a “bright-line” threshold of 660 MT of CO₂e per year. Additional details about BAAQMD and calculated thresholds are included in Appendix A.

City of San José

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.

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

The 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 Policies

Policy	Description
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 CD-3.2	Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure that the design of new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity.
Policy CD-5.1	Design areas to promote pedestrian and bicycle movements, to facilitate interaction between community members, and to strengthen the sense of community.
Policy LU-5.4	Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections; and including secure and convenient bike storage.

City of San José Municipal Code

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

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

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

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

Diridon Station Area Plan

The DSAP PEIR requires that all future DSAP projects must implement General Plan policies, including mandatory and voluntary measures established in the GHG Reduction Strategy, to reduce GHG emissions. Development under the DSAP is required to:

- Meet or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies that require the incorporation of green building principles into project design and construction;
- Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption;
- Fully implement industry best practices, including the selection of materials and resources, water efficiency, and sustainable site selection;
- Create a comfortable and safe pedestrian environment on new development sites with safe, convenient, accessible, and pleasant pedestrian facilities;
- Dedicate land to expand existing sidewalks and/or bicycle lanes/paths, provide new facilities, or share in the cost of improvements;
- Provide pedestrian connections from on-site features (building entrances) to public streets, adjacent properties, transit facilities, parks, open space, community facilities (including schools), commercial area, and other areas serving daily needs;
- Use design techniques to facilitate pedestrian and bicycle access (e.g., minimize building separation from public sidewalks, provide multiple building entrances, incorporate pedestrian paseos); and
- Provide secure and convenient bicycle storage facilities as identified in the *San José Bicycle Master Plan*.

4.8.1.3 Existing Conditions

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

4.8.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
1) Generate greenhouse gas (GHG) emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of GHGs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

GHG-1: Would the project generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment? [**Same Impact as Approved Project (Less than Significant Impact)**]

Construction Emissions

Short-term GHG emissions from the construction phase of the project would consist of primarily heavy equipment exhaust, worker travel, materials delivery, and solid waste disposal. Neither the City of San José nor BAAQMD have an adopted threshold of significance for construction-related GHG emissions; however, BAAQMD recommends quantifying emissions and disclosing that GHG emissions would occur during construction. The emissions summary calculations (see Appendix A) for the construction phase of the project show that the project would generate approximately 1,392 MT of CO₂e.

Because construction would be temporary (approximately 30 months) and would not result in a permanent increase in emissions, the project would not interfere with the implementation of AB 32 or SB 32. [**Same Impact as Approved Project (Less than Significant Impact)**]

Operational Emissions

As discussed in *Section 4.3, Air Quality*, the proposed project would be expected to become operational in the year 2023. The California Emissions Estimator Model (CalEEMod), along with calculated project vehicle trip generation rates, was used to estimate daily emissions associated with operation of the fully-developed site under the proposed project. Annual emissions from operation of the proposed project in 2023 are predicted to be 1,524 MT of CO₂e. The annual emissions from

operation of the existing buildings in 2023 are computed as 75 MT of CO₂e; therefore, the net emissions resulting from the project would be 1,449 MT of CO₂e (see Table 4.8-1 below).

The net emissions would exceed the BAAQMD threshold for 2020 and the “bright-line” threshold for 2030 and, therefore, the service population threshold was used to determine the operational impacts of the project. As discussed in *Section 4.14, Population and Housing*, development of the proposed 365 multi-family dwelling units would generate an estimated 1,172 new residents.

Table 4.8-1: Annual Project GHG Emissions (CO₂e) in Metric Tons			
Source Category	Existing Uses (2023)	Proposed Project (2023)	Proposed Project (2030)
Area	<1	20	20
Energy Consumption	27	398	398
Mobile	38	978	811
Solid Waste Generation	6	88	88
Water Usage	3	40	40
Total	75	1,524	1,357
Net New Emissions		1,449	1,282
<i>Bright-Line Significance Threshold</i>		1,100	660
Service Population Emissions		1.3	1.2
<i>BAAQMD Significance Threshold</i>		4.6	2.6
Exceed BAAQMD Threshold?		No	No

As shown in Table 4.8-1, service population emissions would not exceed the BAAQMD threshold for 2020 or the “Substantial Progress” efficiency metric for 2030. In addition, the project would implement the mandatory and voluntary General Plan policies listed in Section 4.8.1.2 above, as required by the DSAP PEIR. For these reasons, operational GHG emissions would be considered less than significant. **[Same Impact as Approved Project (Less than Significant Impact)]**

GHG-2: Would the project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of GHGs? **[Same Impact as Approved Project (Less than Significant Impact)]**

As discussed under GHG-2 above, the project’s construction GHG emissions would not conflict with AB 32 or SB 32. Consistent with the DSAP PEIR, the project would meet or exceed the City’s Green Building Ordinance and City Council Policies, and would incorporate the DSAP PEIR GHG reduction measures (DSAP PEIR p. 359). The project’s operational GHG emissions would not exceed the BAAQMD 2030 service population threshold. **[Same Impact as Approved Project (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 Apex Companies, LLC on March 7, 2018. The report is included in this IS/EA as Appendix E.

The discussion in this section also utilizes the *Phase II Groundwater and Soil Vapor Investigation* prepared by Apex Companies, LLC on March 23, 2018. This report is included in this IS/EA as Appendix F.

4.9.1 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.

California Accidental Release Prevention Program

The California Accidental Release Prevention (CalARP) Program aims to prevent accidental releases of regulated hazardous materials that represent a potential hazard beyond property boundaries. Facilities that are required to participate in the CalARP Program use or store specified quantities of toxic and flammable substances (hazardous materials) that can have off-site consequences if accidentally released. A Risk Management Plan (RMP) is required for such facilities. The intents of the RMP are to provide basic information that may be used by first responders in order to prevent or mitigate damage to the public health and safety and to the environment from a release or threatened release of a hazardous material, and to satisfy federal and State Community Right-to-Know laws. The Santa Clara County Department of Environmental Health reviews CalARP risk management plans as the Certified Unified Program Agency (CUPA).

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. For the project site, FAR Part 77 would require any proposed structure higher than approximately 55 feet above ground to be submitted to the FAA for airspace safety review. As the project proposes maximum building heights of 164 feet (top of elevator/stair roof overruns), airspace safety review by the FAA is required.

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

The Norman Y. Mineta San José International Airport is located approximately two miles from 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 of the City’s General Plan, including the following:

Envision San José 2040 Relevant Hazardous Materials 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.
Action EC-6.8	The City will use information on file with the County of Santa Clara Department of Environmental Health under the California Accidental Release Prevention (CalARP) Program as part of accepted Risk Management Plans to determine whether new residential, recreational, school, day care, church, hospital, seniors or medical facility developments could be exposed to substantial hazards from accidental release of airborne toxic materials from CalARP facilities.
Action EC-6.9	Adopt City guidelines for assessing possible land use compatibility and safety impacts associated with the location of sensitive uses near businesses or institutional facilities that use or store substantial quantities of hazardous materials by June 2011. The City will only approve new development with sensitive populations near sites containing hazardous materials such as toxic gases when feasible mitigation is included in the projects.
Policy EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
Policy EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, State and federal laws, regulations, guidelines and standards.
Policy EC-7.4	In 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.

Policy TR-14.4	Require aviation and “no build” easement dedications, setting forth maximum elevation limits as well as for acceptance of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.
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4.9.1.2 Existing Conditions

The project site is currently developed with industrial uses. The site is bounded by industrial uses to the north and east, commercial uses to the west, and multi-family residential uses to the south.

Site History

Prior to development on the project site, the land was used for agricultural production. Single-family residences were constructed on the site in the 1890s. Around 1900, commercial buildings were constructed on the site along West Carlos Street. The commercial uses were replaced with worker housing associated with nearby canneries. Housing on the site was demolished and replaced with the existing industrial uses in 1980.

Lead was widely used as a major ingredient in most interior and exterior oil-based paints prior to 1950. In 1972, the Consumer Products Safety Commission limited lead content in new paint to 0.5 percent. In 1978, the Consumer Products Safety Commission banned lead-based paint and other surface coating materials containing lead. Therefore, lead-based paint from previous and existing buildings may be present in shallow soils on the site.

The property proposed for development, 280 McEvoy Street, is listed on the following databases:

- Santa Clara Certified Unified Program Agency,
- San José Hazardous Materials Program,
- California Hazardous Materials Incident Reporting System (CHMIRS), and
- USEPA Facility Index System (FINDS)

Listing on the above databases indicates that hazardous materials are used and/or stored on the project site. No recorded spills or releases on the project site were discovered during preparation of the Phase I Environmental Site Assessment.

Off-Site Sources of Contamination

740 West San Carlos Street

Roofguard Roofing Company, located at 740 West San Carlos Street, is approximately 150 feet south of the project site. In 2015, two 18,000-gallon redwood-constructed fuel oil underground storage tanks (USTs) were discovered on the property. Free-phase product³⁵ was subsequently identified at depths of 12 to 23 feet below grade. Subsurface investigations indicated that soil, soil vapor, and groundwater have been impacted by total petroleum hydrocarbons (TPH) and related chemicals. Groundwater flow is assumed to be to the north/northeast, toward the project site. As part of a

³⁵ “Free-phase product” is a term used to describe a hydrocarbon substance present as a non-aqueous liquid or as a solid in its original form, rather than mixed with water or soil.

separate project, a groundwater investigation is planned downgradient of Roofguard Roofing Company, but has not yet been completed.

In March 2018, Apex Companies completed the Phase II subsurface investigation on the project site and analyzed groundwater and soil vapor samples for TPH and volatile organic compounds. No field indicators of impacts were observed in soil cores; therefore, no soil samples were collected. Groundwater and soil vapor samples were compared to San Francisco Regional Water Quality Control Board (RWQCB) environmental screening levels (ESLs). TPH was detected in one groundwater sample, and VOCs were detected in soil vapor samples. No compounds were detected above their respective ESLs for groundwater or soil vapor.

800 West San Carlos Street

The Cheim Lumber Company, located at 800 West San Carlos Street, is approximately 310 feet southwest of the project site. A 1,000-gallon UST was removed from the property in 1989 after a release of diesel fuel to soil and groundwater. In 2005, the Santa Clara County Department of Environmental Health (SCCDEH) determined that residual contamination did not pose a risk to human health, and the release case was closed.

777 West San Carlos Street

San José Midtown Development, located at 777 West San Carlos Street, is approximately 230 feet west of the project site. Two 4,000-gallon USTs were removed in 1996, one 750-gallon UST was removed in 2008, and one aboveground storage tank (AST) was removed prior to 2015. Two Phase II subsurface investigations and one limited soil investigation were completed between 2008 and 2016. Surface soil on the property is impacted with arsenic and lead, and a soil management plan was prepared for the site in 2018. Closure of the SCCDEH soil contamination case is pending.

236 McEvoy Street

Independent Scissor Lift, located at 236 McEvoy Street, is approximately 290 feet north of the project site. In 1994, a 1,000-gallon waste oil UST was removed from the site and 16 cubic yards of contaminated soil were excavated. Due to the low concentrations of TPH as diesel and TPH as oil and grease in subsequent soil samples, the SCCDEH closed the release case in 2015.

Historic Railroad Tracks

During the 1880s and 1890s, and possibly through the 1910s, railroad tracks were located along the eastern property boundary. Common contaminants associated with historic railroad tracks include arsenic and lead, which can persist in soil. Sources of contamination include railroad ties dipped in arsenic solution, arsenic weed-control sprays, organochloride pesticides, and arsenic-laced slag used as railroad bed fill. Lubrication oil and diesel that dripped from trains are also likely sources of petroleum product found along railroad lines. Other sources of contaminants may include coal ash from engines, creosote from ties, and polynuclear aromatic hydrocarbons (PAHs) from diesel exhaust.

Wildland Fires

The project site is located in an urbanized area of San José. According to the California Department of Forestry and Fire Protection (CAL FIRE), the project site is not located within a moderate, high, or very high fire hazard severity zone.

4.9.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
1) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

HAZ-1:	Would the project create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials? [Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]
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Site Operation

Post-construction operation of the proposed project would not result in hazardous materials being transported, used, or disposed of in quantities that would result in a significant hazard to the public. Operation of the proposed project would include the use and storage on-site of cleaning supplies and maintenance chemicals in small quantities. No other hazardous materials would be used or stored on-site. The small quantities of cleaning supplies and materials would not pose a risk to site users or adjacent land uses. **[Same Impact as Approved Project (Less than Significant Impact)]**

Project Construction

As described above, the project site was previously used for agricultural purposes and later developed with a variety of buildings, including single-family residential and commercial uses. The site is currently developed with industrial uses. The depth to groundwater on the project site was measured at 35 to 44 feet (see *Section 4.7, Geology and Soils*).

Historical uses of the properties surrounding the project site include residential, commercial, and industrial development. An open SCCDEH release case, resulting from former USTs at 740 West San Carlos Street, is located approximately 150 feet south of the project site. As discussed above, groundwater and soil vapor samples on the project site did not exceed RWQCB ESLs for any compound; however, VOCs were detected in both soil vapor samples collected.

The DSAP PEIR identified measures (DSAP PEIR pp. 246-248) to minimize the effects of potential contaminants during and after site development. Consistent with the DSAP PEIR, the project would implement the following mitigation measures.

MM HAZ-1.1: Site Management Plan: A Site Management Plan (SMP) or similar document shall be prepared to manage the cleanup of potential contamination. The SMP shall be prepared prior to construction to reduce or eliminate exposure risk to human health and the environment, specifically, potential risks associated with the presence of contaminated soils, and shall include the following:

- A detailed discussion of the site background;
- Management of stockpiles, including sampling, disposal, and dust and runoff control including implementation of a stormwater pollution prevention program;
- Procedures to follow if evidence of an unknown historic release of hazardous materials is discovered during excavation or demolition; and
- A health and safety plan (HSP) for each contractor working at the site, in an area below grade, that addresses the safety and health hazards of each site operation phase, including the requirements and procedures for employee protection. The HSP shall outline proper soil handling procedures and health and safety

requirements to minimize work and public exposure to hazardous materials during construction.

The SMP shall be submitted to the SCCDEH (or equivalent agency) for review and approval. A copy of the approved SMP shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and the Environmental Compliance Officer of the City of San José for approval prior to the issuance of any grading permits.

A historic railroad track was located adjacent to the site during the late nineteenth century. Although contaminants have not been identified on the site, compounds commonly associated with historic railroad lines, if used at this location, could persist in on-site soil, and be encountered during construction. The DSAP PEIR identified measures (DSAP PEIR pp. 246-247) to reduce hazards associated with contaminated soil and groundwater. Consistent with the DSAP PEIR, the project would implement the following mitigation measures.

MM HAZ-1.2: Soil Sampling: Prior to beginning development, including excavation and/or grading, shallow soil samples shall be taken in the near surface soil in areas of historic railroad activity, including rail lines, that occur in the proposed project area. Soil samples will be tested for arsenic, lead, California Heavy Metals Test (CAM) 17 metals, VOCs, TPHs, PAHs, and polychlorinated biphenyls (PCBs) to determine if soil contamination from previous historic railroad activity is above established construction worker safety and residential environmental screening levels. The results of soil sampling and testing shall be provided to the Director of Planning, Building and Code Enforcement or the Director's designee and the Environmental Compliance Officer of the City of San José for review.

MM HAZ-1.3: Regulatory Oversight: If contaminated soils are found in concentrations above regulatory thresholds, the applicant shall obtain regulatory oversight from SCCDEH (or DTSC) under their Voluntary Cleanup Program. The SCCDEH or DTSC will determine which documents are required, such as an SMP, Removal Action Plan (RAP), or equivalent document which must be prepared by a qualified hazardous materials consultant. The plan must establish remedial measures and/or soil management practices to ensure construction worker safety and the health and safety of future workers and residents. The Plan and evidence of regulatory oversight shall be provided to the Director of Planning, Building and Code Enforcement or the Director's designee and the Environmental Compliance Officer of the City of San José.

The existing site building was constructed in 1980; therefore, the building is not expected to contain lead-based paint or asbestos. However, lead from previous development on the site may be present in soils. The project would be required to implement the Standard Permit Condition below, consistent with the DSAP PEIR.

Standard Permit Condition: The project shall implement the following measures to reduce impacts related to lead-based paint and asbestos:

- In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be constructed prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials and/or lead-based paint.
- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with California Division of Occupational Safety and Health (Cal/OSHA) Lead in 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 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 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.

Implementation of mitigation measures **MM HAZ-1.1** through **MM HAZ-1.3** and the Standard Permit Condition above, consistent with the DSAP PEIR, would reduce on-site contamination impacts to a less than significant level during construction of the proposed project. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

HAZ-2: Would the project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? **[Same Impact as Approved Project (Less than Significant Impact)]**

The project proposes residential uses that would store and use minimal quantities of hazardous materials, primarily in the form of landscaping and cleaning supplies. Such use as part of the project operation would not cause a hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

Project construction would use hazardous materials, including fuels, oils, solvents, paints, and other building materials. These materials would be stored and used in relatively small quantities, in compliance with local and state safety requirements. Therefore, project construction 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. **[Same Impact as Approved Project (Less than Significant Impact)]**

HAZ-3: Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? **[Same Impact as Approved Project (Less than Significant Impact)]**

The nearest operational school to the project site, Gardner Elementary School, is located approximately 0.4 mile southeast of the project site. Edge School, a high school closed since 2014, is located approximately 160 feet west of the site. Development of the project site with multi-family residential uses would not use or emit significant quantities of hazardous materials. **[Same Impact as Approved Project (Less than Significant Impact)]**

HAZ-4: Would the project be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or the environment? **[Less Impact than Approved Project (Less than Significant Impact)]**

The project site is not located on the California Environmental Protection Agency Cortese List, compiled pursuant to Government Code Section 65962.5. **[Less Impact than Approved Project (Less than Significant Impact)]**

HAZ-5: Would the project 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? Would the project result in a safety hazard or excessive noise for people residing or working in the project area? **[Same Impact as Approved Project (Less than Significant Impact)]**

The project site is located approximately two miles from the Norman Y. Mineta San José International Airport. As the project proposes a maximum building height of 164 feet above ground level (AGL), or approximately 263 feet above mean sea level (MSL), it would require submittal to the FAA for airspace safety review under FAR Part 77. The project would be required to obtain FAA “determination of no hazard” and to comply with any conditions set forth in the FAA determinations prior to obtaining a grading permit.

Based on a review of the San José International Airport Land Use Plan, the project site is not located within an airport influence area, airport clear zones, or safety zones. [**Same Impact as Approved Project (Less than Significant Impact)**]

HAZ-6: Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? [**Less Impact than Approved Project (No Impact)**]

Development of the project site under the proposed project would not physically interfere with an adopted emergency response or evacuation plan. [**Less Impact than Approved Project (No Impact)**]

HAZ-7: Would the project expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires? [**Same Impact as Approved Project (No Impact)**]

The project site is not located in an area that is exposed to wildland fire hazards. [**Same Impact as Approved Project (No Impact)**]

4.9.3 Non-CEQA Effects

Per *California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 (*CBIA 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 hazards and hazardous materials conditions affecting a proposed project.

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

Based on the *Phase I Environmental Site Assessment* review of environmental databases, there have been no on-site releases of hazardous materials. With implementation of **MM HAZ-1.1** through **MM HAZ-1.3**, off-site hazardous materials releases would not significantly impact future occupants or construction workers at the site. An *Explosives and Fire Hazards Review* completed in compliance with NEPA standards concluded that off-site hazardous materials storage would not affect the site in the case of fire or explosion (see Appendix J). Therefore, the project would be consistent with Policy EC-7.2 and would not pose a safety risk to future site users.

4.10 HYDROLOGY AND WATER QUALITY

4.10.1 Environmental Setting

Federal Emergency Management Agency

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

The Federal Emergency Management Agency (FEMA) manages the NFIP and creates Flood Insurance Rate Maps (FIRMs) that designate 100-year floodplain zones and delineate other flood hazard areas. A 100-year floodplain zone is the area that has a one in one hundred (one percent) chance of being flooded in any one year based on historical data.

Federal and State Laws and Programs Regarding Water Quality

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

Regulations set forth by the USEPA and the SWRCB have been developed to fulfill the requirements of this legislation. The USEPA's regulations include the National Pollutant Discharge Elimination System permit program, which controls sources that discharge pollutants into Waters of the United States. These regulations are implemented at the regional level by water quality control boards. For the City of San José, the water board is the San Francisco Bay Regional Water Quality Control Board. Regional Boards are responsible for developing and enforcing water quality objectives and implementation plans, known as Basin Plans. The San Francisco region's Basin Plan was last updated in 2010.

CWA Section 303(d) lists polluted water bodies which require further attention to support future beneficial uses. San Francisco Bay is on the Section 303(d) list as an impaired water body for several pollutants.³⁶ Los Gatos Creek is listed as an impaired water body for diazinon (an organophosphate insecticide).

State Water Quality Control Board Nonpoint Source Pollution Program

In 1988, the SWRCB adopted the Nonpoint Source Management Program in an effort to control nonpoint source pollution in California. The Nonpoint Source Management Program requires individual permits to control discharge associated with construction activities. The Nonpoint Source Management Program is administered by the RWQCB under the NPDES General Permit for Construction Activities. Projects must comply with the requirements of the Nonpoint Source Program if:

³⁶ California State Water Resources Control Board. "Impaired Water Bodies." Accessed June 21, 2018. Available at: http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml.

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

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

Municipal Regional Stormwater NPDES Permit/C.3 Requirements

The San Francisco Bay RWQCB also issued a Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008) (MRP). In an effort to standardize stormwater management requirements throughout the region, this permit replaces the formerly separate countywide municipal stormwater permits with a regional permit for 77 Bay Area municipalities, including the City of San José. Under provisions of the MRP, redevelopment projects that add and/or replace more than 10,000 square feet of impervious surface, or 5,000 square feet of uncovered parking area, are required to design and construct stormwater treatment controls to treat post-construction stormwater runoff. The MRP requires regulated projects to include Low Impact Development (LID) practices, such as site design measures, pollutant source control measures, and stormwater treatment facilities designed to maintain or restore the site's natural hydrologic functions. The MRP requires that stormwater treatment measures are properly installed, operated, and maintained. Amendments to the MRP require all post-construction runoff to be treated using LID treatment controls, such as biotreatment facilities, unless the project is granted Special Project LID Reduction Credits, which would allow the project to implement non-LID measures for all or a portion of the site depending on the project characteristics. Prior to receiving any LID Reduction Credits, the project must first establish the infeasibility of treating 100 percent of runoff with LID treatment measures. A narrative must be submitted to the City that describes why and how the implementation of 100 percent LID treatment measures are not feasible, in accordance with the MRP.

The MRP also requires regulated projects to include measures to control hydromodification impacts where the project would otherwise cause increased erosion, silt pollutant generation, or other adverse impacts to local rivers and creeks. Development projects that create and/or replace one acre or more of impervious surface, and are located in a sub-watershed or catchment that is less than 65% impervious, must manage increases in runoff flow and volume so that post-project runoff does not exceed estimated pre-project rates and durations.

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. The City of San José's Policy No. 6-29 requires all new development and redevelopment projects to implement post-construction BMPs and Treatment Control Measures. This policy also established specific design standards for post-construction Treatment Control Measures for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

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

The City of San José's Policy No.8-14 implements the stormwater treatment requirements of Provision C.3 of the MRP. Policy No. 8-14 requires all new and redevelopment projects that create or

replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP).

The proposed project is exempt from the NPDES hydromodification requirements related to preparation of an HMP because the project site is located in a subwatershed greater than or equal to 65 percent impervious surfaces.³⁷

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-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements per City standards.
Policy MS-3.4	Promote the use of green roofs (i.e., roofs with vegetated cover), landscape-based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.
Policy ER-8.1	Manage stormwater runoff in compliance with the City’s Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
Policy ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
Policy EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls.
Policy EC-5.7	Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.
Policy EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City’s Municipal NPDES Permit to reduce urban runoff from project sites.

³⁷ Santa Clara Valley Urban Runoff Pollution Prevention Program. “Classification of Subwatersheds and Catchment Areas for Determining Applicability of HMP Requirements – San José.” July 2011.

4.10.1.1 Existing Conditions

Hydrology and Drainage

The 1.22-acre project site is located in the Guadalupe watershed. The Guadalupe watershed is a 171-square-mile area that drains the Guadalupe River and its tributaries from the eastern Santa Cruz Mountains to the valley floor. Runoff from the project site and the surrounding area enters the City's storm drainage system, which outfalls to Los Gatos Creek, located approximately 290 feet southeast of the site. The project site is currently developed with industrial uses, with approximately 79 percent of the site covered with impervious surfaces.

Flooding and Other Hazards

The project site is not located in a 100-year floodplain. According to the FEMA FIRM, the project site is designated as Zone D, which is defined as "areas where flood hazards are undetermined, but possible."³⁸ There are no City floodplain requirements for Zone D.

As identified in the Envision San José 2040 General Plan Final EIR, the project site is located in the Anderson Reservoir and Lexington Reservoir dam failure inundation areas, which are the areas that may be flooded in the event of a complete dam failure.

Due to the project site's inland location and distance from large bodies of water (i.e., the San Francisco Bay), it is not subject to seiche or tsunami hazards, or sea level rise. The project site is located on the valley floor and not subject to mudflows.

Water Quality

The water quality of streams, creeks, ponds, and other surface water bodies can be greatly affected by pollution carried in contaminated surface runoff. Pollutants from unidentified sources, known as "non-point" source pollutants, are washed from streets, construction sites, parking lots, and other exposed surfaces into storm drains. Surface runoff from the project site and surrounding area is collected by storm drains and discharged into Los Gatos Creek. The runoff often contains contaminants such as oil and grease, plant and animal debris (e.g., leaves, dust, and animal feces), pesticides, litter, and heavy metals. In sufficient concentration, these pollutants have been found to adversely affect the aquatic habitats to which they drain.

Under existing conditions, the project site is developed with industrial uses and associated outbuildings and paved lots. Runoff from the site vicinity contains sediment, metals, trash, oils and grease from paved areas. Runoff from the project site currently flows directly into the City's storm drainage system, untreated for the removal of pollutants.

³⁸ Federal Emergency Management Agency. *Flood Insurance Rate Map, Community Panel No. 06085C0234H*. Effective Date: May 18, 2009.

4.10.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
1) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3) 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:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
- result in substantial erosion or siltation on- or off-site;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
- substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
- 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	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
- impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

HYD-1: Would the project violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality? [**Same Impact as Approved Project (Less than Significant Impact)**]

The project site is currently developed with industrial uses. Runoff from the site vicinity contains sediment, metals, trash, oils, and grease from paved areas. Runoff from the project site currently flows directly into the City's storm drainage system, untreated for the removal of pollutants.

Construction-Related Water Quality Impacts

Construction activities (e.g., grading and excavation) on the project site may result in temporary impacts to surface water quality. When disturbance to underlying soils occurs, the surface runoff that flows across the site may contain sediments that are ultimately discharged into the storm drainage system. Construction of the proposed project would disturb approximately 0.98 acre of soil and reduce the site's impervious surface area by approximately 4,500 square feet. Because less than one acre of soil would be disturbed, the project would not be required to comply with the NPDES General Permit for Construction Activities.

All development projects in San José are required to comply with the City's Grading Ordinance. The City of San José Grading Ordinance requires the use of erosion and sediment controls to protect water quality while a site is under construction. Prior to issuance of a permit for grading activity occurring during the rainy season (October 1st to April 30th), the applicant would be required to submit an Erosion Control Plan to the Director of Public Works for review and approval. The Erosion Control Plan must detail the BMPs that would be implemented to prevent the discard of stormwater pollutants. The project would implement the following stormwater BMPs, consistent with the measures (pp. 291, 310-311) identified in the DSAP PEIR. These measures would be conditions of approval of the proposed project.

Standard Permit Conditions: Best Management Practices to prevent stormwater pollution and minimize potential sedimentation shall be applied to project construction, including but not limited to the following:

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be 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.

Construction of the proposed project, with implementation of the above measures in accordance with the City’s General Plan, would not result in significant construction-related water quality impacts. **[Same Impact as Approved Project (Less than Significant Impact)]**

Post-Construction Water Quality Impacts

The proposed project would comply with the City of San José’s Post-Construction Urban Runoff Policy 6-29 and Provision C.3 of the RWQCB MRP, as applicable. Stormwater runoff from the proposed development would drain into treatment areas, including bioretention areas, prior to entering the storm drain system. Details of specific site design, pollutant source control, and stormwater treatment control measures demonstrating compliance with Provision C.3 of the Municipal Regional Stormwater Permit would be included in the final project design, to the satisfaction of the Director of Planning, Building and Code Enforcement.

The project site is currently developed, with approximately 40,700 square feet of impervious surfaces and 10,900 square feet of pervious surfaces. The proposed project would decrease the impervious area, resulting in 36,200 square feet of impervious surfaces and 15,400 square feet of pervious surfaces. Treatment facilities would have sufficient capacity to treat the runoff prior entering the storm drainage system consistent with the NPDES requirements.

The Envision San José 2040 General Plan Final Environmental Impact Report (FEIR) concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on stormwater quality. With implementation of a stormwater control plan consistent with RWQCB requirements and compliance with the City’s regulatory policies pertaining to stormwater runoff, the proposed project would have a less than significant water quality impact. **[Same Impact as Approved Project (Less than Significant Impact)]**

HYD-2: Would the project substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin? **[Same Impact as Approved Project (Less than Significant Impact)]**

The project site is located in a developed urban area and is not within a designated groundwater recharge zone for the groundwater basin. The depth to groundwater on the project site was measured at 35 to 44 feet below grade,³⁹ and the historic high groundwater level in the project area is 25 feet below grade. The project excavation would extend no more than 11 feet below grade. Development of the project site is not anticipated to result in the need to pump groundwater from the site and

³⁹ Rockridge Geotechnical, Inc. *Geotechnical Investigation*. April 2018.

would not interfere with groundwater recharge. **[Same Impact as Approved Project (Less than Significant Impact)]**

HYD-3: Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or 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? **[Same Impact as Approved Project (Less than Significant Impact)]**

Construction of the proposed project would not substantially alter the drainage pattern of the site or surrounding area. The project would decrease the total impervious surface area of the project site by approximately 4,500 square feet. The project would also comply with the MRP and City of San José Policy 6-29, which would remove pollutants and reduce the rate and volume of runoff from the project site, reducing the potential for erosion or siltation on and off the site.

According to the FEMA Flood Insurance Rate Map, the project site is designated as Zone D, which is defined as areas where flood hazards are undetermined, but possible. There are no City floodplain requirements for Zone D.

The project is subject to Provision C.3 of the MRP, as the project would replace more than 10,000 square feet of impervious surfaces. Consistent with Provision C.3, the project proposes to reduce the flowrate of stormwater and remove stormwater pollutants from the site by installing stormwater site design and treatment control measures. Therefore, the project would not substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site.

The project site is currently developed. Runoff from the project site currently flows overland and directly enters the storm drainage system untreated and unimpeded. The project would result in decreased runoff water compared to existing conditions. Construction of the proposed project would comply with the MRP and City of San José Policy 6-29, which would remove pollutants and reduce the rate and volume of runoff from the project site. For these reasons, development of the project site would not exceed the capacity of the existing storm drainage system serving the project site. **[Same Impact as Approved Project (Less than Significant Impact)]**

HYD-4: Would the project risk release of pollutants due to project inundation in flood hazard, tsunami, or seiche zones? **[Same Impact as Approved Project (Less than Significant Impact)]**

The project site is not located within a 100-year flood hazard area or a tsunami or seiche inundation zone. The site is not proximate to a large body of water.

While the project site is located in the inundation areas for the Anderson Reservoir and Lexington Reservoir in the event of a complete dam failure, the Santa Clara Valley Water District's (SCVWD's) comprehensive dam safety program and emergency action plan would ensure public

safety. For this reason, and consistent with conclusions in the DSAP PEIR, the proposed project would not risk release of pollutants due to project inundation. **[Same Impact as Approved Project (Less than Significant Impact)]**

HYD-5: Would the project conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan? **[Same Impact as Approved Project (Less than Significant Impact)]**

As discussed under HYD-1 above, the project would decrease the site's impervious surface area, decreasing the volume of runoff from the site. The project does not propose groundwater pumping or excavation below the groundwater table. The project would implement stormwater Best Management Practices to prevent pollution, consistent with the measures in the DSAP PEIR, and would not result in significant water quality impacts during construction or operation. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.11 LAND USE AND PLANNING

4.11.1 Setting

4.11.1.1 *Regulatory Framework*

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 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-1.12	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
Policy CD-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-6.1	Prohibit conversion of lands designated for light and heavy industrial uses to non-industrial uses. Prohibit lands designated for industrial uses and mixed industrial-commercial uses to be converted to non-employment uses. Lands that have been acquired by the City for public parks, public trails, or public open space may be re-designated from industrial or mixed-industrial lands to non-employment uses. Within the Five Wounds BART Station and 24th Street Neighborhood Urban Village areas, phased land use changes, tied to the completion of the planned BART station, may include the conversion of lands designated for Light Industrial, Heavy Industrial or other employment uses to non-employment use provided that the Urban Village areas maintain capacity for the overall total number of existing and planned jobs.
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.
Policy LU-6.3	When new uses are proposed in proximity to existing industrial uses, incorporate measures within the new use to minimize the negative impacts on existing nearby land uses to promote the health and safety of individuals at the new development site.
Policy LU-9.2	Facilitate the development of complete neighborhoods by allowing appropriate commercial uses within or adjacent to residential and mixed-use neighborhoods.
Policy LU-9.4	Prohibit residential development in areas with identified hazards to human habitation unless these hazards are adequately mitigated.

Policy LU-9.5	Require that new residential development be designed to protect residents from potential conflicts with adjacent land uses.
Policy LU-9.7	Ensure that new residential development does not impact the viability of adjacent employment uses that are consistent with the Envision General Plan Land Use / Transportation Diagram.
Policy TR-14.2	Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.
Policy TR-14.4	Require aviation and “no build” easement dedications, setting forth maximum elevation limits as well as for acceptable of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.

Diridon Station Area Plan

The Diridon Station Area encompasses 250 acres within the City of San José and centered around Diridon Station. Diridon Station is a transit hub served by Caltrain, VTA light rail, Amtrack, and the Altamont Commuter Express (ACE). In addition, high speed rail and Bay Area Rapid Transit (BART) service are planned for the station.

The project site is located within Area D, in the Southern Zone of the Diridon Station Area Plan. The land use goal of the plan is to “develop a Station Area Plan around the Diridon Station transit center that anticipates maximum possible build-out of new transit-related development.” The DSAP allows development of employment, retail, and entertainment uses at the Diridon Station core, surrounded by residential and supportive commercial uses in urban neighborhoods.

The project site has a land use designation of *Transit Residential (TR)* in the DSAP.⁴⁰ The *Transit Residential* classification is intended for residential and residential/commercial mixed use development within walking distance of Diridon Station and along transportation corridors, such as West San Carlos Street. Development within the *Transit Residential* designation is required to be pedestrian oriented.

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

As discussed in *Section 4.4, Biological Resources* of this IS/EA, 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 in 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.

⁴⁰ The *Transit Residential* land use designation has not been adopted as a General Plan Amendment by the San José City Council.

4.11.1.2 Existing Setting

The project site is located on the north side of West San Carlos Street, east of McEvoy Street and west of Dupont Street. Surrounding land uses include industrial uses and a rail yard to the east and south; residential uses to the southwest across West San Carlos Street; a gallery, theater, and retail store to the west; and industrial warehouses to the north. The project is not located within the Airport Influence Area for the Norman Y. Mineta San José International Airport.

The project site consists of two properties, 699 West San Carlos Street (APNs 261-38-001, -004, -030, -047, -048, and -049) and 254 McEvoy Street (APN 261-38-005). The site is zoned *Heavy Industrial (HI)* and has a designated land use of *Mixed Use Commercial (MUC)* under the General Plan. The DSAP PEIR evaluated a General Plan land use designation of *Transit Residential (TR)* at the project site. However, the *Transit Residential* land use designation has not been adopted by the San José City Council, and is proposed as part of the current project.

The project site is currently developed with two industrial warehouses and an associated garage and surface parking.

4.11.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
<hr/> Would the project:					
1) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

LU-1: Would the project physically divide an established community? [Same Impact as Approved Project (Less than Significant Impact)]

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 project, which proposes to construct a multi-family residential development under the *Transit Residential* land use designation evaluated by the DSAP PEIR, would not include construction of dividing infrastructure.

The project site is located in a neighborhood with existing industrial, commercial, and residential development. The site and adjacent properties are designated *Transit Residential* under the DSAP. Because of the similar existing and planned uses in the neighborhood, implementation of the project would not physically divide an established community. **[Same Impact as Approved Project (Less than Significant Impact)]**

LU-2: Would the project 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? **[Same Impact as Approved Project (Less than Significant Impact)]**

The project site has a land use designation of *Mixed Use Commercial (MUC)* and is zoned *Heavy Industrial (HI)*. The land use designation evaluated under the DSAP PEIR, *Transit Residential (TR)*, has not been adopted by the San José City Council. The project also proposes a rezoning to the *Multiple Residence (R-M)* Zoning District.

The proposed *Transit Residential* land use designation is intended for residential and mixed-use commercial/residential development that is pedestrian-oriented and accessible to transit. Under the DSAP, *Transit Residential* developments have densities of 65 to 250 du/ac.

The project includes development of the southern site property (699 West San Carlos Street). The project applicant has requested a density bonus consistent with the State Density Bonus Law, for an up to 35 percent increase over the maximum allowable residential density for affordable housing. With the maximum allowable density bonus, up to 381 affordable dwelling units could be developed on the 1.13-acre site.⁴¹ The project proposes development of 365 units.

The project would request incentives for development standards that would result in identifiable and actual cost reductions to allow the affordable housing costs and rents. The project would request an incentive to extend the maximum building height to 164 feet, 44 feet above the maximum height of 120 feet allowed on the site under the General Plan. The project would also request an incentive to reduce project's parking ratio to the parking ratio permitted in Table 20-290 of the San José Municipal Code, which is lower than the DSAP parking ratio. The project would also request an incentive to allow a reduced front property line of five feet in lieu of the required 10-foot front setback.

With the density bonus and requested incentives, the project would be consistent with the development density evaluated in the DSAP. The proposed General Plan Amendment from *Mixed Use Commercial* to *Transit Residential* would be consistent with the site's DSAP land use designation. The DSAP PEIR did not identify any environmental impacts associated with land use; therefore, the project would have a less than significant impact.

The project site is located within an area designated as *Urban-Suburban* under the Santa Clara Valley Habitat Plan. No sensitive species or habitat types are present on the project site, and the project would not directly impact any of the covered species in the Habitat Plan. As discussed in *Section 4.4, Biological Resources* of this IS/EA, the project would be required to conform to all applicable policies in the Habitat Plan. **[Same Impact as Approved Project (Less than Significant Impact)]**

⁴¹ Only the southern site property, which excludes APN 261-38-005, is proposed for development.

4.12 MINERAL RESOURCES

4.12.1 Setting

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 the Communications Hill area.

4.12.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

MIN-1: Would the project result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state? [**Same Impact as Approved Project (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. [**Same Impact as Approved Project (No Impact)**]

MIN-2: Would the project 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? [**Same Impact as Approved Project (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. [**Same Impact as Approved Project (No Impact)**]

4.13 NOISE

The discussion in this section is based in part on the *Noise and Vibration Assessment* prepared by Illingworth & Rodkin, Inc. on October 26, 2018. This report is included in this IS/EA as Appendix G.⁴²

4.13.1 Setting

4.13.1.1 *Overview*

Fundamentals of Noise

Noise may be defined as unwanted sound. Noise is usually objectionable because it is disturbing or annoying. The objectionable nature of sound can be caused by its pitch or its loudness. 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. There are several methods of characterizing sound. The most common in California is the A-weighted sound level, or dBA. This scale gives greater weight to the frequencies of sound to which the human ear is most sensitive. Noise is typically expressed using one of several noise averaging methods, including: L_{eq} , L_{max} , DNL, and CNEL. L_{eq} stands for the Noise Equivalent Level and is a measurement of the average energy level intensity of noise over a given period of time. The most common averaging period is hourly, but L_{eq} can describe any series of noise events of arbitrary duration. L_{max} is the maximum A-weighted noise level during a measurement period. DNL and CNEL are described below.

In determining the daily level of environmental noise, it is important to account for the difference in response of people to daytime and nighttime noises. During the nighttime, exterior background noises are generally lower than daytime levels. Most household noise also decreases at night, making exterior noises more noticeable. Furthermore, most people sleep at night and are very sensitive to noise intrusion. The day/night average sound level (DNL) descriptor was developed to account for human sensitivity to nighttime noise levels. The DNL divides the 24-hour day into the daytime (7:00 AM to 10:00 PM) and nighttime (10:00 PM to 7:00 AM). The nighttime noise level is weighted 10 dB higher than the daytime noise level. The Community Noise Equivalent Level (CNEL) is another 24-hour average descriptor which includes both an evening and nighttime weighting.

Fundamentals of Vibration

Ground vibration consists of rapidly fluctuating motions or waves with an average motion of zero. This discussion uses peak particle velocity (PPV) to quantify vibration amplitude, which is defined as the maximum instantaneous positive or negative peak of the vibration wave. A PPV descriptor with units of millimeters per second or inches per second is used to evaluate construction generated vibration for building damage and human complaints. The two primary concerns with construction-induced vibration are the potential to damage a structure and the potential to interfere with the enjoyment of life. These two concerns are evaluated against different vibration limits. Studies have shown that the threshold of perception for average persons is in the range of 0.008 to 0.012 inches per second PPV. Human perception to vibration varies with the individual and is a function of

⁴² The *Noise and Vibration Assessment* included an analysis of 376 dwelling units, while the project proposes construction of 365 units. The difference in the number of units is slight and does not affect the report's conclusions.

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 (e.g., minor cracking of building elements), or may threaten the integrity of a building. Safe vibration limits that can be applied to assess the potential for damaging a structure vary by researcher, and there is no general consensus as to what amount of vibration may pose a threat for structural damage to the building. Construction-induced vibration that can be detrimental to a 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.

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 noise and vibration and are applicable to the proposed project. In addition, the noise and land use compatibility guidelines set forth in the General Plan are shown in Table 4.13-1.

Envision San José 2040 Relevant Noise Policies

Policies	Description
Policy EC-1.1	<p>Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, State and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include:</p> <p><u>Interior Noise Levels</u></p> <ul style="list-style-type: none"> • The City’s standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected <i>Envision General Plan</i> traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan. <p><u>Exterior Noise Levels</u></p> <ul style="list-style-type: none"> • The City’s acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses [refer to Table EC-1 in the General Plan or Table 4.13-1 in this IS/EA]. The acceptable exterior noise level objective is established for the City, except in the environs of the San José International Airport and the Downtown, as described below: <ul style="list-style-type: none"> • For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.
Policy EC-1.2	<p>Minimize the noise impacts of new development on land uses sensitive to increased noise levels [Land Use Categories 1, 2, 3 and 6 in Table EC-1 in the General Plan or Table 4.13-1 in</p>

this IS/EA] 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 5 dBA DNL or more where the noise levels would remain “Normally Acceptable”; or
- Cause the DNL at noise sensitive receptors to increase by 3 dBA DNL or more where noise levels would equal or exceed the “Normally Acceptable” level.

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

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

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

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


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


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


Table 4.13-1: General Plan Land Use Compatibility Guidelines

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

Notes: ¹Noise 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.

City of San José Municipal Code

The Municipal Code restricts construction hours within 500 feet of a residential unit to 7:00 AM to 7:00 PM Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval.⁴³

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

4.13.1.2 Existing Conditions

The project site is located at 280 McEvoy Street in San José. The site is surrounded by existing residential, commercial, and industrial land uses. The eastern property line of the site is located as close as 80 feet from the VTA light rail line, with UPRR lines located further to the east. The frequency of VTA trains on weekdays is one every 15 to 20 minutes in the northbound and southbound directions between 5:00 AM and 8:00 PM. Trains are less frequent after 8:00 PM and on weekends.

⁴³ The Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.

Two long-term and three short-term noise measurements were taken in May 2018 to determine the existing ambient noise level on and around the project site. The noise environment at the site results primarily from vehicular traffic along West San Carlos Street. Secondary noise sources include aircraft activity associated with Norman Y. Mineta San José International Airport and intermittent VTA light rail trains. Based on the noise measurements taken at the site, the day-night average noise level at the project site ranges from 58 dBA DNL on the northern site boundary to 75 dBA DNL on the southern site boundary. Details about the existing noise measurements and locations are included in Appendix G of this IS/EA.

Based on the noise measurements taken at the site, noise levels on the project site currently exceed 60 dBA DNL. For sites with exterior noise levels of 60 dBA DNL or more that are to be developed with residential uses, General Plan Policy EC-1.1 requires the preparation of a design-level acoustical analysis prior to the issuance of building permits. The purpose of the analysis is to determine appropriate noise attenuation measures to ensure interior noise levels of 45 dBA DNL or lower.

4.13.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) Generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

NOI-1:	Would the project 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? [Same Impact as Approved Project (Less than Significant Impact)]
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Operations – Traffic Noise

According to the City’s General Plan, a significant permanent noise increase would occur if the project would increase noise levels at noise-sensitive receptors by 3 dBA DNL or more where ambient noise levels exceed the “normally acceptable” noise level standard. Where ambient noise levels are at or below the “normally acceptable” noise level standard, noise level increases of 5 dBA DNL or more would be considered significant. The City’s General Plan defines the “normally acceptable” outdoor noise level standard for the residential land uses to be 60 dBA DNL. Existing ambient levels, based on the measurements made in the project vicinity, exceed 60 dBA DNL along West San Carlos Street. Therefore, a significant impact would occur if traffic due to the proposed project would permanently increase ambient noise levels by 3 dBA DNL.

Based upon the analysis in the *Noise and Vibration Assessment*, the traffic noise increase resulting from project traffic volumes⁴⁴ would be 1 dBA DNL or less at noise-sensitive receptors in the project vicinity. The proposed project would not result in a permanent noise increase of 3 dBA DNL or more. **[Same Impact as Approved Project (Less than Significant Impact)]**

Mechanical Equipment Noise

High-density residential buildings typically require various mechanical equipment, such as air conditioners, exhaust fans, and air handling equipment for ventilation of the buildings. The site plan does not include detailed information about the location or types of mechanical equipment proposed. The nearest noise-sensitive uses to the project site include multi-family residences to the south as well as commercial uses that surround the project area. Under the City’s Noise Element and Municipal Code, noise levels produced by operation of the mechanical equipment would be limited to 55 dBA at receiving noise-sensitive land uses and 60 dBA at receiving commercial land uses.

The DSAP PEIR (pp. 175-176) requires that project applicants complete a site-specific noise analysis to verify consistency with the City’s noise standards and identify necessary design features and noise reduction measures. The *Noise and Vibration Assessment* completed for the project identified the following Standard Permit Condition for mechanical equipment noise shall be implemented to ensure consistency with the DSAP PEIR.

Standard Permit Condition: The project applicant shall implement the following Standard Permit Conditions to reduce mechanical equipment noise.

- Prior to the issuance of building permits, mechanical equipment shall be selected and designed to reduce impacts on surrounding uses to meet the City’s requirements. A qualified

⁴⁴ Hexagon Transportation Consultants. *280 McEvoy Residential Development Transportation Analysis*. October 25, 2019.

acoustical consultant shall be retained by the project applicant to review mechanical noise as the equipment systems are selected in order to determine specific noise reduction measures necessary to reduce noise to comply with the City's noise limits at the shared property lines of 55 dBA at receiving noise-sensitive land uses and 60 dBA and receiving commercial land uses. Noise reduction measures could include, but are not limited to, selection of equipment that emits low noise levels, installation of acoustical louvers and mufflers, and the construction of acoustical enclosures. The acoustical consultant's report shall be provided to the Director of Planning, Building and Code Enforcement or the Director's designee for approval prior to the issuance of a building permit.

With implementation of the Standard Permit Condition above, consistent with the DSAP PEIR, mechanical equipment installed under the proposed project would not generate noise in excess of the standards defined in the City's Noise Element. **[Same Impact as Approved Project (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. Project construction is estimated to take approximately 30 months, beginning in July 2020.

The City's General Plan requires all construction operations within the City to use best available noise suppression devices and techniques and to limit construction hours near residential uses per the Municipal Code allowable hours, which are between the hours of 7:00 AM and 7:00 PM Monday through Friday when construction occurs 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.

Noise thresholds for temporary construction are not provided in the City's General Plan or Municipal Code. Temporary construction would be annoying to surrounding land uses if the ambient noise environment increased by at least 5 dBA L_{eq} for an extended period of time. The temporary construction noise impact would be considered significant if project construction activities exceeded 60 dBA L_{eq} at nearby residences or exceeded 70 dBA L_{eq} at nearby commercial land uses and exceeded the ambient noise environment by 5 dBA L_{eq} or more for a period longer than one year.

Construction noise levels at residential uses would not be expected to exceed both 60 dBA L_{eq} and ambient noise levels by 5 dBA L_{eq} ; however, noise levels would exceed 70 dBA L_{eq} and ambient noise levels by 5 dBA L_{eq} at commercial land uses. Since project construction would last for a period of more than one year and the project site is within 500 feet of existing residences and 200 feet of existing commercial uses, the City's General Plan would consider this temporary construction impact to be significant.

Construction activities would be completed in accordance with the provisions of the City’s General Plan and the Municipal Code, as noted above. Further, the construction crew shall adhere to the following construction Best Management Practices, consistent with the measures in the DSAP PEIR (pp. 180-181), to reduce construction noise levels emanating from the site and minimize disruption and annoyance at existing noise-sensitive receptors in the project vicinity. These measures are conditions of approval of the proposed project.

Standard Permit Conditions: The project applicant shall implement the following Standard Permit Conditions to minimize the impacts of construction-generated noise.

- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Prohibit unnecessary idling of internal combustion engines.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent businesses, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.
- If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- Designate a “disturbance coordinator” who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.
- Limit construction to the hours of 7:00 AM to 7:00 PM Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific “construction noise mitigation plan” and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

Implementation of the above Standard Permit Conditions would reduce construction noise levels emanating from the site, limit construction hours, and minimize disruption and annoyance. With the inclusion of these measures, and recognizing that noise and vibration generated by construction activities would occur over a temporary period, the temporary increase in ambient

noise levels would be less than significant. **[Same Impact as Approved Project (Less than Significant Impact)]**

NOI-2: Would the project result in generation of, excessive groundborne vibration or groundborne noise levels? **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

Operational Vibration

Operation of the proposed project would not create substantial groundborne vibration. While the project may include truck loading activities such as garbage collection during operation, the project is not anticipated to have activities that would substantially create groundborne vibration or excessive noise. **[Same Impact as Approved Project (Less than Significant Impact)]**

Construction Vibration

The development of the project may generate perceptible vibration when heavy equipment or impact tools (e.g., jackhammers, hoe rams) are used. Construction activities would include site preparation work, foundation work, and new building framing and finishing. According to the list of construction equipment expected to be used for the proposed project, pile driving equipment, which can cause groundborne vibration, would be used during construction.

For structural damage, the California Department of Transportation and City of San José recommends a vibration limit of 0.5 inch per second peak particle velocity for buildings structurally sound and designed to modern engineering standards, 0.2 inch per second PPV for buildings that are found to be structurally sound but where structural damage is a major concern, and a conservative limit of 0.08 inch per second PPV for historic structures or buildings that are documented to be structurally weakened. No ancient buildings or buildings that are documented to be structurally weakened adjoin the project site. Conservatively, groundborne vibration levels exceeding 0.2 inch per second PPV would have the potential to result in a significant vibration impact.

The use of impact pile driving could result in groundborne vibration exceeding 0.2 inch per second PPV at structures within 125 feet of the site, including 254 McEvoy Street, 751 West San Carlos Street, 245 McEvoy Street, and 205 Dupont Street. Other heavy vibration-generating construction equipment could exceed 0.2 inch per second PPV at structures within 25 feet of the site, including 254 McEvoy Street. Such vibration levels could be capable of cosmetically damaging these buildings. For impact pile driving located within 15 feet, minor damage to structures is also possible.

Consistent with the DSAP PEIR (p. 182), projects with the potential to result in construction-related vibration impacts are required to demonstrate that vibration levels would not exceed Caltrans criteria. The project would implement the following mitigation measures to minimize and monitor vibration impacts during construction:

MM NOI-2.1: Equipment selection: The project applicant shall implement the following controls to reduce vibration impacts from construction activities:

- Avoid impact pile driving where possible. Drilled piers or rammed aggregate piers cause lower vibration levels where geological conditions permit their use.
- Where possible, prohibit operation of earth-moving equipment or other heavy vibration-generating equipment within distances of 25 feet of adjacent structures.
- Phase demolition, earth-moving, and ground impacting operations so as not to occur during the same time period.
- A list of all heavy construction equipment to be used for this project and anticipated time duration of using the equipment that is known to produce high vibration levels (clam shovel drops, vibratory rollers, tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.) shall be submitted to the City by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort for reducing vibration levels below the thresholds.
- Place operating equipment on the construction site as far as possible from vibration-sensitive receptors. Prohibit the use of heavy vibration-generating construction equipment, such as vibratory rollers or excavation using clam shell or chisel drops, within 30 feet of any adjacent building.
- Use smaller equipment to minimize vibration levels below the limits.
- Avoid using vibratory rollers and tampers near sensitive areas.
- Select demolition methods not involving impact tools.
- Modify/design or identify alternative construction methods to reduce vibration levels below the limits.
- Avoid dropping heavy objects or materials.
- If pile driving is required, notify neighbors within 500 feet of the construction site of the construction schedule and that there could be noticeable vibration levels resulting from pile driving.
- If pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
- If pile driving is required, jet or partially jet piles into place to minimize the number of impacts required to seat the pile.

MM NOI-2.2: Vibration monitoring plan: The project applicant shall implement the following controls to identify and monitor construction vibration:

- Implement a construction vibration monitoring plan to document conditions at all structures located within 125 feet of construction prior to, during, and after pile driving. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. The construction vibration monitoring plan shall be implemented to include the following tasks:
 - Identification of sensitivity to groundborne vibration of nearby structures. Vibration limits shall be applied to all vibration-sensitive structures located within 300 feet of any pile driving activities and 75 feet of other construction activities identified as sources of high vibration levels.

- Performance of a photo survey, elevation survey, and crack monitoring survey for each structure of normal construction within 125 feet of pile driving activities and/or within 25 feet of other construction activities identified as sources of high vibration levels. Surveys shall be completed prior to any pile driving activity, in regular intervals during pile driving, and after completion, and shall include internal and external crack monitoring in structures, settlement, and distress and shall document the condition of all foundations, walls, and other structural elements in the interior and exterior of said structures.
- Development of a vibration monitoring and construction contingency plan to identify structures where monitoring would be completed, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to complete photo, elevation, and crack surveys to document conditions before and after pile driving. Alternative construction methods shall be identified for when vibration levels approach the limits.
- At a minimum, vibration monitoring shall be completed during pavement demolition, excavation, and pile driving activities. Monitoring results may indicate the need for more or less intensive measurements.
- If vibration levels approach limits (0.2 inch per second PPV), suspend construction and implement contingencies to either lower vibration levels or secure the affected structure.
- Complete post-construction surveys on structures where either monitoring has indicated high vibration levels or complaints of damage have been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities.
- The results of all vibration monitoring shall be summarized and submitted in a report shortly after substantial completion of each phase identified in the project schedule. The report will include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration monitoring locations. An explanation of all events that exceeded vibration limits will be included together with proper documentation supporting any such claims.
- Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.

With implementation of mitigation measures **MM NOI-2.1** and **MM NOI-2.2**, consistent with the DSAP PEIR, construction of the proposed project would not generate vibration in excess of the standards defined in the City's Noise Element. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

NOI-3: Would the project 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? Would the project expose people residing or working in the project area to excessive noise levels? **[Less Impact than Approved Project (No Impact)]**

Norman Y. Mineta San José International Airport is a public-use airport located approximately 2.3 miles northwest of the project site. The project site is not located within the Santa Clara County Comprehensive Land Use Plan for the Norman Y. Mineta San José International Airport. The project lies outside the 60 dBA CNEL 2027 noise contour of the airport, according to the Norman Y. Mineta San José International Airport Master Plan Update Project EIR. The project site is not located in the vicinity of a private airstrip; therefore, the project would not expose people residing or working in the vicinity of a private airstrip to excessive noise levels. **[Less Impact than Approved Project (No Impact)]**

4.13.3 Non-CEQA Effects

Per *California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 (*CBIA 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.

The noise environment at the site and at nearby land uses in the vicinity is primarily from vehicular traffic on the surrounding roadways. Based on noise measurements taken at the site, the day-night average noise level ranges from 58 dBA DNL on the northern site boundary to 75 dBA DNL on the southern site boundary.

Exterior Noise Levels

The City of San José General Plan sets forth noise-related policies that support the City's goal of minimizing the impact of noise on people through noise reduction and suppression techniques. The "normally acceptable" noise level threshold for common outdoor use areas at new multi-family residential uses, as established in the City of San José General Plan, is 60 dBA DNL.

The future noise environment at the project site would continue to result primarily from traffic along West San Carlos Street. Aircraft and light rail noise could occasionally be audible at the project site. The future noise level increase attributable to project trips is calculated to be up to 1 dBA DNL on West San Carlos Street and 3 to 4 dBA DNL on McEvoy Street.

Common outdoor use areas for the proposed development include a first-floor plaza and second-floor courtyard. The project site is located in a noisy urban area along a major thoroughfare, and noise levels at the outdoor uses would be up to 73 dBA DNL adjacent to West San Carlos Street. The primary noise source at the project site is vehicular traffic, including heavy trucks and motorcycles, along West San Carlos Street. Where the exterior noise exposure is between 60 dBA DNL and 75 dBA DNL, residential land uses are considered "conditionally acceptable," such that the use may be permitted only after detailed analysis of the noise reduction requirements and noise insulation

features included in the design.⁴⁵ Building shielding and measures such as noise barriers would be necessary to reduce noise levels to 60 dBA DNL. The project shall implement the following Condition of Approval for consistency with the General Plan.

Condition of Approval:

- When refining the project’s site plan, locate common outdoor areas away from adjacent noise sources and continue to shield noise-sensitive outdoor spaces with buildings or noise barriers to ensure that noise levels at common outdoor areas are reduced to 60 dBA DNL.

Adherence to the Condition of Approval above would reduce interior noise levels in compliance with local noise ordinances.

Interior Noise Levels

The City’s interior noise standard for residential uses is 45 dBA DNL. Dwelling units would be located on the second through twelfth floors of the building. The units along the southern façade would be exposed to future exterior noise levels up to 72 dBA DNL.

Standard residential construction provides approximately 15 dBA of exterior-to-interior noise reduction, assuming the windows are partially open for ventilation. Standard construction with the windows closed provides approximately 20 to 25 dBA of noise reduction in interior spaces. Where exterior noise levels exceed 65 dBA DNL, forced-air mechanical ventilation systems and sound-rated construction measures are normally required to reduce interior noise levels to acceptable levels. Such methods or materials may include a combination of smaller windows and door sizes, sound-rated windows and doors, sound-rated exterior wall assemblies, and mechanical ventilation so windows may be kept closed at the occupant’s discretion. Consistent with the DSAP PEIR, the project shall implement the following Condition of Approval.

Condition of Approval: The project applicant shall be required to implement the following:

- The project applicant shall prepare final design plans that incorporate building design and acoustical treatments to ensure compliance with State Building Codes and City noise standards. A project-specific acoustical analysis shall be prepared to ensure that the design incorporates controls to reduce interior noise levels to 45 dBA DNL or lower within the residential unit. The project applicant shall conform with any special building construction techniques requested by the City’s Building Department, which may include sound-rated windows and doors, sound-rated wall constructions, and acoustical caulking.

Adherence to the Condition of Approval above would reduce interior noise levels in compliance with local noise ordinances.

⁴⁵ An exterior noise level of 60 dBA DNL is typical for a moderate urban area. Exterior noise levels of 73 to 75 dBA DNL are common in noisy urban areas.

Vibration and Land Use Compatibility

Consistent with the analysis in the DSAP PEIR, the Federal Transit Administration (FTA) vibration impact assessment criteria were used to evaluate vibration levels produced by trains at the project site. The FTA vibration impact criteria are based on maximum overall levels for a single event.⁴⁶ At residential land uses, FTA groundborne vibration impact levels are 72 vibration velocity level (VdB) for frequent events, 75 VdB for occasional events, and 80 VdB for infrequent events.

The heavy rail train vibration levels at the site are calculated to be up to 73 VdB, and light rail train vibrations are calculated to be up to 61 VdB. At these distances, neither heavy rail nor light rail train events would be anticipated to exceed the FTA vibration impact guidelines for residential land use.

⁴⁶ FTA defines “frequent events” as more than 70 vibration events of the same source per day, “occasional events” as 30 to 70 vibration events of the same source per day, and “infrequent events” as fewer than 30 vibration events of the same source per day.

4.14 POPULATION AND HOUSING

4.14.1 Setting

The project site is located in an urbanized area in the City of San José. The City of San José population was estimated to be 1,046,079 in January 2016.⁴⁷ The City had approximately 332,574 housing units in 2017, resulting in an average of 3.21 persons per household. ABAG projects that there will be an approximate City population of 1,334,100 and 432,030 households by the year 2040.⁴⁸

The General Plan assumptions, as amended in the first Four-Year Review in 2016, envision a Jobs/Employee Resident ratio of 1.1/1 or 382,200 new jobs by 2040.⁴⁹ To meet the current and projected housing needs in the City, the Envision San José 2040 General Plan identifies areas for mixed-use and residential development to accommodate 120,000 new dwelling units by 2040.

The jobs/housing balance is the relationship between the number of housing units required as a result of local jobs and the number of dwelling units available in the City. This relationship is quantified by the jobs/employed resident ratio. When the ratio reaches 1.0, a balance is struck between the supply of local housing and local jobs. The jobs/employed resident ratio is determined by dividing the number of local jobs by the number of employed residents that can be housed in local housing. At the time of preparation of the Envision San José 2040 General Plan FEIR, San José had a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident) but this trend is projected to reverse with full build-out under the current General Plan.

The DSAP allows for the development of 2,588 dwelling units in the DSAP area, and includes a policy goal that a minimum of 15 percent of residential units be affordable to households of low and moderate income. The DSAP PEIR concluded that full buildout of the DSAP would result in a population of 7,919 people and 23,010 new jobs.

4.14.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

⁴⁷ California Department of Finance. "Table 2: E-5 City/County Population and Housing Estimates, 1/1/2017." Accessed February 13, 2018. Available at: <http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/>

⁴⁸ Association of Bay Area Governments. *Projections 2013*. August 2013.

⁴⁹ City of San José. *Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report and Supplemental Program Environmental Impact Report*. November 2016. Page 16.

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
2) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

POP-1: Would the project 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)? **[Same Impact as Approved Project (Less than Significant Impact)]**

The project proposes to construct up to 365 multi-family dwelling units on-site, generating an estimated 1,172 new residents.⁵⁰ The project is consistent with the DSAP land use designation proposed for the site and, therefore, would not result in a substantial increase in the City’s current or projected population. The project would not extend a road or other infrastructure that would indirectly induce growth. **[Same Impact as Approved Project (Less than Significant Impact)]**

POP-2: Would the project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere? **[Less Impact than Approved Project (No Impact)]**

The project site is currently developed with industrial uses. Construction of the proposed project would not displace existing housing or residents. **[Less Impact than Approved Project (No Impact)]**

⁵⁰ Based upon the 2017 City average of 3.21 persons per household. The project includes 224 studio and junior one-bedroom units, which are anticipated to have smaller household sizes than the Citywide average; nonetheless, this analysis conservatively estimates 3.21 persons per household.

4.15 PUBLIC SERVICES

4.15.1 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 square feet of space per capita in library facilities.
Policy ES-3.1	Provide rapid and timely Level of Service response time to all emergencies: <ol style="list-style-type: none"> 1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls. 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 publically-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-1.12	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, dog parks, sports 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 site are provided by the San José Fire Department (SJFD). The SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury

accidents) in the City. The closest station to the project site is San José Fire Department Station #30 located at 454 Auzerais Avenue, approximately 0.6 mile southeast of the project site.

Police Protection Services

Police protection services for the project site are provided by the San José Police Department (SJPD), which is headquartered at 201 West Mission Street, approximately 1.7 miles north of the project site. SJPD is divided into four geographic divisions: Central, Western, Foothill, and Southern. The project site is directly served by the SJPD Western Division. The division consists of four patrol districts, and the project site is in District F.

Schools

The project site is located in the San José Unified School District (SJUSD). The school district operates 41 schools (25 elementary, two K-8 schools, six middle schools, six high schools, and two alternative education programs) serving over 30,000 students.⁵¹ The project site is within the Gardner Elementary, Hoover Middle School, and Lincoln High School attendance boundaries assigned by the SJUSD. Gardner is located at 502 Illinois Avenue, Hoover is located at 1635 Park Avenue, and Lincoln is located at 555 Dana Avenue. The Envision San José 2040 General Plan FEIR found that SJUSD was operating above capacity by 1,004 students.⁵²

Parks

The City of San José currently operates 184 neighborhood parks (including skate parks), 13 community centers, nine regional parks, and over 55 miles of trails. The City's Department of Parks, Recreation, and Neighborhood Services is responsible for development, operation, and maintenance of all City park facilities. The nearest public park is Del Monte Park, located south of Auzerais Avenue and west of Los Gatos Creek. The park includes a dog park, open grass area, picnic areas, play structures, tennis tables, water fountains, and restrooms.

Libraries and Community Centers

The City of San José is served by the San José Public Library System. The San José Public Library System consists of one main library (Dr. Martin Luther King Jr.) and 22 branch libraries. The nearest public library is the Rose Garden Branch Library at 1580 Naglee Avenue, approximately 1.6 miles northwest of the project site. The nearest community center is the Gardner Community Center, located at 520 West Virginia Street, 0.7 mile southeast of the project site.

⁵¹ San José Unified School District. *SJSU Fast Facts*. 2017.

⁵² San José, City of. *Envision San José 2040 General Plan FEIR*. December 2011.

4.15.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
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:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
1) Fire Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3) Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4) Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5) Other Public Facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

PS-1: 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 fire protection services? **[Same Impact as Approved Project (Less than Significant Impact)]**

The proposed project would develop the project site with multi-family residential uses, and would incrementally increase the demand for fire protection services compared to existing conditions. There are currently adequate SJFD facilities to support the proposed development, and the project would not preclude the SJFD from meeting their service goals or require the construction of new or expanded fire or police facilities. The proposed development would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies, such as General Plan Policy ES-3.9, to promote public and property safety. For these reasons, the proposed project would not result in a significant impact on fire protection services. **[Same Impact as Approved Project (Less than Significant Impact)]**

PS-2: 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 police protection services? [**Same Impact as Approved Project (Less than Significant Impact)**]

The proposed project would develop the project site with multi-family residential uses, and would incrementally increase the demand for police protection services compared to existing conditions. There are currently adequate SJPD facilities to support the proposed development, and the project would not preclude the SJPD from meeting their service goals or require the construction of new or expanded fire or police facilities. The proposed development would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies, such as General Plan Policy ES-3.9, to promote public and property safety. For these reasons, the proposed project would not result in a significant impact on police protection services. [**Same Impact as Approved Project (Less than Significant Impact)**]

PS-3: 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 schools? [**Same Impact as Approved Project (Less than Significant Impact)**]

The DSAP PEIR evaluated the impacts of student generation under full buildout of the Diridon Station Area Plan. The DSAP PEIR concluded that the DSAP would generate 688 students, resulting in increased demands on school facilities. As discussed in the DSAP PEIR (p. 404), implementation of General Plan policies and programs would ensure that additional school facilities are sited to serve new residential development. With payment of school impact fees to offset the increased demands on school facilities, DSAP development was determined to be consistent with the Envision San José 2040 General Plan FEIR.

The project proposes to construct up to 365 multi-family dwelling units. Residents of the apartments could include elementary, middle, and high school students. According to the SJUSD student generation factors, multi-family residential development generates 0.238 students per dwelling unit.⁵³ Based on this generation factor, the proposed 365-unit apartment building is estimated to increase the student population in the project area by approximately 87 students.

The incremental increase of students attending local schools is not expected to require construction of a new school. The project shall implement the following Standard Permit Condition as a condition of approval for the project.

⁵³ San José Unified School District. *Development Fee Justification Study*. April 2014.

Standard Permit Condition: In accordance with California Government Code Section 65996, the developer shall pay a school impact fee to the School District, to offset the increased demands on school facilities caused by the proposed project.

Although residential development under the proposed project could generate new students in the area, the project would conform to Government Code Section 65996, which requires the project to pay school impact fees and is considered adequate mitigation for increased demands upon school facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

PS-4: 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 parks? **[Same Impact as Approved Project (Less than Significant Impact)]**

New residents of the site would use existing recreational facilities in the area, including Del Monte Park. The new residents would incrementally increase the use of existing recreational facilities in the project area. The project would conform to the City's Parkland Dedication Ordinance and Park Impact Ordinance, and would be required to pay PDO/PIO fees to offset the increased demand for parks and recreational facilities. The project shall implement the following Standard Permit Condition as a condition of approval for the project.

Standard Permit Condition: The project shall conform to the City's Park Impact Ordinance and Parkland Dedication Ordinance.

The PDO/PIO fees generated by the residential development would be used to provide neighborhood-serving facilities within a 0.75-mile radius of the project site and/or community-serving facilities within a three-mile radius (General Plan Policies PR-2.4 and PR-2.5). Therefore, the proposed project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts to parks. **[Same Impact as Approved Project (Less than Significant Impact)]**

PS-5: 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 other public facilities? **[Same Impact as Approved Project (Less than Significant Impact)]**

There are 22 libraries serving neighborhoods located throughout San José. Development approved under the Envision San José 2040 General Plan is projected to increase the City's residential population to 1,313,811. As described in the DSAP PEIR (p. 408), the existing and planned library facilities in the City will provide approximately 0.68 square feet of library space per capita for the anticipated population under buildout of the Envision San José 2040 General Plan by the year 2035,

which is above the City’s service goal. Although the proposed project would incrementally increase residential development and population growth above General Plan projections and, therefore, increase the use of public facilities such as the Rose Garden Branch Library and Gardner Community Center, the proposed project would not substantially increase use of San José facilities or otherwise require the construction of new library facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.16 RECREATION

4.16.1 Setting

4.16.1.1 *Regulatory Framework*

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 provide a combination of the two. As described in *Section 4.15, Public Services* of this IS/EA, the City of San José has adopted a Parkland Dedication Ordinance and a Park Impact Ordinance, consistent with the Quimby Act.

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.⁵⁴ The City also manages 13 community centers, 17 community gardens, and six pool facilities. Other recreational facilities include seven public skate parks and 57.5 miles of interconnected trails.

⁵⁴ City of San José Parks, Recreation, and Neighborhood Services. *Building Community Through Fun 2016 Annual Report*. Available at: <https://www.sanjoseca.gov/index.aspx?NID=204>

The project site is located within the Central/Downtown Planning Area of San José, portions of which are currently underserved with respect to parklands for the population. The planning area needs an additional 323.3 acres of parkland to provide the desired 3.5 acres per 1,000 residents for the projected 2020 population.⁵⁵ The project site is not located within an area that is considered underserved with respect to parklands or community centers for the population.

The nearest public park is Del Monte Park, located south of Auzerais Avenue and west of Los Gatos Creek, 0.2 mile south of the project site. The nearest community center is Gardner Community Center, located at 520 West Virginia Street, 0.7 mile southeast of the project site.

4.16.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

REC-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 would occur or be accelerated? **[Same Impact as Approved Project (Less than Significant Impact)]**

The proposed residential development would result in a maximum of 365 dwelling units and an estimated 1,172 residents on the site, using the City’s average of 3.21 persons per household. The project includes 224 studio and junior one-bedroom units, which are anticipated to have smaller household sizes than the Citywide average; nonetheless, this analysis conservatively estimates 3.21 persons per household. As described in *Section 4.15, Public Services* of this IS/EA, the project would conform to the City’s Parkland Dedication Ordinance and Park Impact Ordinance to ensure that the development would not significantly impact neighborhood and regional park facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

⁵⁵ City of San José. *Greenprint 2009 Update*. December 8, 2009. Page 104.

REC-2: Would the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? **[Same Impact as Approved Project (Less than Significant Impact)]**

The DSAP PEIR determined that buildout of new residential development under the Diridon Station Area Plan would generate a demand for 19 acres of neighborhood-serving parkland. The DSAP area is well-served by regional park amenities, although portions of the area are underserved in terms of walking distance to parkland. The DSAP includes construction of parks and trails. With completion of DSAP recreational facilities, all residentially-designated areas will be within 1/3 mile of a public park, trail, or open space.

The proposed project would pay in-lieu fees to meet City open space requirements. No new off-site recreational facilities would be required to serve the population increase that would result from the project. The proposed development would include recreational areas on the site, including a 12,228-square foot common courtyard area on the third floor and 3,410 square feet of common space on the building roofs. Each apartment would also have a private balcony or patio.

According to the *Greenprint 2009 Update*, the project area was identified as underserved prior to completion of the DSAP. Recommended actions included improved access to the Guadalupe River Trail and development of a future midtown park. Del Monte Park was constructed as part of the DSAP, and is located adjacent to the Guadalupe River Trail and 0.2 mile south of the project site.

New residents would be adequately served by existing parks in the area, including Del Monte Park. The proposed project would not require the construction of new recreational facilities with the potential to adversely affect the environment. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.17 TRANSPORTATION

The discussion in this section is based in part on the *Transportation Analysis* prepared by Hexagon Transportation Consultants, Inc. October 25, 2019. This report is included in this IS/EA as Appendix H.

4.17.1 Setting

4.17.1.1 *Regulatory Framework*

Metropolitan Transportation Commission

The Metropolitan Transportation Commission 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 oversees the *Santa Clara Congestion Management Program (CMP)*. The relevant State legislation requires that all urbanized counties in California prepare a CMP in order to obtain each county's share of the increased gasoline tax revenues. The legislation requires that each CMP contain the following five mandatory elements: 1) a system definition and traffic level of service standard element, 2) a transit service and standards element, 3) a trip reduction and transportation demand management element, 4) a land use impact analysis program element, and 5) a capital improvement element. The Santa Clara County CMP includes the five mandated elements and three additional elements, including a county-wide transportation model and database element, an annual monitoring and conformance element, and a deficiency plan element.

Bike Plan 2020

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

Senate Bill 743 and City Council Policy 5-1

Historically, transportation analysis has utilized delay and congestion on the roadway system as the primary metric for the identification of traffic impacts and potential roadway improvements to relieve

traffic congestion. However, the State of California has recognized the limitations of measuring and mitigating only vehicle delay at intersections and in 2013 passed SB 743, which requires jurisdictions to stop using congestion and delay metrics, such as Level of Service (LOS), as the measurement for CEQA transportation analysis. With the adoption of SB 743 legislation and the December 28, 2018 effective date of the new CEQA Guidelines implementing the statute, public agencies are required to base the determination of transportation impacts on Vehicle Miles Traveled rather than LOS.

In adherence to SB 743, the City of San José has adopted a new Transportation Analysis Policy, City Council Policy 5-1. The policy replaces its predecessor (Policy 5-3) and establishes the thresholds for transportation impacts under CEQA based on VMT instead of LOS. The intent of this change is to shift the focus of transportation analysis under CEQA from vehicle delay and roadway vehicle capacity to a reduction in vehicle emissions, and the creation of robust multimodal networks that support integrated land uses. The new transportation policy aligns with the General Plan, which focuses new development growth within Planned Growth Areas, bringing together office, residential, and supporting service land uses to internalize trips and reduce VMT. All new development projects are required to analyze transportation impacts using the VMT metric and conform to City Council Policy 5-1.

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

Policy TR-1.5	Design, construct, operate, and maintain public streets to enable safe, comfortable, and attractive access and travel for motorists and for pedestrians, bicyclists, and transit users of all ages, abilities, and preferences.
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-5.3	Development projects' effects on the transportation network will be evaluated during the entitlement process and will be required to fund or construct improvements in proportion to their impacts on the transportation system. Improvements will prioritize multimodal improvements that reduce VMT over automobile network improvements.
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-8.6	Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive transportation demand management program, or developments located near major transit hubs or within Villages and other Growth Areas.
Policy TR-8.7	Encourage private property owners to share their underutilized parking supplies with the general public and/or other adjacent private developments.
Policy TR-8.8:	Promote use of unbundled private off-street parking associated with existing or new development, so that the sale or rental of a parking space is separated from the rental or sale price for a residential unit or for non-residential building square footage.
Policy TR-8.9	Consider adjacent on-street and City-owned off-street parking spaces in assessing need for additional parking required for a given land use or new development.
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.
Action TR-10.4	In Tier II, require that a portion of adjacent on-street and City owned off-street parking spaces be counted towards meeting the zoning code's parking space requirements.
Policy CD-2.3	Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Main Streets, and other locations where appropriate. <ul style="list-style-type: none"> ○ Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian scale lighting, pedestrian oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways.

- Create easily identifiable and accessible building entrances located on street frontages or paseos.
- Accommodate the physical needs of elderly populations and persons with disabilities.
- Integrate existing or proposed transit stops into project designs.

- Policy CD-2.10 Recognize that finite land area exists for development and that density supports retail vitality and transit ridership. Use land use regulations to require compact, low-impact development that efficiently uses land planned for growth, especially for residential development which tends to have a long life-span. Strongly discourage small-lot and single-family detached residential product types in growth areas.
- Policy CD-3.3 Within new development, create a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.
- Policy CD-3.6 Encourage a street grid with lengths of 600 feet or less to facilitate walking and biking. Use design techniques such as multiple building entrances and pedestrian paseos to improve pedestrian and bicycle connections.

In addition to the policies in the General Plan, the proposed project would be required to comply with the San José Residential Design Guidelines with regards to pedestrian access.

4.17.1.2 Existing Conditions

Roadway Network

Regional access to the project site is provided by Interstate 280 and State Route (SR) 87. Interstate 280 is an eight-lane freeway aligned in an east-west direction in the vicinity of the site. Site access to and from Interstate 280 is provided via the Bird Avenue interchange. SR 87 is a six-lane freeway that connects from SR-85 to US-101. Site access to and from SR 87 is provided via Woz Way, Delmas Avenue, and Park Avenue.

Local access to the site is provided via Bird Avenue, Montgomery Street, Autumn Street, West San Carlos Street, Park Avenue, McEvoy Street, and Dupont Street. The project site is located on the north side of West San Carlos Street between McEvoy Street and Dupont Street.

Just east of Dupont Street, West San Carlos Street overpasses the Union Pacific Railroad tracks and Los Gatos Creek. The City has indicated that the West San Carlos Street bridge may be reconstructed in the future to accommodate the planned California High Speed Railway. A conceptual bridge design, prepared by the City of San José Department of Transportation, shows that the length of the bridge would be expanded, with a relocated bridge touch-down point west of McEvoy Street. The potential West San Carlos Street bridge reconstruction would eliminate access to West San Carlos Street from McEvoy Street/Dupont Street. The south end of McEvoy Street would be abandoned and McEvoy Street would terminate along the project frontage as a cul-de-sac.

Pedestrian and Bicycle Facilities

Pedestrian facilities in the project area consist primarily of sidewalks along streets. Sidewalks are found along most streets near the project site. However, there are currently missing sidewalks along segments of McEvoy Street (both sides of the street) and Dupont Street (east side of the street adjacent to the West San Carlos Street overpass). There are no crosswalks at the intersection of McEvoy Street and Park Avenue. Other pedestrian facilities in the project area include crosswalks and pedestrian push buttons at signalized intersections. The Diridon Transit Center is located at a 0.4-mile walking distance north of the project site.

Bicycle facilities in the project area include Class I bike paths, Class II bike lanes, and Class III bike routes. Bike paths are physically separated from motor vehicles and offer two-way bicycle travel on a separate path. Bike lanes are lanes on roadways designated for use by bicycles with special lane markings, pavement legends, and signage. Bike routes are existing streets that accommodate bicycles but are not separate from the existing travel lanes. Bike share docks near the project site are found at Cahill Park, Laurel Grove Lane, and the Diridon Station parking lot.

Transit Services

Existing transit service in the project area is provided by VTA. The project site is located at a walking distance of 0.4 mile from the Diridon Transit Center, which provides connections between local and regional bus routes, light rail lines, and commuter rail lines. Light Rail Transit (LRT) service at the Diridon Transit Center is provided by the Mountain View-Winchester LRT line (Route 902). Regional commuter rail services provided at the Diridon Transit Center include Caltrain, Altamont Corridor Express Service, and the Amtrak Capitol Corridor.

Bus stops are located at the intersection of West San Carlos Street and Sunol Street, 0.12 mile west of the site, and at the intersection of Montgomery Street and Bird Avenue, 0.25 mile east of the site. The project site is served primarily by four VTA bus routes (23, 64, 65, and 81) and one limited stop bus route (323).

Traffic Analysis – Methodology

Per City Council Policy 5-1, the effects of the proposed project on VMT was evaluated using the methodology outlined in the City's Transportation Analysis Handbook. VMT is the total miles of travel by personal motorized vehicles a project is expected to generate in a day. VMT measures the full distance of personal motorized vehicle trips with one end within the project. Typically, development projects that are farther from other, complementary land uses (such as a business park far from housing) and in areas without transit or active transportation infrastructure (bike lanes, sidewalks, etc.) generate more driving than development near complementary land uses with more robust transportation options. Therefore, developments located in a central business district with high density and diversity of complementary land uses and frequent transit services are expected to internalize trips and generate shorter and fewer vehicle trips than developments located in a suburban area with low density of residential developments and no transit service in the vicinity.

To determine whether a project would result in CEQA transportation impacts related to VMT, the City has developed the San José VMT Evaluation Tool (sketch tool) to streamline the analysis for

development projects. Based on the location of a project, the sketch tool identifies the existing average VMT per capita for the project area.

The sketch tool evaluates a list of selected VMT reduction measures that can be applied to a project to reduce the project VMT. There are four strategy tiers whose effects on VMT can be calculated with the sketch tool:

- 1) Project characteristics (e.g., density, diversity of uses, design, and affordability of housing) that encourage walking, biking, and transit uses,
- 2) Multimodal network improvements that increase accessibility for transit users, bicyclists, and pedestrians,
- 3) Parking measures that discourage personal motorized vehicle trips, and
- 4) Transportation demand management measures that provide incentives and services to encourage alternatives to personal motorized vehicle trips.

If a project is found to have a significant impact on VMT, the impact must be reduced by modifying the project to reduce its VMT to an acceptable level and/or mitigating the impact through multimodal transportation improvements or establishing a Trip Cap.

4.17.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
1) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle lanes and pedestrian facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) For a land use project, conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

TRN-1: Would the project conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle lanes and pedestrian facilities? **[Same Impact as Approved Project (Less than Significant Impact)]**

Pedestrian facilities in the project area include sidewalks, crosswalks, and pedestrian signals at signalized intersections. The project proposes to install new sidewalks along the McEvoy Street and

Dupont Street frontages. This aligns with the Diridon Station Area Plan goals to enhance the area's pedestrian environment. According to the DSAP, both McEvoy and Dupont Streets are classified as residential streets and should provide two travel lanes with parallel parking and sidewalks on both sides of the street.

Bicycle facilities in the project area include Class I bike paths, Class II bike lanes, and Class III bike routes. The bikeways would remain unchanged under project conditions. No bicycle facilities currently exist on the project frontages along Dupont Street or McEvoy Street. Bicyclists riding to and from the project site would utilize sidewalks or share the roadway with vehicular traffic while traveling on Dupont Street and McEvoy Street.

The project site is adequately served by existing VTA transit services. As described above, the site is located within a walking distance of 0.4 mile from the Diridon Transit Center. Connections between local and regional bus routes, light rail lines, and commuter rail lines are provided at the Diridon Transit Center. Bus stops are located at the intersection of West San Carlos Street and Sunol Street, 0.12 mile west of the site, and at the intersection of Montgomery Street and Bird Avenue, 0.25 mile east of the site. The new transit trips generated by the proposed project are not expected to create demand in excess of the transit service that is currently provided to the site.

The proposed project would not conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, nor would it decrease the performance or safety of existing facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

TRN-2: Would the project conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)? **[Less Impact than Approved Project (Less than Significant Impact)]**

The project proposes development of up to 365 dwelling units on a site that is currently developed with industrial uses. A full access driveway would be constructed for site access on the Dupont Street project frontage.

Residential projects are said to create a significant adverse impact when the estimated project-generated VMT exceeds the citywide average VMT per capita minus 15 percent or existing regional average VMT per capita minus 15 percent, whichever is lower. Currently, the reported citywide average is 11.94 VMT per capita daily, which is less than the regional average. This equates to a significant impact threshold of 10.12 VMT per capita per day. Projects that trigger a VMT impact can implement one or more of the four strategies described above to reduce impacts. A significant impact is said to be satisfactorily mitigated when the strategies and VMT reductions implemented render the VMT impact less than significant.

The proposed project is an affordable residential project. The project site is located in an area covered by the CEQA Transportation Screening Map for Affordable Housing Projects in the City of San José *Transportation Analysis Handbook* (April 2018). However, the proposed project would not

meet the VMT screening criterion for parking spaces in affordable residential developments; therefore, a transportation analysis that evaluates the project's effects on VMT is required.⁵⁶

The project would add residents to an area with extensive opportunities for the use of transit, bicycles, and other non-auto modes of travel. In addition, the project site is in close proximity to the Diridon Transit Center and is supported by major bus stops and bicycle and pedestrian facilities in its immediate proximity. Therefore, a larger percentage of the residents would likely use transit more regularly than the average transit usage for this land use in Santa Clara County.

A VMT evaluation for the project was completed and is included in Appendix H. The results of the VMT evaluation, using the City's VMT Evaluation Tool, indicate that the proposed project is expected to generate VMT per capita of 5.43 miles traveled daily, below the significant impact threshold of 10.12 daily per capita VMT. Therefore, the project would not result in a significant impact on the transportation system based on the City's VMT criteria. **[Less Impact than Approved Project (Less than Significant Impact)]**

TRN-3: Would the project substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? **[Same Impact as Approved Project (Less than Significant Impact)]**

As part of the *Transportation Analysis* prepared for the project, site access was evaluated to determine the adequacy of the site's driveway with regard to traffic volume, delays, vehicle queues, geometric design, and corner sight distance. On-site vehicle circulation was reviewed for compliance with traffic engineering standards and transportation planning principles.

Project Driveway Design

Vehicular access to the site would be provided via a full-access driveway located on McEvoy Street. No vehicular access is proposed via the Dupont Street project frontage. The City of San José requires a minimum width of 26 feet for all two-way driveways. Based on the site plan, the proposed driveway would meet the City's minimum 26-foot width requirement.

There are no existing trees or visual obstructions along the project frontage that would obscure sight distance at the project driveway. The project access points should be free and clear of any obstructions to provide adequate sight distance, thereby ensuring that exiting vehicles can see pedestrians on the sidewalk and other vehicles traveling on McEvoy Street. The *Transportation Analysis* includes the following recommendation for the project driveway design:

- The project site access driveway along McEvoy Street must be designed to the satisfaction of City of San José guidelines, including the minimum 26-foot width requirement.
- Any landscaping and signage should be located in such a way to ensure an unobstructed view for drivers exiting the site.

⁵⁶ In order to meet VMT screening criteria, the number of proposed parking spaces must not exceed the number required for affordable residential developments. The project is required to provide 90 spaces, but proposes 94 parking stalls.

Project Driveway Operations

With the planned reconstruction of the San Carlos Street bridge and the elimination of the McEvoy Street/Dupont Street and West San Carlos Street intersection, all project traffic would access the site via the McEvoy Street/Park Street intersection. All project traffic would turn left into the project driveway and right out of the project driveway. Based on the relatively low traffic volumes on McEvoy Street and the elimination of access to McEvoy Street from West San Carlos Street, operations at the project driveway are anticipated to be adequate.

On-Site Circulation

The project proposes to include a street-level parking garage, with a single access point along McEvoy Street. The proposed L-shaped parking garage would include a total of 94 vehicle parking stalls and 16 motorcycle parking spaces. The proposed parking garage would include a two-way drive aisle lined with 90-degree parking stalls. The City's standard minimum width for two-way drive aisles with 90-degree parking is 26 feet, and the City identifies full-size parking spaces as 18 feet long and 9 feet wide. Based on the site plan, the proposed drive aisles and parking spaces would meet the City's minimum required widths for adequate vehicular circulation. Large vehicles, such as emergency vehicles and garbage trucks, would not access the parking garage.

Most of the parking stalls along the north-south drive aisle would consist of double- and triple-stacking mechanical parking lifts. Parking and retrieving vehicles from the lifts would momentarily interfere with vehicle circulation within the tenant parking area; however, this is not anticipated to create back-ups at the parking garage entrance since the lifts would be located away from the driveway. The Transportation Analysis includes the following recommendations for on-site circulation:

- The project should adhere to City of San José design guidelines and standards and work with City staff to ensure that the design of all driveways, drive aisles, and parking stalls is to the satisfaction of the City.
- Adequate visual and auditory warnings should be provided to alert drivers and pedestrians whenever a double/triple-stacking mechanical parking lift is operating. Additionally, the space that the mechanical parking lift occupies whenever it is extended on the drive aisle should be clearly marked on the drive aisle pavement.
- A minimum of 30 feet is the recommended distance between a driveway or entrance and the first parking stall or drive aisle.
- It is recommended that physical devices be installed within the parking garage at the drive aisle's 90-degree bend in an effort to aid circulation and reduce vehicular conflict at this constraint point. Such devices could include speed humps/bumps to slow down traffic, convex mirrors to assist drivers with blind turns while turning around corners, and signage.
- It is recommended that the pavement markings at the garage entry points be extended across the drive aisle to alert drivers of potential pedestrian travel between the two towers.

Sight Distance and Operations

There are currently no left-turn restrictions at the intersection of McEvoy Street/Dupont Street and West San Carlos Street. Despite relatively high traffic volumes along the eastbound and westbound approaches of West San Carlos Street during the AM and PM peak hours, some drivers may choose to make left turns at the intersection. Visibility of approaching eastbound traffic on West San Carlos Street is limited due to palm trees within the center median and a building located at the intersection's northwest corner. Therefore, current sight distance from McEvoy Street to eastbound West San Carlos Street does not meet the American Association of State Highway and Transportation Officials (AASHTO) minimum stopping sight distance standards.

Additionally, no restrictions limit left-turns onto northbound McEvoy Street from eastbound West San Carlos Street. Because there is no left-turn pocket on eastbound West San Carlos Street, vehicles are required to wait within the travel lane. Therefore, an increase in left-turning vehicles onto McEvoy Street would inhibit eastbound traffic flow on West San Carlos Street. The Transportation Analysis includes the following recommendation for sight distance and operations at McEvoy Street/West San Carlos Street:

- It is recommended that turn movements be restricted to and from McEvoy Street. Restricting movements at the McEvoy Street/West San Carlos Street intersection would require a physical restriction on West San Carlos Street or McEvoy Street. It is recommended that a channelizing island be installed on McEvoy Street to limit left-turns onto McEvoy Street or into and out of McEvoy Street.

The proposed project would be subject to City review to ensure compliance with traffic engineering standards and transportation planning principles. With inclusion of the above recommendations identified in the *Transportation Analysis*, the project would not increase hazards due to a design feature. **[Same Impact as Approved Project (Less than Significant Impact)]**

TRN-4: Would the project result in inadequate emergency access? **[Same Impact as Approved Project (Less than Significant Impact)]**

Emergency vehicle access (EVA) would be provided along McEvoy and Dupont Streets. Due to the restricted access, drive aisle widths, and height clearance, emergency vehicles would not access the parking structure. Instead, all parts of the proposed project would be accessible from McEvoy and Dupont Streets and the proposed plaza.

The proposed project is consistent with applicable requirements of the City of San José Fire Code and would not result in inadequate emergency vehicle access. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.17.3 Non-CEQA Effects

As noted above, with the passage of SB 743 amending CEQA's evaluation of transportation impacts and the effective date of the Guidelines implementing SB 743, a project's effects on Level of Service shall no longer be considered an impact on the environment. The following discussion is included because the City of San José has policies that address Level of Service as a planning or growth

management matter, outside the CEQA process. In the event a deficient LOS condition is identified, the City has discretion whether to require a project to address the deficiency by implementing roadway or other transportation improvements to restore or improve the level of service, and the relevant question under CEQA is whether those improvements would result in adverse physical changes to the environment, and not whether Level of Service has degraded below the condition considered acceptable.

Trip Generation

The Institute of Transportation Engineers (ITE) Trip Generation Manual, 10th Edition (2017) was utilized to calculate the vehicle trips generated by the proposed mixed-use development. In accordance with San José's Transportation Analysis Handbook (2018), the project is eligible for adjustments and reductions from the gross trip generation (see Appendix H). After applying the ITE trip rates, appropriate trip reductions, and existing site trip credits, it is estimated that the project would generate an additional 1,112 daily vehicle trips, with 77 trips (18 inbound and 59 outbound) occurring during the AM peak hour and 90 trips (55 inbound and 35 outbound) occurring during the PM peak hour.

Intersection Operations Analysis

Traffic conditions at intersections in the project area were evaluated using Level of Service and compared to the City's Transportation Analysis Handbook standards. LOS is a qualitative description of operating conditions ranging from LOS A, or free-flow conditions with little or no delay, to LOS F, or jammed conditions with excessive delays. Table 4.17-1 below shows the existing, background, and project plus background intersection operations analysis results. Background conditions reflect trips from approved but not yet constructed or occupied developments in the vicinity.

Intersection	LOS Standard	Peak Hour	Existing Conditions		Background Conditions		Background Plus Project Conditions	
			Average Delay (sec.)	LOS	Average Delay	LOS	Average Delay	LOS
Sunol St. & Park Ave.	D	AM	8.8	A	10.4	B	10.4	B
		PM	14.0	B	15.0	B	15.1	B
Montgomery St. & Park Ave.	D	AM	23.6	C	25.2	C	25.3	C
		PM	37.9	D	40.0	D	40.1	D
Bird Ave. & San Carlos St.*	D	AM	30.5	C	32.2	C	32.4	C
		PM	36.6	D	38.7	D	39.3	D
Sunol St. & San Carlos St.	D	AM	12.3	B	15.3	B	15.3	B
		PM	15.0	B	16.9	B	16.9	B
Lincoln Ave. & San Carlos St.	D	AM	33.9	C	35.9	D	35.9	D
		PM	32.8	C	34.3	C	34.4	C
Bird Ave. & Auzerais Ave.	D	AM	21.2	C	23.9	C	23.9	C
		PM	28.3	C	30.4	C	30.3	C
Bird Ave & I-280 (N)*	D	AM	31.1	C	32.0	C	32.2	C
		PM	27.7	C	29.1	C	29.2	C
Bird Ave. & I-280 (S)*	D	AM	30.7	C	31.6	C	31.8	C
		PM	23.5	C	24.9	C	25.1	C

Notes: * Denotes a VTA CMP intersection.

As shown in Table 4.17-1, all signalized intersections currently operate at acceptable (LOS D or better) levels of service. Under background plus project conditions during both the AM and PM peak hours, all signalized intersections would continue to operate at acceptable levels of service.

Queuing Analysis

The *Transportation Analysis* completed for the project includes a queueing analysis to evaluate size of the existing pockets and the number of vehicles the proposed project would generate at the existing pocket (see Appendix H). For the purposes of CEQA, there are no quantitative impact thresholds specific to queueing. If project traffic would exceed an existing turn-pocket length and spill out of the pocket, the resulting traffic could be more congested, resulting in additional delay.

The northbound left-turn movement at the Bird Avenue and San Carlos Street intersection currently experiences vehicular queue lengths that exceed the available queue storage capacity during the AM peak hour and would continue to do so under background conditions. The vehicular queue lengths for the same movement would also exceed the available storage capacity during the PM peak hour under

background conditions. The addition of project traffic is projected to increase the northbound left-turn queue length by one vehicle during the PM peak hour (from nine to 10 vehicles) when compared to background conditions. The addition of project traffic would not lengthen the projected northbound left-turn queue during the AM peak hour. The existing queue storage capacity (225 feet) would be exceeded by approximately 25 feet during the PM peak hour.

At the intersection of McEvoy Street and Park Avenue, queue lengths of no more than one vehicle are projected for the westbound left-turn movement and the northbound approach under background plus project conditions. The queue lengths at this intersections would be accommodated within the existing queue storage capacity.

The queue storage capacity for the remaining area intersection movements are currently adequate and would continue to be adequate to accommodate the projected queue lengths under background plus project conditions.

Parking

Vehicle Parking

The project is required to comply with vehicle and bicycle parking standards per the City's policies and regulations. A parking reduction may be considered based on City of San José Department of Planning, Building and Code Enforcement review of a subsequent parking analysis. Parking deficits are not considered significant environmental impacts under the CEQA Guidelines; therefore, the future parking analysis would not affect the project's attainment of CEQA thresholds.

Per the City of San José Municipal Code (Chapter 20.90), vehicle parking requirements for multi-family residential uses are as follows:

- 1.25 spaces per one-bedroom unit
- 1.7 spaces per two-bedroom unit
- 2.0 spaces per three-bedroom unit

California Assembly Bill 744 prevents local jurisdictions from imposing vehicular parking requirements higher than those established by the legislation, provided that the project includes enumerated percentages of affordable housing and is located near designated public transit. The project consists of 100 percent affordable units. The project site is located less than 0.5 mile from the Diridon Transit Center, which provides connections between local and regional bus routes, light rail lines, and commuter rail lines. AB 744 states that for 100 percent affordable housing projects located within 0.5 mile of a major transit stop, the parking requirement cannot exceed 0.5 spaces per unit, which equates to 183 parking spaces for the 365 units proposed by the project.

In addition, the project has requested a density bonus from the City. City of San José Municipal Code 20.190.060 provides guidance for the required reduction of parking spaces for affordable residential developments that qualify for a density bonus. Reductions are based on the category of restricted affordable units proposed. The proposed project includes 100 percent affordable units, with 30 percent of all units renting at the Very Low Income level. Based on the density bonus parking

reductions, in addition to the AB 744 reduction, the project is required to provide a total of 90 parking spaces.

The project proposes to provide 94 on-site parking spaces, which exceeds the number of spaces required for the project. An additional 15 percent reduction in required off-street parking is allowed via the implementation of a TDM Plan.

The California Building Code requires four Americans with Disabilities Act (ADA)-accessible spaces for projects providing 76 to 100 parking spaces. The site plan shows four parking spaces adjacent to the parking garage entry points designated as accessible spaces. The proposed location of the four accessible spaces provides direct access to elevator lobbies.

Motorcycle Parking

The City requires one motorcycle parking space for every four dwelling units. Therefore, the project would be required to provide a total of 92 motorcycle parking spaces. The project site plan shows 16 motorcycle parking spaces, which is 76 spaces fewer than the required number of spaces.

Bicycle Parking

The City's bicycle parking requirements require one bicycle parking space for every four dwelling units. To meet the City's requirements, the project would be required to provide 92 bicycle parking spaces (56 long-term spaces and 36 short-term spaces).

The project site plan shows that bicycle parking spaces would be provided within bicycle storage rooms on the ground floor of the western (224 spaces) and eastern (141 spaces) residential towers. An additional 36 spaces would be provided along the exterior of the buildings. The number of proposed parking spaces would exceed the required number of total spaces for the proposed project.

4.18 TRIBAL CULTURAL RESOURCES

The discussion of cultural resources in this section is based on the *Section 106 Archaeological Literature Search and Native American Consultation* prepared by Holman & Associates on May 15, 2018. This report is on file with the City of San José Department of Planning, Building and Code Enforcement.

The discussion in this section also utilizes the *Historic Resources Survey and Report* prepared by Archives & Architecture, LLC on April 23, 2018. This report is included in this IS/EA as Appendix C.

4.18.1 Environmental Setting

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, 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 Resources⁵⁷, or
 - Included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k).
- Resources determined by the lead agency to be TCRs.

AB 52 notification and consultation applies to projects for which a Notice of Intent or Notice of Availability is issued after the effective date of AB 52 in 2015. Notification and consultation are not required for projects covered by a prior EIR or Mitigated Negative Declaration (MND) that either predates AB 52 or that has already complied with AB 52.

As discussed in *Section 1.1, Purpose of the Addendum*, the Addendum has been prepared as part of the subsequent environmental review process under the DSAP PEIR and the General Plan FEIR. In accordance with CEQA, this Addendum tiers from the DSAP PEIR and the General Plan FEIR, and AB 52 notification and consultation are not required. Notification and consultation are processes that apply to CEQA non-exempt projects that are the subject of a Notice of Intent (i.e., a new MND) or Notice of Availability (i.e., a new EIR), while the proposed project is covered by an Addendum to a previous EIR, and is therefore not subject to AB 52 notification or consultation.

⁵⁷ 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)).

4.18.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
<p>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:</p> <p>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)?</p> <p>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.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

TCR-1: Would the project 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)? **[Same Impact as Approved Project (Less than Significant Impact)]**

As discussed in *Section 4.5, Cultural Resources* of this IS/EA, the project site and adjacent properties do not appear on any local, State, or federal lists of historical resources. The site buildings are not eligible for listing on the NRHP, CRHR, City of San José Historic Resources Inventory, or Santa Clara County Heritage Resource Inventory. **[Same Impact as Approved Project (Less than Significant Impact)]**

TCR-2: Would the project 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? [**Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)**]

As part of the archeological investigation, Holman & Associates contacted the Native American Heritage Commission to request a review of the Sacred Land Files (SLF) for any evidence of cultural resources or traditional properties of potential concern that might be known on lands within or adjacent to the project site. The NAHC does not have evidence of any Native American cultural resources within or adjacent to the proposed project APE.⁵⁸ The NAHC provided a contact list of six Native American individuals/organizations who may know of cultural resources in this area or have specific concerns about the project.

After outreach by the archaeologist was completed (phone calls and emails), two tribal spokespeople from the Muwekma Ohlone Tribe and Ohlone Tribe agreed that mechanical trenching under the direction of a qualified archaeologist (**MM CUL-2.1**) would be their recommended approach. With implementation of **MM CUL-2.1**, **MM CUL-2.2**, and the Standard Permit Conditions described in *Section 4.5, Cultural Resources* of this IS/EA, consistent with the DSAP PEIR measures (PEIR p. 223-224), the project would reduce and/or avoid impacts to tribal cultural resources to a less than significant level. [**Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)**]

⁵⁸ The APE for archaeological and tribal cultural resources is limited to the site boundaries of the development project (APNs 261-38-001, -004, -030, -047, -048, and -049).

4.19 UTILITIES AND SERVICE SYSTEMS

4.19.1 Setting

4.19.1.1 *Regulatory Framework*

Assembly Bill 939

Assembly Bill 939, signed in 1989, established the California Integrated Waste Management Board (CIWMB; now the California Department of Resources Recycling and Recovery [CalRecycle]) and required all California counties to prepare integrated waste management plans. AB 939 also required all municipalities to divert 50 percent of the waste stream by the year 2000.

California Green Building Standards Code

In January 2010, the State of California adopted the California Green Building Standards Code, establishing 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 the following mandatory set of measures, as well as more rigorous voluntary guidelines, for new construction projects to achieve specific green building performance levels:

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

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 the utilities and services policies of the City's General Plan, including the following:

Envision San José 2040 Relevant Utilities and Service Systems 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. For example, promote the use of captured rainwater, graywater, or recycled water as the preferred source for non-potable water needs such as irrigation and building cooling, consistent with Building Codes or other regulations.
Policy MS-3.3	Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.

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

In addition to the above-listed San José General Plan policies, new development in San José is also required to comply with programs that mandate the use of water-conserving features and appliances and the Santa Clara County Integrated Watershed Management (IWM) Program, which minimizes solid waste.

San José Zero Waste Strategic Plan/Green Vision

The Green Vision provides a comprehensive approach to achieving 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 waste diversion by 2013 and zero waste by 2022. The Green Vision also includes ambitious goals for economic growth, environmental sustainability, and 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 new private sector construction encourages building owners, architects, developers, and contractors to incorporate meaningful sustainable building goals early in the design process. This policy establishes baseline green building standards for private sector 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.

4.19.1.2 *Existing Conditions*

The project site is currently developed with industrial uses that require water, wastewater, and solid waste utilities.

Water Service

Water service is provided to the site by the San José Water Company. There are no existing recycled water lines in the project area.⁵⁹

Sanitary Sewer/Wastewater Treatment

Sanitary sewer lines serving the site are owned and maintained by the City of San José. There is an existing six-inch vitrified clay pipe (VCP) sanitary sewer main on both the project's western McEvoy Street frontage and the project's eastern Dupont Street frontage.

Wastewater from the project area is treated at the San José/Santa Clara Regional Wastewater Facility (RWF) in Alviso. The RWF has the capacity to treat 167 million gallons per day of sewage during dry weather flow.⁶⁰ In 2012, the RWF's average dry weather effluent flow was 85.3 million gallons per day.⁶¹ Fresh water flow from the RWF is discharged to the South San Francisco Bay or delivered to the South Bay Water Recycling Project for distribution.

The City of San José generates approximately 69.8 million gallons per day of dry weather sewage flow. The City's share of the RWF's treatment capacity is 108.6 million gallons per day; therefore, the City has approximately 38.8 million gallons per day of excess treatment capacity.⁶²

Stormwater Drainage

The project site is located in a developed area served by an existing storm drainage system. The project site is currently developed with industrial uses and contains approximately 44,400 feet of impervious surfaces and 4,800 feet of pervious surfaces.

Storm drainage lines in the project area are owned and maintained by the City of San José.

Solid Waste

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California Integrated Waste Management Board in 1996 and reviewed in 2004, 2007, 2011, and 2016. Each jurisdiction in the County has a landfill diversion requirement of 50 percent per year. According to the IWMP, the County has adequate disposal capacity beyond 2030.⁶³ Solid waste generated within the County is landfilled at Guadalupe Mines, Kirby Canyon, Newby Island, and Zanker Road landfills.

⁵⁹ City of San José. "Recycled Water." Accessed June 29, 2018. Available at: <https://www.sanjoseca.gov/index.aspx?nid=1586>.

⁶⁰ City of San José. "San José/Santa Clara Regional Wastewater Facility." Accessed June 29, 2018. Available at: <http://www.sanjoseca.gov/index.aspx?NID=1663>.

⁶¹ City of San José. "Clean Bay Strategy Reports." February 2013. Available at: <http://www.sanjoseca.gov/ArchiveCenter/ViewFile/Item/1629>

⁶² City of San José. *Envision San José 2040 General Plan FEIR*. September 2011. Page 648.

⁶³ Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report*. June 2016.

4.19.2

Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5) Be noncompliant with federal, state, and local management and reduction statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

UTL-1:

Would the project 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? **[Same Impact as Approved Project (Less than Significant Impact)]**

Water and Wastewater

The DSAP PEIR concluded that buildout of the Diridon Station Area Plan would require improvements to the existing water distribution system and sanitary sewer lines. Future construction of utility improvements would be required to implement construction BMPs and measures identified in the PEIR, and would not result in significant environmental impacts.

The project proposes to construct up to 365 multi-family dwelling units on a 1.13-acre site. Consistent with the State Density Bonus Law, the project would apply for a density bonus to construct 83 additional units over the site's DSAP maximum density of 250 du/ac. Development of the proposed project, including the density bonus, would not substantially increase water or wastewater volumes beyond those analyzed under the DSAP PEIR. The project would not require new or expanded water or wastewater treatment facilities.

The project would comply with all applicable Public Works requirements to ensure sanitary sewer and water mains would have capacity for water and sewer services. Therefore, the project would not have a significant impact related to the provision of water and sewer service for the project. **[Same Impact as Approved Project (Less than Significant Impact)]**

Stormwater Drainage

The site is currently developed with industrial uses and associated paved parking. Runoff from the project site currently enters the storm drainage system untreated and unimpeded. The project proposes to construct a multi-family residential building. The building footprint would cover 68 percent of the site.

The project proposes to construct two 15-inch storm drain lines along the southern edge of the building and beneath Dupont Street. Stormwater would flow east and south toward an existing storm drain main under West San Carlos Street.

As discussed in *Section 4.10, Hydrology and Water Quality* of this IS/EA, the project would reduce the site's impervious surface area by approximately 4,500 square feet. The project would install flow-through planters, removing pollutants and decreasing the rate and volume of stormwater runoff entering the City storm drainage system. The project would also comply with the San Francisco Bay MRP. For these reasons, development of the project site would improve the water quality of runoff from the site and would not exceed the capacity of the existing storm drainage system serving the project site. **[Same Impact as Approved Project (Less than Significant Impact)]**

UTL-2: Would the project have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years? **[Same Impact as Approved Project (Less than Significant Impact)]**

Water service is provided to the site by the San José Water Company (SJWC). The primary water source for the project area is groundwater. The SCVWD currently manages the groundwater basin in Santa Clara County.⁶⁴ The groundwater basin is not adjudicated, meaning landowners have equal rights to the underlying aquifer. In 2010, SCVWD's groundwater usage was estimated at 51,107 acre-feet per year.⁶⁵ The DSAP PEIR concluded that buildout of the Diridon Station Area Plan would increase SJWC's total annual water demand by approximately 1.5 percent and could be adequately served by existing and planned supplies.

⁶⁴ San José Water Company. *2010 Urban Water Management Plan*.

⁶⁵ San José Water Company. *Water Supply Source Map*. Accessed June 29, 2018. Available at: https://www.sjwater.com/for_your_business/builders_contractors/water_flow_design/water_supply_source

The project site is currently developed with industrial uses, with an existing water demand of approximately 10,390 gallons per day. The project proposes to develop the project site with multi-family residential uses. It is estimated that the project would have a water demand of approximately 106,229 gallons per day, resulting in an increase of 95,839 gallons of water per day.⁶⁶

Development of the proposed project would contribute to total demand for SJWC and SCVWD water supplies. In conformance with General Plan policies and the current CalGreen code, the project would incorporate water conservation measures including drought-tolerant landscaping, low-flow fixtures, and WeGo Wise water monitoring. Implementation of these water conservation and efficiency measures would reduce the project's water demand.

The proposed project would increase water usage at the site, but would not significantly impact SCVWD's water supplies or usage. **[Same Impact as Approved Project (Less than Significant Impact)]**

UTL-3: Would the project 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? **[Same Impact as Approved Project (Less than Significant Impact)]**

Pursuant to the federal Clean Water Act and California's Porter-Cologne Water Quality Control Act, the RWQCB regulates wastewater discharges to surface waters, such as San Francisco Bay, through the NPDES program. Wastewater permits contain specific requirements that limit the pollutants in discharges.

Sanitary sewer lines serving the site are owned and maintained by the City of San José. Two 8-inch sanitary sewer laterals would be constructed on the western side of the site, connecting to an existing sanitary sewer line beneath McEvoy Street. Two 6-inch sanitary sewer laterals would be constructed on the eastern side of the site, connecting to existing sanitary sewer lines beneath Dupont Street. Wastewater would flow south toward an existing sanitary sewer main beneath West San Carlos Street.

The project site is currently developed with industrial uses and generates approximately 8,830 gallons of wastewater per day.⁶⁷ Redevelopment of the site under the proposed project is anticipated to result in wastewater generation of approximately 55,381 gallons per day, resulting in an increase of 46,551 gallons of wastewater generated per day compared to current baseline conditions.

In 2011, the Envision San José 2040 General Plan FEIR identified an excess treatment capacity of 38.8 million gallons per day from San José wastewater sources. As discussed in the DSAP PEIR (p. 328), development under the Envision San José 2040 General Plan is estimated to generate approximately 30.8 million gallons per day of wastewater. The RWF has millions of gallons of daily

⁶⁶ Based upon the CalEEMod standard water use rate of 65,154 gallons of indoor water and 41,075 gallons of outdoor water per dwelling unit per year for high-rise apartment units; and 231,250 gallons of indoor water per 1,000 square feet per year for general light industry.

⁶⁷ Based upon the CalEEMod standard estimate of wastewater comprising 85 percent of water use.

wastewater treatment capacity remaining for the City of San José. Development of the site under the proposed project would not substantially increase wastewater treatment demand or result in exceedances of RWQCB's treatment requirements for the RWF. **[Same Impact as Approved Project (Less than Significant Impact)]**

UTL-4: Would the project 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? **[Same Impact as Approved Project (Less than Significant Impact)]**

Santa Clara County's IWMP was approved by the California Integrated Waste Management Board in 1996 and reviewed in 2004, 2007, 2011, and 2016. Each jurisdiction in the County has a landfill diversion requirement of 50 percent per year. According to the IWMP, the County has adequate disposal capacity beyond 2030.⁶⁸ The project would be required to conform to City plans and policies to reduce solid waste generation, and would not generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure. **[Same Impact as Approved Project (Less than Significant Impact)]**

UTL-5: Would the project comply with federal, state, and local management and reduction statutes and regulations related to solid waste? **[Same Impact as Approved Project (Less than Significant Impact)]**

The DSAP PEIR concluded that the increase in waste generated by buildout of the plan would not cause the City to exceed the capacity of existing landfills serving the City. Future increases in solid waste generation from developments allowed under the Diridon Station Area Plan would be limited through implementation of the City's General Plan and Zero Waste Strategic Plan. The proposed project would comply with the Zero Waste Strategic Plan as well as other existing regulations and programs. **[Same Impact as Approved Project (Less than Significant Impact)]**

⁶⁸ Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report*. June 2016.

4.20 WILDFIRE

4.20.1 Environmental Setting

The project site is located in an urbanized area of San José. According to the California Department of Forestry and Fire Protection (CAL FIRE), the project site is not located within or near a moderate, high, or very high fire hazard severity zone.

4.20.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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. **[Same Impact as Approved Project (No Impact)]**

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
1) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

MFS-1: Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory? [**Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)**]

As discussed in the previous sections of this IS/EA, the proposed project would not degrade the quality of the environment with implementation of the identified mitigation measures and Standard Permit Conditions, consistent with the DSAP PEIR. As discussed in *Section 4.4, Biological Resources*, with implementation of the identified mitigation measures (**MM BIO-4.1** through **MM BIO-4.4**) and Standard Permit Conditions, the project would not significantly impact sensitive habitats or species. As discussed in *Section 4.5, Cultural Resources* and *Section 4.7, Geology and Soils*, with implementation of the identified mitigation measures (**MM CUL-2.1** and **MM CUL-2.2**) and Standard Permit Conditions, the project would result in a less than significant impact on

archaeological, historic, and paleontological resources. The project would not result in new or more significant impacts than identified in the DSAP PEIR. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

MFS-2: Does the project have impacts that are individually limited, but cumulatively considerable? **[Less Impact than Approved Project (Less than Significant Cumulative Impact)]**

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

4.21.1 Air Quality

The proposed project, which includes 365 dwelling units, is below the BAAQMD operational screening level of 510 high-rise apartment units. Consistent with the DSAP PEIR, the proposed project would implement a TDM plan to reduce emissions associated with vehicle travel. For these reasons, the proposed project would result in less cumulative air quality impacts than were previously identified in the DSAP PEIR. **[Less Impact than Approved Project (Less than Significant Cumulative Impact)]**

4.21.2 Greenhouse Gas Emissions

The project would comply with the Greenhouse Gas Reduction Strategy, and service population emissions would not exceed the BAAQMD threshold for 2020 or the “Substantial Progress” efficiency metric for 2030. Therefore, the project would not result in a cumulatively considerable contribution to the global climate change cumulative impact identified in the DSAP PEIR, and would not result in new or more severe cumulative GHG impacts. **[Less Impact than Approved Project (Less than Significant Cumulative Impact)]**

4.21.3 Population and Housing

The General Plan FEIR and DSAP PEIR identified a significant and unavoidable cumulative impact related to the jobs/housing imbalance in San José. The General Plan provides capacity for 120,000 net new dwelling units and an additional 470,000 jobs in San José by 2035, resulting in a ratio of 1.3 jobs per employed resident. The DSAP PEIR concluded that DSAP buildout would increase jobs over residential units, resulting in a significant and unavoidable cumulative impact; however, the proposed development of 365 dwelling units would not contribute to the projected jobs/housing imbalance. **[Less Impact than Approved Project (Less than Significant Cumulative Impact)]**

4.21.4 Noise

The DSAP PEIR identified a significant and unavoidable cumulative impact resulting from traffic noise increases at noise-sensitive land uses adjacent to segments of Julian Street, Park Avenue, and San Carlos Street; however, the identified road segments are not in the vicinity of the project site. Traffic noise increase resulting from project traffic volumes would be 1 dBA DNL or less at noise-sensitive receptors in the project vicinity. The project would not result in substantial contributions to cumulative noise impacts identified in the DSAP PEIR as a result of DSAP and Downtown Strategy 2040 buildout, and would not result in new or more severe cumulative noise impacts. **[Less Impact than Approved Project (Less than Significant Cumulative Impact)]**

4.21.5 Transportation

The proposed project would not result in substantial contributions to significant unavoidable traffic (e.g., intersection and freeway Level of Service) impacts identified in the DSAP PEIR. As discussed in *Section 4.17, Transportation* of this IS/EA, project effects on Level of Service are no longer be considered an impact on the environment. A VMT evaluation completed for the project concluded that the project is expected to generate VMT per capita of 5.43 miles traveled daily, below the significant impact threshold of 10.12 daily per capita VMT. The project would not result in new or more severe cumulative transportation impacts. **[Less Impact than Approved Project (Less than Significant Cumulative Impact)]**

4.21.6 Cumulative Impacts Conclusion

The proposed project would not result in any new or more significant cumulative impacts than addressed in the Envision San José 2040 General Plan FEIR or DSAP PEIR. Consistent with the requirements for future development under the DSAP, the measures included in the DSAP PEIR would be implemented by the proposed project to reduce the project's contribution to less than cumulatively considerable levels. The language of the measures has been revised for clarity, but the intent and purpose of the measures are consistent with the DSAP PEIR.

There are no recently approved or reasonably foreseeable projects that, when combined with the proposed project, would result in a new or greater cumulatively considerable impact not previously identified by the General Plan FEIR or DSAP PEIR.

MFS-3:	Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? [Less Impact than Approved Project (Less than Significant Impact with Mitigation Incorporated)]
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Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. While changes to the environment that could indirectly affect human beings would be represented by all of the designated CEQA issue areas, those that could directly affect human beings include construction

air quality, hazardous materials, and noise. However, adherence to General Plan policies and implementation of measures identified in the DSAP PEIR and included in the project mitigation measures would reduce these impacts to a less than significant level. No other direct or indirect adverse effects on human beings have been identified. **[Less Impact than Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

SECTION 5.0 OTHER SECTIONS REQUIRED BY NEPA

The National Environmental Policy Act (NEPA) requires consideration of physical and socioeconomic impacts beyond those required by the California Environmental Quality Act (CEQA). The purpose of this chapter is to address those additional NEPA requirements and to fulfill the additional environmental documentation required by the U.S. Department of Housing and Urban Development (HUD) prior to its taking a federal action.

5.1 COMPLIANCE WITH 24 CFR 50.4, 58.5, AND 58.6 LAWS AND AUTHORITIES

Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR §58.5 and §58.6	Are formal compliance steps or mitigation required?	Compliance determinations
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 and 58.6		
Airport Hazards 24 CFR Part 51 Subpart D	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	The project site is not located within any airport influence area, airport clear zones, or safety zones (see Figures 5.1-1 through 5.1-3). [Source: (25)]
Coastal Barrier Resources Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	The project site is an infill parcel within an urbanized area of San José. The site is not located in or near a coastal zone or costal barrier resource area. [Source: (48)]
Flood Insurance Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	The project is located within the Federal Emergency Management Agency (FEMA)'s Flood Zone D (Map No. 06085C0234H, May 18, 2009), an area with undetermined but possible flood hazards (see Figure 5.1-4). The project site is not located in a FEMA-designated Special Flood Hazard Area. While flood insurance may not be mandatory in this instance, HUD recommends that all insurable structures maintain flood insurance under the National Flood Insurance Program. The project is in compliance with flood insurance requirements. [Source: (29)]

STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.5

<p>Clean Air Clean Air Act, as amended, particularly section 176(c) & (d); 40 CFR Parts 6, 51, 93</p>	<p>Yes No <input type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>The Bay Area, as a whole, does not meet federal ambient air quality standards for ground level ozone and PM_{2.5}. As detailed in Appendix A, project emissions of ozone precursor pollutants (reactive organic gases [ROG] and nitrogen oxides [NO_x]) and fine particulate matter (PM_{2.5}) would not exceed significance thresholds.</p> <p>The proposed project would conform to the federal Clean Air Plan. Based on the location, service area, and objectives of the project, the project would not substantially increase air emissions in the project area.</p> <p>[Source: Appendix A]</p>
<p>Coastal Zone Management Coastal Zone Management Act, sections 307(c) & (d)</p>	<p>Yes No <input type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>The project site is not located in a coastal zone, as defined by the California Coastal Act (Public Resources Code, Division 20, Section 3000 et seq.). The nearest coastal zone is located approximately 23 miles to the southwest in Santa Cruz County. A Coastal Development permit is not required for the project.</p> <p>[Source: (48)]</p>
<p>Contamination and Toxic Substances 24 CFR Part 50.3(i) & 58.5(i)(2)</p>	<p>Yes No <input checked="" type="checkbox"/> <input type="checkbox"/></p>	<p><i>A Phase I Environmental Site Assessment and Phase II Groundwater and Soil Vapor Investigation</i> were prepared to American Society for Testing and Materials (ASTM) E-1527 standards for the project site in March 2018.</p> <p>The project site is located adjacent to historic railroad tracks. In addition, releases from underground storage tanks (USTs) were identified at 740 West San Carlos Street, and remediation is ongoing. Cases at 800 West San Carlos Street (Cheim Lumber Company), 777 West San Carlos Street (San José Midtown Development), and 236 McEvoy Street (Independent Scissor Lift) have been closed or are pending closure.</p>

		<p>Contaminants, including volatile organic compounds (VOCs) and total petroleum hydrocarbons (TPH), from the USTs at 740 West San Carlos Street have migrated beneath the project site. Concentrations of VOCs and TPH did not exceed San Francisco Regional Water Quality Control Board (RWQCB) environmental screening levels (ESLs) in soil vapor or groundwater; however, a Site Management Plan will be prepared to manage cleanup of potential contamination encountered during construction.</p> <p>The project would also be required to implement soil sampling in areas of historic railroad activity, and appropriate regulatory oversight if contaminated soils are found.</p> <p>[Source: Appendices E and F]</p>
<p>Endangered Species Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402</p>	<p>Yes No <input checked="" type="checkbox"/> <input type="checkbox"/></p>	<p>The U.S. Fish and Wildlife Service (USFWS) was contacted for a list of threatened and endangered species that may occur within the boundary of the proposed project and/or be affected by the proposed project (see Appendix I). The species of concern are:</p> <ul style="list-style-type: none"> • California clapper rail • California least tern • California red-legged frog • California tiger salamander • Delta smelt • Bay checkerspot butterfly • San Bruno elfin butterfly • Robust spineflower <p>The project site is located in an urban area and is surrounded by existing development. The site is currently developed with industrial warehouses and associated paved parking. Urban habitats including street trees, landscaping, lawns, and vacant lots, provide habitat for wildlife that is adapted to the modified environment. The project site is not located within any mapped critical habitat for any species.</p>

		<p>No rare, threatened, endangered, or special status species of flora or fauna are known to inhabit the project site, and no sensitive species are anticipated in the project area.</p> <p>The project site is located within the study area of the Santa Clara Valley Habitat Plan/Natural Community Conservation Plan. According to the Santa Clara Valley Habitat Agency Geobrowser, the project site is designated as <i>Urban-Suburban</i> and is not located in any Land Cover Fee Zones or Plant or Wildlife Survey Area. The project would pay nitrogen deposition fees to offset its contribution to cumulative NO_x emissions that are affecting habitat of the Bay checkerspot butterfly in southern Santa Clara County, which is managed as part of the Habitat Plan.</p> <p>If construction of the proposed project occurs during the bird nesting season (February 1- August 31), construction activities have the potential to impact nesting birds that are protected under the Migratory Bird Treaty Act. Mitigation measures, which include nesting bird surveys and buffer zones, are included in the project to avoid the potential for construction related impacts. With implementation of the identified mitigation measures (see <i>Section 6.0, Mitigation Measures and Conditions</i>), the project would comply with the Endangered Species Act.</p> <p>[Source: Appendix I, (13)]</p>
<p>Explosive and Flammable Hazards 24 CFR Part 51 Subpart C</p>	<p>Yes No <input type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>An <i>Explosives and Fire Hazards Review</i> was completed on April 11, 2018 for the proposed project.</p> <p>The review included a visual survey of the project area and consultation with the San José Fire Department and Santa Clara County Department of Environmental Health. The review and survey was completed in accordance with 24 CFR Part 51 C. The survey identified eight facilities within 2,000 feet of the site reporting storage of gasoline, propane, and liquefied petroleum gas (LPG). As</p>

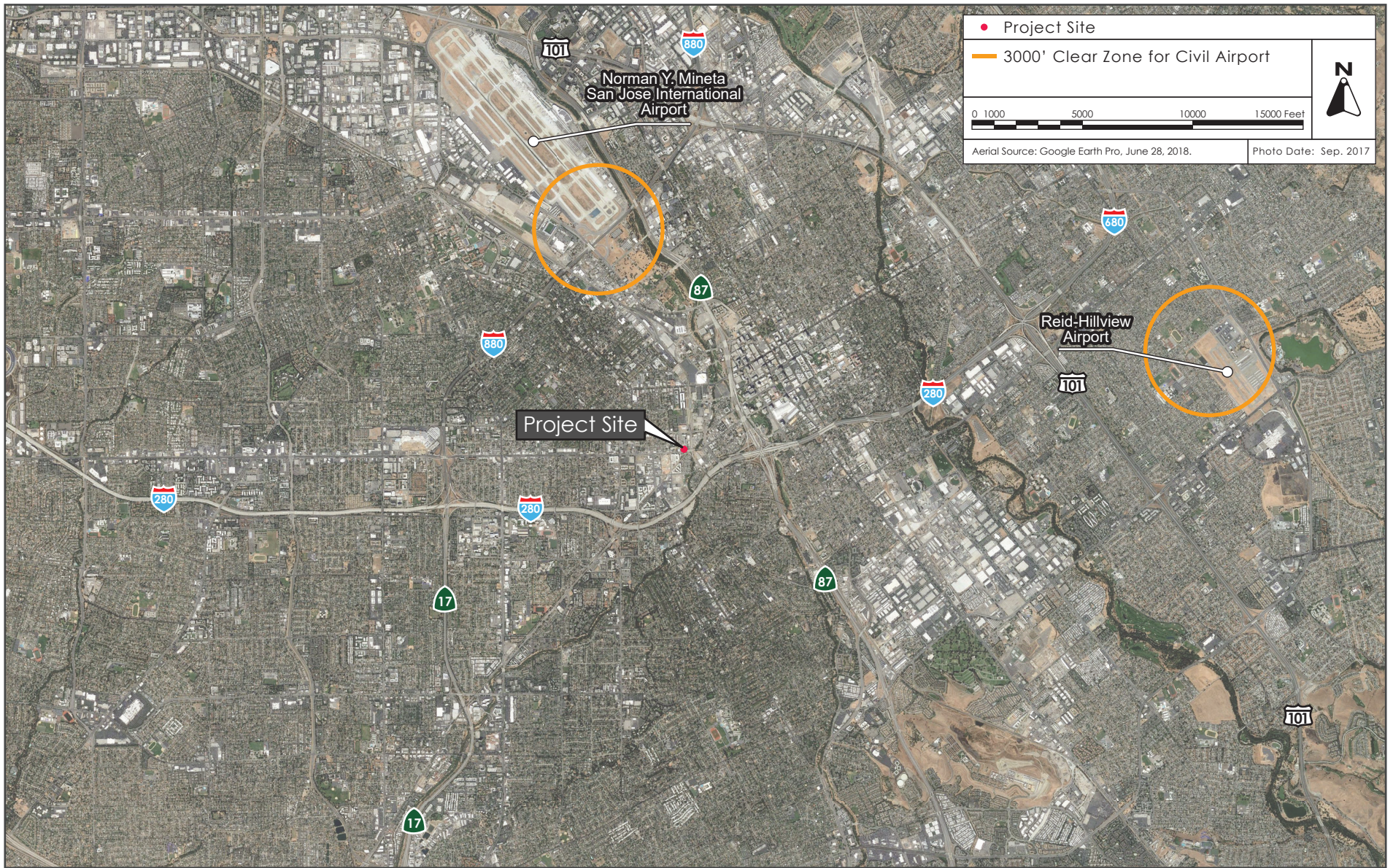
		<p>described in Appendix J, the Acceptable Separation Distance (ASD) was calculated for each facility based on the type and volume of hazardous substance storage.</p> <p>All identified above-ground storage containers satisfy or exceed the required ASD for the quantities of the chemicals present. There are no facilities storing quantities of explosive and/or flammable materials that did not meet the ASDs in conformance with HUD 24 CFR Part 51 C.</p> <p>[Source: Appendix J]</p>
<p>Farmlands Protection Farmland Protection Policy Act of 1981, particularly sections 1504(b) and 1541; 7 CFR Part 658</p>	<p>Yes No <input type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>The project is located in an urban area and would not impact any protected farmlands. The project is not actively farmed, subject to a Williamson Act Contract, or designated as Prime Farmland. The project site is designated as “urban and built-up land” on the 2016 Santa Clara County Important Farmland Map; therefore, the project complies with the Farmland Protection Policy Act.</p> <p>[Source: (10), (11)]</p>
<p>Floodplain Management Executive Order 11988, particularly section 2(a); 24 CFR Part 55</p>	<p>Yes No <input type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>The project site is not located within a 100-year flood zone (see Figure 5.1-4). Based on the FEMA flood insurance maps for the City of San José, the project site is designated Zone D, defined as areas with undetermined but possible flood hazards. Zone D areas are not subject to flood management provisions.</p> <p>[Source: (29)]</p>
<p>Historic Preservation National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800</p>	<p>Yes No <input checked="" type="checkbox"/> <input type="checkbox"/></p>	<p>The project site and adjacent properties are not listed on the City of San José Register of Historic Resources, California’s Historic Resources Inventory, or the National Register of Historic Places. The buildings at 751 West San Carlos Street, west of the project site across McEvoy Street, were found to be eligible for local listing on the San José Historic Resources Inventory, but are not currently listed. The proposed project would not significantly change the character of the existing neighborhood.</p>

	<p>The project's Area of Potential Effect (APE) for archaeological impacts is limited to the project parcel (see Figure 5.1-5). A records search for the project site was conducted through the California Historical Resources Information System at the Northwest Information Center. A <i>Section 106 Archaeological Literature Search and Native American Consultation</i> was completed for the project on May 15, 2018.</p> <p>The project's APE for historic resources is the project site and adjacent parcels. No archeological resources were identified on or adjacent to the project site.</p> <p>The Native American Heritage Commission was contacted on March 28, 2018 for any evidence of cultural resources or tribal properties of potential concern. After outreach was completed by the project archaeologist (phone calls and emails), two tribal spokespeople agreed that mechanical trenching under the direction of a qualified archaeologist would be their recommended approach. Based on the findings of the mechanical trenching, an archaeological resources treatment plan would be prepared by a qualified archaeologist, if necessary. Any prehistoric or historic resources encountered during excavation and/or grading of the site would be properly evaluated and reported to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee, the City's Historic Preservation Officer, and the Northwest Information Center (see Standard Permit Condition in <i>Section 6.0, Mitigation Measures and Conditions</i>).</p> <p>A request for review and determination of concurrence with a finding of no adverse effect was submitted to the State Historic Preservation Officer (SHPO) by the City of San José on March 1, 2019. No response from SHPO was received within 30 days, and concurrence with the finding of no adverse</p>
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		<p>effect is assumed. Therefore, the project is in compliance with Section 106.</p> <p>[Source: (18), (50)]</p>
<p>Noise Abatement and Control Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B</p>	<p>Yes No <input type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>HUD environmental noise regulations are set forth in 24 CFR Part 51B. The following noise standards for new housing construction would be applicable to this project:</p> <p>Interior:</p> <ul style="list-style-type: none"> • <u>Acceptable</u> – 45 DNL (Day-Night Level) or less <p>Exterior:</p> <ul style="list-style-type: none"> • <u>Acceptable</u> – 65 DNL or less • <u>Normally unacceptable</u> –exceeding 65 DNL but not exceeding 75 DNL • <u>Unacceptable</u>– Exceeding 75 DNL <p>The primary source of noise in the area is traffic along West San Carlos Street.</p> <p><i>A Noise and Vibration Assessment</i> was completed for the project site by Illingworth & Rodkin, Inc., on October 26, 2018.</p> <p style="text-align: center;"><i>Exterior Noise Environment</i></p> <p>Future cumulative exterior noise levels at the project site would continue to result primarily from traffic on West San Carlos Street. With the inclusion of the proposed project and other approved projects in the vicinity, the total noise level increase at the project site would be up to 1 dBA (A-weighted sound level) on West San Carlos Street and 3 to 4 dBA on McEvoy Street. Future noise exposures at the southern end of the building and outdoor uses would reach 73 dBA DNL.</p> <p>The project includes a first-floor plaza on the south side of the building and a second-floor courtyard between the two residential towers. The outdoor uses would be partially shielded from traffic noise by the project building. Without noise reduction measures, the future exterior noise levels at these locations would</p>

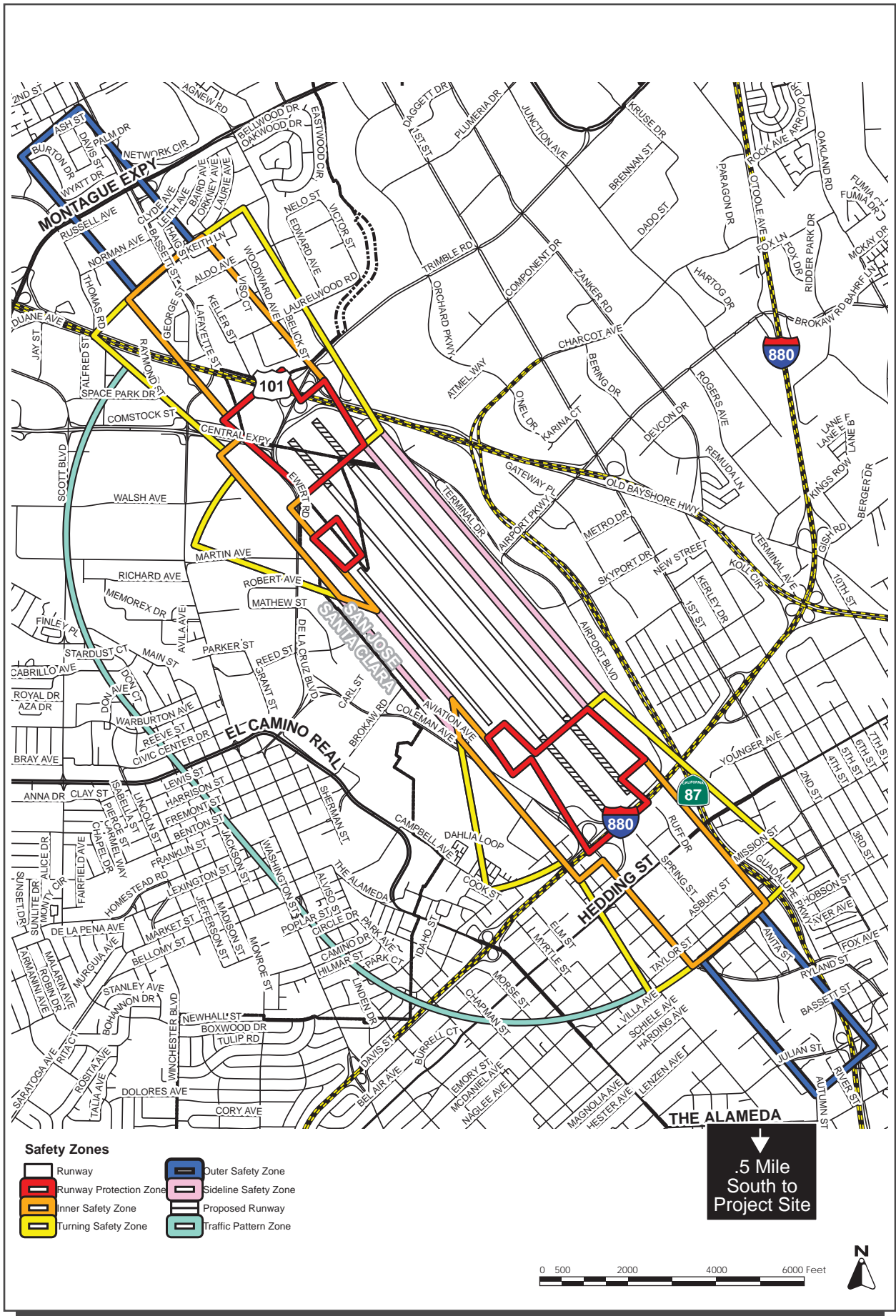
		<p>exceed 65 dBA DNL and would not meet HUD compatibility criteria.</p> <p>As described in Appendix G, the project would be required to construct noise barriers to reduce noise levels in the courtyard to 60 dBA DNL. With inclusion of the permit condition, the project’s exterior noise environment would meet HUD compatibility criteria.</p> <p style="text-align: center;"><i>Interior Noise Environment</i></p> <p>Future cumulative exterior noise levels at the project site are estimated to be up to 73 dBA DNL. Typical construction would result in a 20 to 25 dBA exterior to interior noise level reduction. Calculations were made to quantify the transmission loss provided by building elements in order to estimate interior noise levels within individual rooms.</p> <p>The project design is required to include controls to reduce interior noise levels to 45 dBA DNL or lower within residential units, and to conform with any special building construction techniques requested by the City’s Building Department. Techniques may include sound-rated windows and doors, sound-rated wall construction, and acoustical caulking. With these insulation features, the project would be in compliance with HUD Noise Abatement and Control regulations of 24 CFR 51 B.</p> <p>[Source: Appendix G]</p>
<p>Sole Source Aquifers Safe Drinking Water Act of 1974, as amended, particularly section 1424(e); 40 CFR Part 149</p>	<p>Yes No <input type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>The project is not in an area designated by the U.S. Environmental Protection Agency (USEPA) as being supported by a sole source aquifer.</p> <p>[Source: (51)]</p>
<p>Wetlands Protection Executive Order 11990, particularly sections 2 and 5</p>	<p>Yes No <input type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>The nearest designated wetland is a freshwater forested/scrub wetland along Los Gatos Creek, located 290 feet southeast of the project site (see Figure 5.1-6).</p>

		<p>The project site is an infill parcel located in an urban area and is surrounded by existing development. The site does not contain any wetlands or riparian habitat; therefore, no wetlands would be impacted and the project complies with Executive Order 11990.</p> <p>[Source: (52)]</p>
<p>Wild and Scenic Rivers Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c)</p>	<p>Yes No <input type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>The project site is not located within a mile of a designated wild and scenic river system. There are no wild and scenic rivers in Santa Clara County.</p> <p>[Source: (53)]</p>
ENVIRONMENTAL JUSTICE		
<p>Environmental Justice Executive Order 12898</p>	<p>Yes No <input type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>The project includes affordable housing and would not have any disproportionately high health or other negative effects on minority or low-income populations. The site is currently developed with industrial uses, and the project would not displace any minority-owned residents. The project would facilitate the General Plan goals of the City of San José and provide much-needed rental assistance to benefit low-income populations. Therefore, the project complies with Executive Order 12898.</p> <p>[Source: (54)]</p>



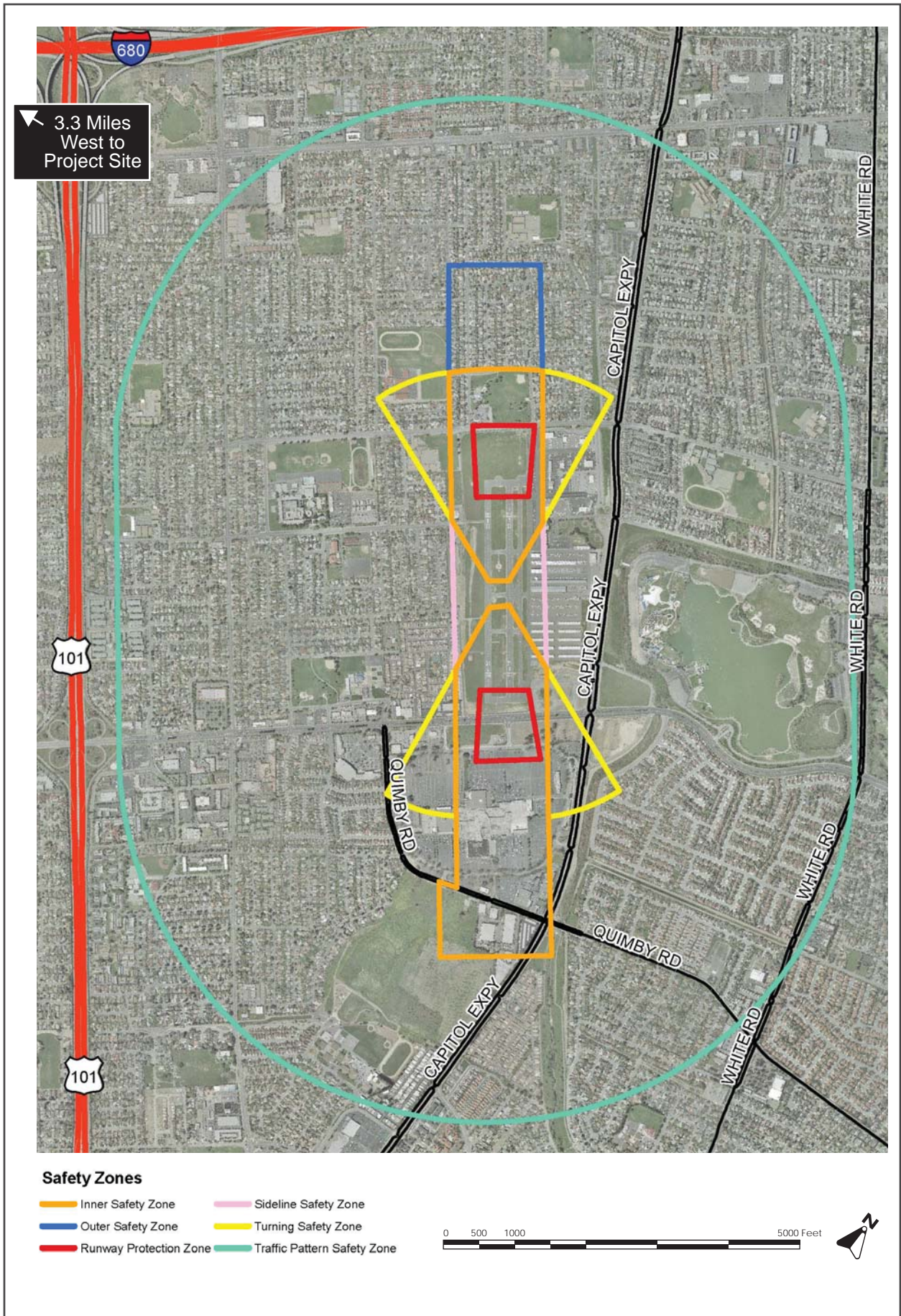
AIRPORT CLEAR ZONES

FIGURE 4.1-1



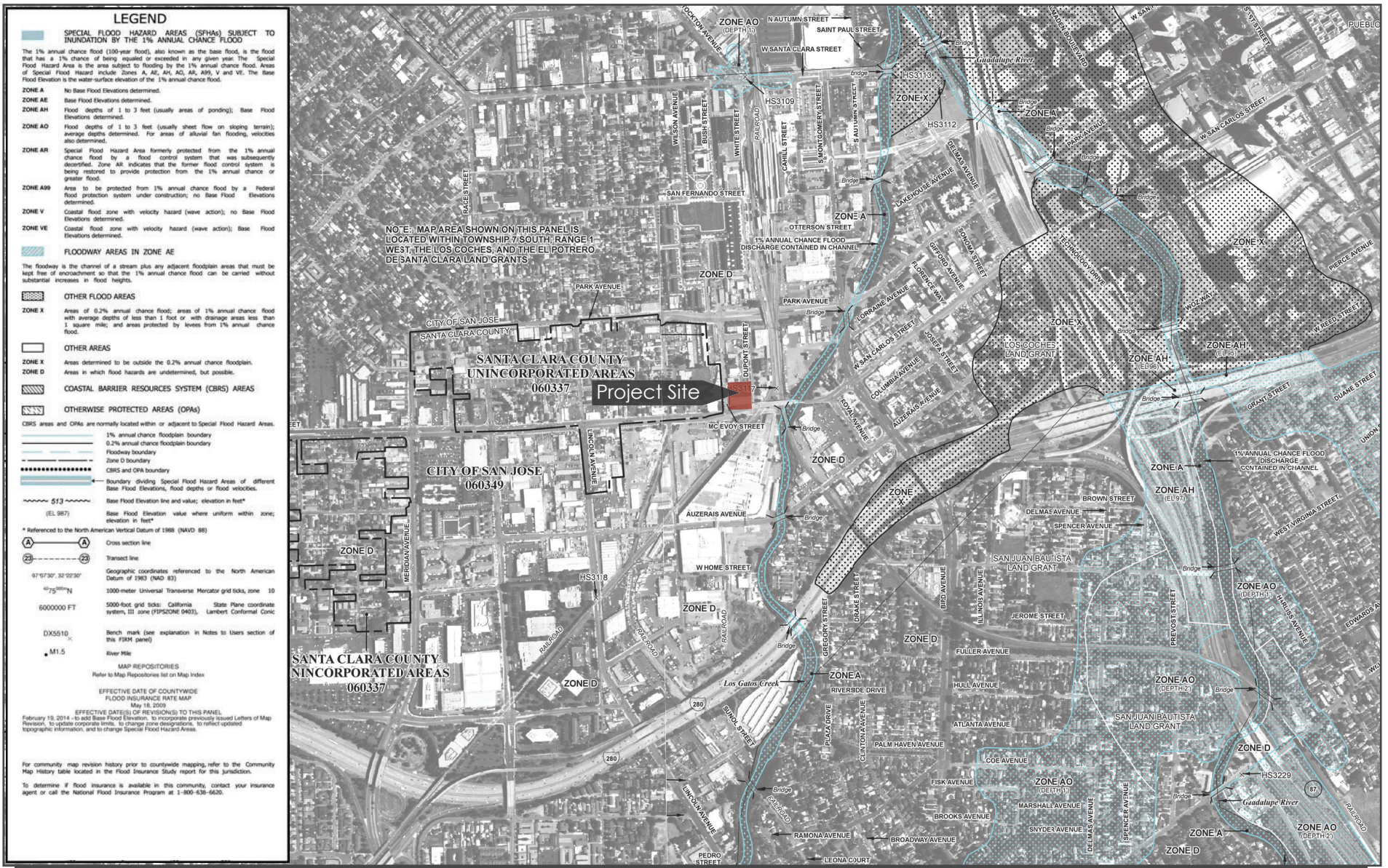
SAN JOSE INTERNATIONAL AIRPORT SAFETY ZONES

FIGURE 5.1-2



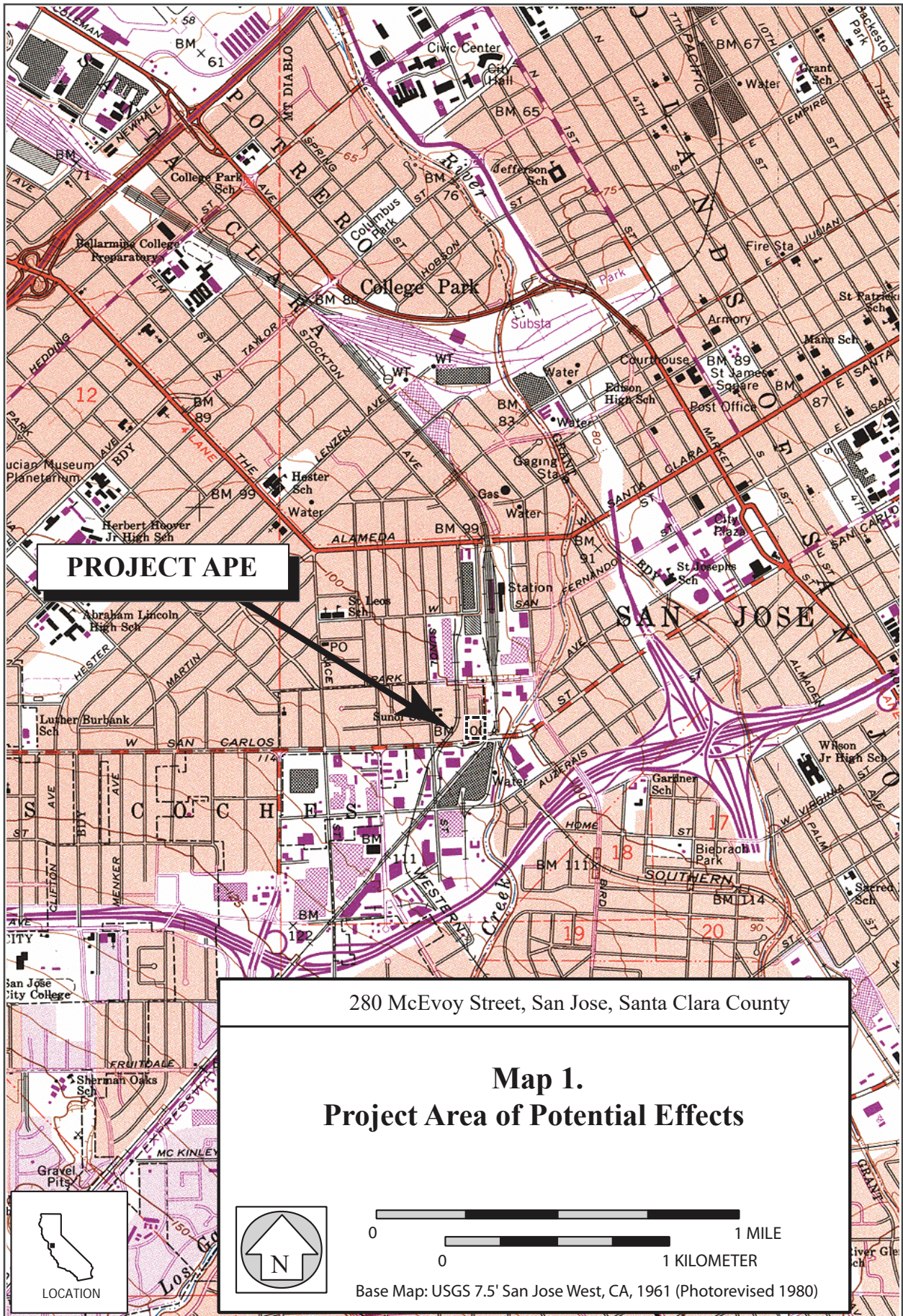
REID-HILLVIEW AIRPORT SAFETY ZONES

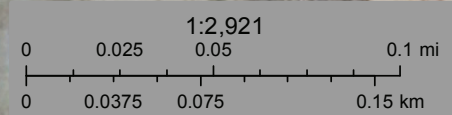
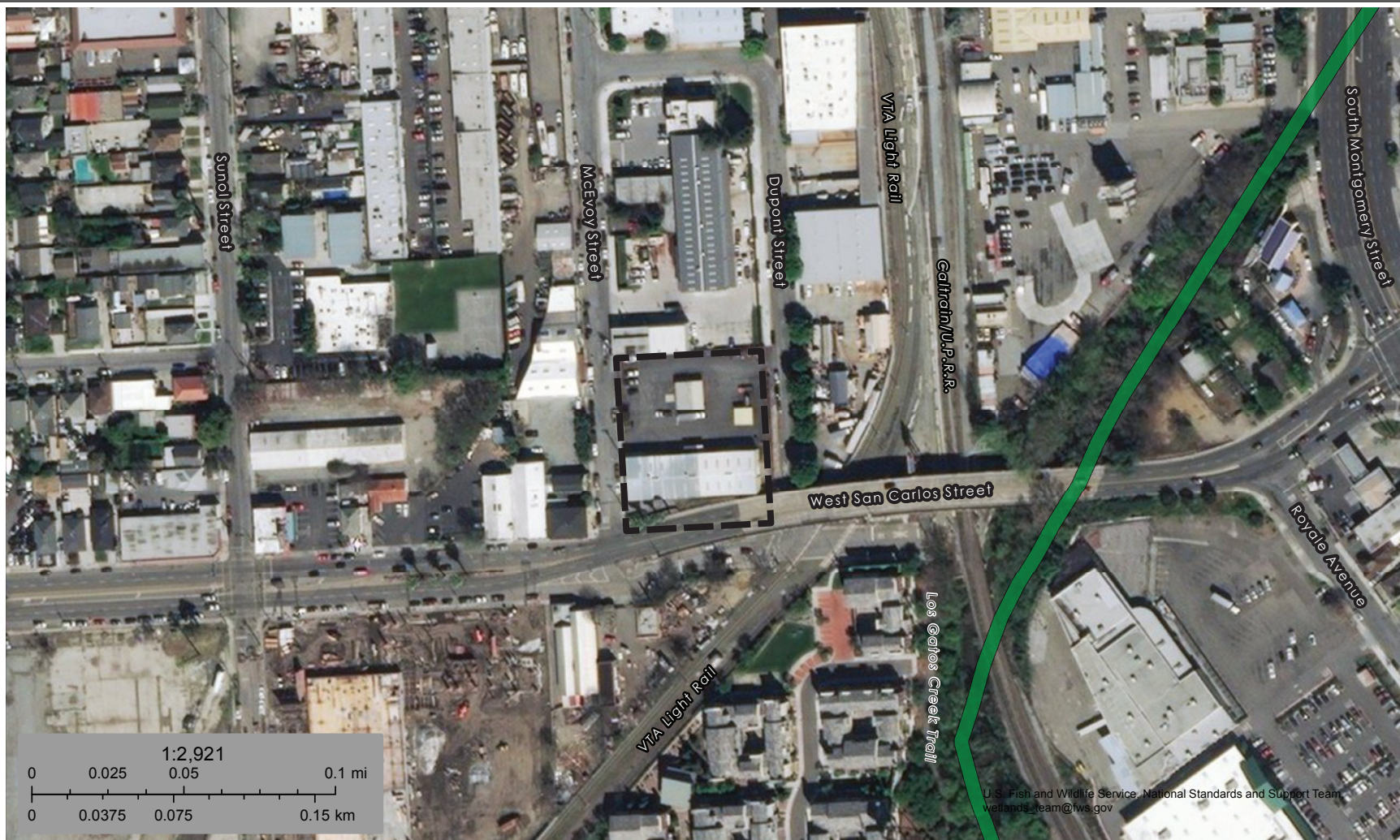
FIGURE 5.1-3



FEMA FLOOD INSURANCE RATE MAP

FIGURE 5.1-4





- | | | |
|--------------------------------|-----------------------------------|----------|
| Project Site | Freshwater Emergent Wetland | Lake |
| Estuarine and Marine Deepwater | Freshwater Forested/Shrub Wetland | Other |
| Estuarine and Marine Wetland | Freshwater Pond | Riverine |

U.S. Fish and Wildlife Service, National Standards and Support Team
 wetlands_team@fws.gov

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

5.2 ENVIRONMENTAL ASSESSMENT FACTORS [24 CFR 58.40; REF. 40 CFR 1508.8 &1508.27]

Recorded below is the qualitative and quantitative significance of the effects of the proposal on the character, features, and resources of the project area. Each factor has been evaluated and documented, as appropriate and in proportion to its relevance to the proposed action. Verifiable source documentation has been provided and described in support of each determination, as appropriate. Credible, traceable and supportive source consultations have been completed and applicable permits of approvals have been obtained or noted. Citations, dates/names/titles of contacts, and page references are clear. Additional documentation is attached, as appropriate. **All conditions, attenuation or mitigation measures have been clearly identified.**

Impact Codes: The following codes are used to make the determination of impact for each factor.

- (1) Minor beneficial impact
- (2) No impact anticipated
- (3) Minor Adverse Impact – May require mitigation
- (4) Significant or potentially significant impact requiring avoidance or modification which may require an Environmental Impact Statement

Environmental Assessment Factor	Impact Code	Impact Evaluation
LAND DEVELOPMENT		
Conformance with Plans / Compatible Land Use and Zoning / Scale and Urban Design	2	<p>The project site currently has a land designation of <i>Mixed Use Commercial (MUC)</i> and is zoned <i>Heavy Industrial (HI)</i>. The project would require a General Plan Amendment to <i>Transit Residential (TR)</i> and a rezoning to <i>Multiple Residence (R-M)</i>. The proposed <i>Transit Residential</i> land use designation was analyzed under the Diridon Station Area Plan (DSAP) Program Environmental Impact Report (PEIR), but has not been adopted by the San José City Council.</p> <p>The project would apply for a density bonus consistent with the State Density Bonus Law to allow development of up to 365 dwelling units on the site. With the density bonus, the proposed project would be consistent with the permitted land uses under the Diridon Station Area Plan land use designation. Building height, landscaping, and parking requirements are subject to design review consistent with the City’s Residential Design Guidelines.</p> <p>Surrounding lands uses included residential, industrial, and commercial uses and would not conflict with the proposed residential development.</p> <p>[Source: (2)]</p>

<p>Soil Suitability/ Slope/ Erosion/ Drainage/ Storm Water Runoff</p>	<p>3</p>	<p style="text-align: center;"><i>Soil Suitability/Slope/Erosion</i></p> <p>The project site is located in a relatively flat area of San José. The site is underlain by the Santa Clara Valley alluvial basin.</p> <p>The project site is not located in a California Geological Survey Fault Rapture or Landslide Hazard Zone. The site is located in a Liquefaction Hazard Zone. There is no known history of liquefaction-induced damage at the site. As discussed in <i>Section 6.0, Mitigation Measures and Conditions</i>, liquefaction control measures would be incorporated into the building foundation design.</p> <p>Expansive soils are common in the region. The San José Department of Public Works would review development plans for conformance with City and State standard engineering practices. A Geotechnical Engineer would oversee all aspects of site grading, and measures would be incorporated to stabilize the subgrade during grading work.</p> <p>[Source: (21)]</p> <p style="text-align: center;"><i>Drainage/Stormwater Runoff</i></p> <p>The project site is not located in an area of high erosion potential; however, development of the proposed project would include grading activities that may result in a temporary increase in erosion. Because less than one acre of soil would be disturbed, the project would not be required to comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for Construction Activities. The project would incorporate Best Management Practices to reduce the potential for erosion during construction, and would comply with the City’s erosion control policies.</p> <p>The project would decrease the site’s impervious surface area, decreasing runoff that could result in erosion or siltation on- or off-site. Post-construction, the proposed project would not alter the existing drainage pattern of the site or area. Because the project would create and/or replace more than 10,000 square feet of impervious surfaces, the City of San José requires that post-construction measures are undertaken that comply with the requirements of the NPDES Municipal Regional Stormwater permit, and the project</p>
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		<p>includes a post-construction stormwater control plan to manage and treat stormwater.</p> <p>[Source: (2)]</p>
Hazards and Nuisances including Site Safety and Noise	3	<p>The project would not create a risk of explosion, release of hazardous substances or other dangers to public health.</p> <p>Mitigation measures and Standard Permit Conditions have been incorporated into the project to reduce potential impacts related to hazardous materials and noise impacts, as noted in <i>Section 6.0, Mitigation Measures and Conditions</i>.</p> <p style="text-align: center;"><i>Seismicity</i></p> <p>The project site is located in the San Francisco Bay Area, which is considered one of the most seismically active regions in the United States. The project site is located in a Liquefaction Hazard Zone.</p> <p>The project site could experience strong seismic ground shaking and related effects in the event of an earthquake on one of the identified active or potentially active faults in the region. Required project compliance with the latest California Building Code requirements for new construction would reduce the associated risk of property loss and hazards to occupants to a less than significant level. The project would also be constructed in conformance with the California Building Code for Seismic Zone 4 to avoid and minimize potential damage from seismic ground shaking.</p> <p>[Source: (21)]</p> <p style="text-align: center;"><i>Noise</i></p> <p>The primary permanent, ongoing noise anticipated at the project site is traffic on West San Carlos Street. Truck loading and traffic noise associated with the proposed project would not have a long-term significant effect. Mechanical equipment installed by the project could exceed General Plan noise level requirements. The project includes a Standard Permit Condition (see <i>Section 6.0, Mitigation Measures and Conditions</i>) requiring selection and design of mechanical equipment that meets City requirements.</p> <p>The project may result in temporary noise and groundborne vibration from construction. The project includes construction mitigation measures and Standard Permit</p>

		<p>Conditions (see <i>Section 6.0, Mitigation Measures and Conditions</i>) to minimize construction noise and vibration impacts on surrounding sensitive noise receptors. Therefore, the project complies with the HUD noise abatement and control regulations of 24 CFR 51B.</p> <p>[Source: Appendix G]</p>
Energy Consumption	2	<p>The new development would not represent a wasteful use of energy. The project would be required to comply with applicable building energy efficiency standards pursuant to Title 24, Part 6 of the California Code of Regulations. At the building permit stage, the project would comply with 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. The building would feature Leadership in Energy and Environmental Design (LEED) Platinum green building design and solar water heating, and would include WeGo Wise water and energy monitoring and efficient fixtures and appliances.</p> <p>[Source: (16)]</p>

Environmental Assessment Factor	Impact Code	Impact Evaluation
SOCIOECONOMIC		
Employment and Income Patterns	2	<p>The median household income in the project site's census tract is \$50,466. Approximately 9.6 percent of households earned less than \$10,000, 7.2 percent between \$10,000 and \$14,999, 15.8 percent between \$15,000 and \$24,999, 2.5 percent between \$25,000 and \$34,999, 14.0 percent between \$34,999 and \$49,999, and 20.8 percent between \$50,000 and \$74,999. The project would increase the availability of low-income housing for the residents of San José and Santa Clara County, where such housing is in high demand. No significant change to the demographic character of the neighborhood is expected because of the project, as it is intended to serve the existing population.</p> <p>[Source: (55)]</p>
Demographic Character Changes, Displacement	1	<p>The project would provide affordable housing designed to accommodate the unmet needs of the low-income population of San José and Santa Clara County. The project does not represent a significant change to the demographics</p>

		of the area or on area social services as it is intended to serve the existing population. [Source: (1)]
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Environmental Assessment Factor	Impact Code	Impact Evaluation
COMMUNITY FACILITIES AND SERVICES		
Educational and Cultural Facilities	2	<p>The proposed 365 units of affordable housing are not anticipated to have impacts on education or cultural facilities since the project is designed for low-income residents of the County of Santa Clara.</p> <p>In accordance with California Government Code Section 65996, the developer shall pay a school impact fee to the San José Unified School District to offset potential increased demands on school facilities.</p> <p>The project would not displace existing cultural facilities nor would it affect cultural facilities by its operation.</p> <p>[Source: (1)]</p>
Commercial Facilities	2	<p>The proposed 365 units of affordable housing are not anticipated to have impacts to commercial facilities. The project is located in an urban area within proximity to shopping and commercial opportunities.</p> <p>[Source: (2)]</p>
Health Care and Social Services	2	<p>The proposed 365 units of affordable housing would provide housing opportunities for low-income residents in San José and Santa Clara County. The project is located within ten miles of four major hospitals: O'Connor Hospital, the Santa Clara Valley Medical Center, the Kaiser Medical Center, and Good Samaritan Hospital. There are numerous smaller clinics, medical facilities, and convalescent hospitals located nearby.</p> <p>Within the project site's census tract, there are 1,213 total households, of which 318 (26 percent) are living in poverty. The project would provide affordable housing designed to accommodate the unmet needs of the census tract population. The project does not represent a significant change to the demographics of the area or on area social services, as it is intended to serve the existing population.</p> <p>[Source: (56)]</p>

Solid Waste Disposal / Recycling	2	<p>The proposed 365 units of affordable housing are not anticipated to have impacts to solid waste disposal/recycling facilities. The project would result in an incremental increase in solid waste disposal; however, the project is subject to City of San José development fees to accommodate the incremental demand on services.</p> <p>[Source: (2)]</p>
Waste Water / Sanitary Sewers	2	<p>The proposed 365 units of affordable housing are not anticipated to have impacts to waste water/sanitary sewer services. The project would result in an incremental increase in waste water and sanitary sewer services. The proposed development is estimated to generate 55,381 gallons of wastewater per day. The project is subject to City of San José development fees to accommodate the incremental demand on wastewater and sanitary sewer services. There is available wastewater treatment capacity to serve the proposed project.</p> <p>[Source: (43)]</p>
Water Supply	2	<p>The proposed 365 units of affordable housing are not anticipated to have impacts to the water supply. The project would result in an incremental increase in water consumption. The proposed development is estimated to use 106,229 gallons of water per day for potable water and irrigation requirements, an increase of 95,839 gallons per day over the existing use.</p> <p>The project site is served by the San José Water Company. Development of the proposed project would contribute to total demand for San José Water Company and Santa Clara Valley Water District water supplies. The project would incorporate water conservation measures including drought-tolerant landscaping, low-flow fixtures, and WeGo Wise water monitoring. Implementation of these water conservation and efficiency measures would reduce the project's water demand.</p> <p>[Source: (16), (46)]</p>
Public Safety - Police, Fire and Emergency Medical	2	<p>The proposed 365 units of affordable housing are not anticipated to have impacts on police, fire, or medical services.</p> <p>Public services are generally provided to the community as a whole and financed on a community-wide basis. The proposed affordable housing project is located on a developed site in an urban area that is currently served by</p>

		<p>municipal providers. The project would result in an incremental increase in the demand for public services. The project is subject to City of San José development fees to accommodate the incremental demand for services. The project would not require a significant change in emergency police, fire, and medical services already provided in the area.</p> <p>[Source: (1)]</p>
Parks, Open Space and Recreation	2	<p>The proposed 365 units of affordable housing are not anticipated to have impacts on parks, open space, or recreation. The project is located 0.2 mile north of Del Monte Park and approximately 230 feet northwest of the Los Gatos Creek Trail. The project would result in an incremental increase in demand to existing parks and recreational facilities. The project is subject to City of San José development fees to accommodate the incremental demand.</p> <p>The project would be required to pay fees consistent with the Parkland Dedication Ordinance. These fees would be used to improve existing parkland and recreational facilities.</p> <p>[Source: (2), (40)]</p>
Transportation and Accessibility	2	<p>Based on a traffic analysis completed for the project by Hexagon Transportation Consultants in December 2018, the project would generate VMT per capita of 6.90 miles daily, below applicable jurisdictional VMT standards (see Appendix H).</p> <p>The project site is located within a walking distance of 0.4 mile from the Diridon Transit Center, which provides connections between local and regional bus routes, light rail lines, and commuter rail lines. The project area is adequately served by pedestrian and bicycle facilities.</p> <p>[Source: (41)]</p>

Environmental Assessment Factor	Impact Code	Impact Evaluation
NATURAL FEATURES		
Unique Natural Features, Water Resources	2	The proposed 365 units of affordable housing would be located on an infill lot, which is currently developed and surrounded by residential, industrial, and commercial development. The project would not impact unique natural features or water resources. There are no surface waters on

		<p>or adjacent to the project site. Los Gatos Creek is approximately 290 feet to the southeast and would be unaffected by the project.</p> <p>The project would be served by the San José Water Company. The project would have an incremental increase in water consumption, estimated to be approximately 100,496 gallons per day. As described above, the project would incorporate water conservation and efficiency measures to reduce water demand. There would be adequate water supply to serve the project.</p> <p>[Source: (16)]</p>
Vegetation, Wildlife	3	<p>The project site is located on an infill lot, currently developed, in an urban area. Surrounding uses include residential, industrial, and commercial development. The project would not impact natural habitat containing endangered species or any designated or proposed critical habitat. The project would remove up to four existing trees that would be replaced in accordance with the City of San José replacement ratios.</p> <p>In compliance with the Migratory Bird Treaty Act and the California Fish and Game Code, the proposed project would implement mitigation measures (see <i>Section 6.0, Mitigation Measures and Conditions</i>), including avoiding the nesting season, completing pre-construction nesting bird surveys, designating buffer zones around identified nests, and reporting findings. These measures would reduce or avoid construction-related impacts to nesting raptors and their nests, if construction cannot be scheduled between September and January (inclusive) to avoid the nesting season.</p> <p>[Source: (14), (15)]</p>
Other Factors	1	<p>New construction of the apartment building would provide safe living conditions for low-income residents by meeting fire, life safety, and ADA codes.</p> <p>[Source: (2), (3)]</p>

5.3 ADDITIONAL STUDIES PERFORMED

- Appendix A: Air Quality Assessment
- Appendix B: Arborist Tree Report
- Appendix C: Historic Resources Survey and Report
- Appendix D: Geotechnical Investigation
- Appendix E: Phase I Environmental Site Assessment
- Appendix F: Phase II Groundwater and Soil Vapor Investigation
- Appendix G: Noise and Vibration Assessment
- Appendix H: Transportation Analysis
- Appendix I: List of Threatened and Endangered Species
- Appendix J: Explosive and Fire Hazards Review

5.4 FIELD INSPECTION (DATE AND COMPLETED BY)

April 3, 2018

David J. Powers & Associates, Inc.

Hannah Darst, Associate Project Manager

5.5 LIST OF PERMITS OBTAINED

The project proposes the following Development Approval as listed below:

- General Plan Amendment to change the land use designation from *Mixed Use Commercial* to *Transit Residential*
- Conforming Rezoning from *Heavy Industrial (HI) Zoning* District to *Multiple Residence (R-M) Zoning* District
- Special Use Permit for development of the proposed project
- Tentative Map Permit
- Tree Removal Permit

5.6 PUBLIC OUTREACH [24 CFR 50.23 & 58.43]

The proposed project will be the subject of community meetings and notified public hearings before the Planning Director. The environmental review determinations in this document will be provided for public review and comment in accordance with CEQA and NEPA requirements, respectively. The environmental decision may be appealed to the City Council of the City of San José.

A community meeting for the project was held on April 18, 2019 at Westminster Presbyterian Church, located at 1100 Shasta Avenue in San José.

5.7 CUMULATIVE IMPACT ANALYSIS [24 CFR 58.23]

The potential environmental impacts from the proposed project are primarily short-term impacts associated with the construction of the affordable apartment building. The project applicant would be required to submit a Construction Haul Plan to the City for approval prior to starting construction. As part of that approval process, City staff would take into account other projects that may be occurring in the area and would require that the applicant work with other contractors to schedule and distribute

traffic routes to minimize impacts. It is possible that other proposed construction schedules in the project area may overlap with the project, but the overlap is likely to be minimal, and the proposed project includes mitigation measures to limit disturbance to adjacent land uses and would not result in cumulatively considerable impacts.

5.8 ALTERNATIVES [24 CFR 58.40(E), REF. 40 CFR 1508.9]

This alternatives analysis is included to fulfill the requirements for an Environmental Assessment under NEPA. Under NEPA, an Environmental Assessment shall include alternatives discussed at an equal level of review. No development alternatives to the proposed project have been identified or considered, because the proposed action would not result in any significant unavoidable impacts. For the proposed project, the No Action Alternative was included.

5.9 NO ACTION ALTERNATIVE [24 CFR 58.40(E)]

The No Action Alternative would not construct a 365-unit affordable housing project in the City of San José. The property is zoned *Heavy Industrial (HI)* and is currently developed with industrial uses. The No Action Alternative consists of leaving the site in its current condition. Under this alternative, both the potentially beneficial and adverse effects of the proposed action would not occur. Adverse effects of the project that would not occur include exposure of persons to elevated ambient noise and vibration levels, construction noise, air quality, and water quality impacts, potential disturbance of nesting raptors through tree removal, and exposure of persons to hazardous materials. It should be noted, however, that these adverse effects would be less than significant with the mitigation measures included in the project.

If the proposed project is not constructed, it is likely that the site would continue to operate under the existing *Mixed Use Commercial (MUC)* land use and *Heavy Industrial (HI)* Zoning District until eventual redevelopment consistent with the Diridon Station Area Plan. Future development of market-rate residential uses would have similar environmental effects as the proposed action. However, development of market-rate residential uses would not meet the project's goal of providing affordable housing for low income persons and families in the City of San José.

The No Action Alternative would not meet the goals and objectives of the proposed action which are to provide affordable rental housing on the project site in a manner that is consistent with the goals and plans of the City of San José and is compatible with the surrounding land uses.

5.10 SUMMARY OF FINDINGS AND CONCLUSIONS

- The proposed project would be compatible with existing and planned future land uses in the vicinity of the project site.
- The proposed project would provide affordable housing in the City of San José where affordable housing options are in high demand.
- The proposed project would comply with all statutory regulations pertaining to environmental issues.
- The proposed project could result in adverse long-term environmental effects with regard to noise. Standard Permit Conditions have been incorporated into the project that would minimize or avoid these long-term impacts.

- The proposed project could result in short-term (i.e., construction-related) environmental effects with regard to air quality, biological resources, cultural resources, hazardous materials, and noise. Mitigation measures and Standard Permit Conditions have been incorporated into the project that would minimize or avoid these short-term impacts.

SECTION 6.0 MITIGATION MEASURES AND CONDITIONS [40 CFR 1505.2(C)]

Pursuant to 40 CFR 1505.2(c), the following summary includes all mitigation measures adopted by the Responsible Entity to reduce, avoid, or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. The staff responsible for implementing and monitoring mitigation measures are identified in the mitigation plan. These mitigation measures must be incorporated into project contracts, development agreements, and other relevant documents.

Law, Authority, or Factor	Mitigation Measure
Clean Air Measures	<p><u>Exhaust emissions reduction:</u> 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 to the Director of Planning, Building and Code Enforcement or the Director’s designee. The plan shall demonstrate that the off-road equipment used on-site to construct the project would achieve a fleet-wide average 70 percent reduction in PM₁₀ exhaust emissions (assumed to be diesel particulate matter) or more. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth in these mitigation measures. Feasible methods to achieve this reduction would include the following:</p> <ul style="list-style-type: none"> • All mobile diesel-powered off-road equipment larger than 25 horsepower and operating on the site for more than two days continuously shall meet, at a minimum, USEPA particulate matter emissions standards for Tier 4 engines or equivalent. • The use of equipment that includes Tier 2 engines and California Air Resources Board (CARB)-certified Level 3 Diesel Particulate Filters (DPF), or alternatively-fueled equipment (i.e., non-diesel) would meet this requirement. <p>In addition, the proposed action shall implement the following permit conditions:</p> <p><u>Standard Permit Condition:</u> The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:</p> <ul style="list-style-type: none"> • 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.

	<ul style="list-style-type: none"> • 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 five minutes (as required by the California airborne toxics control measures Title 13, Section 2485 of the California Code of Regulations). Provide clear signage for construction workers at all access points. • Maintain and properly 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.
Historic Preservation	<p>Preliminary Investigation: Once the site has been cleared, a qualified archaeologist shall complete mechanical trenching to explore for buried historical and Native American resources. Trenching depths shall be consistent with the depths and range of excavation proposed, and the stratigraphy of the parcel. This investigation shall be completed prior to any construction or other ground disturbing activities required as part of the project. The results of the presence/absence exploration shall be submitted to the Director of Planning, Building and Code Enforcement or the Director’s designee and the City’s Historic Preservation Officer for review and approval prior to issuance of any grading permit. Based on the findings of the presence/absence exploration, an archaeological resources treatment plan (as described below) shall be prepared by a qualified archaeologist, if necessary.</p> <p>Treatment Plan: If required by the presence/absence exploration, the project applicant shall retain a qualified archaeologist to prepare a treatment plan that reflects the permit-level detail pertaining to depths and locations of all ground disturbing activities. The treatment plan shall be prepared and submitted to the Director of Planning, Building and Code Enforcement or the Director’s designee and the City’s Historic Preservation Officer prior to approval of any grading permit. The treatment plan shall contain, at a minimum:</p> <ul style="list-style-type: none"> • Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations.

	<ul style="list-style-type: none"> • Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found). • Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information). • Detailed field strategy to record, recover, or avoid the finds and address research goals. • Analytical methods. • Report structure and outline of document contents. • Disposition of the artifacts. • Appendices: all site records, correspondence, and consultation with Native Americans, etc. <p>Implementation of the plan, by a qualified archaeologist, shall be required prior to the issuance of any grading permits. The treatment plan shall utilize data recovery methods to reduce impacts on subsurface resources.</p> <p>In addition, the proposed action shall implement the following permit conditions:</p> <p><u>Standard Permit Condition:</u> The project shall implement the following condition to reduce the impacts to subsurface cultural resources:</p> <ul style="list-style-type: none"> • If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement or the Director’s designee and the City’s Historic Preservation Officer shall be notified, and a qualified archaeologist shall examine the find. The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and 2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to the Director of Planning, Building and Code Enforcement or the Director’s designee and the City’s Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials. The project applicant shall implement the recommendations of the qualified archaeologist.
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Standard Permit Condition: The following measures shall be applied to the project to reduce and/or avoid impacts to human remains:

- If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement or the Director's designee and the qualified archaeologist, who shall 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 Native American Heritage Commission (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.

Standard Permit Condition: The following measures shall be applied to development of the project site to reduce and/or avoid impacts to paleontological resources:

- If vertebrate fossils are discovered during construction, all work on the site shall stop immediately until a qualified professional paleontologist can assess the nature and importance of the find and recommend appropriate treatment. Treatment may include preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection, and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for submitting the paleontologist's report to the City's Director of Planning, Building and Code Enforcement or the Director's designee, and implementing the recommendations of the qualified professional paleontologist. The applicant shall submit

	<p>a report to the City’s Director of Planning, Building and Code Enforcement or the Director’s designee indicating how the paleontologist’s recommendations were complied with as soon as all measures have been incorporated into the project.</p>
<p>Soil Suitability /Slope /Erosion /Drainage/Storm Water Runoff</p>	<p>No formal mitigation measures are required for soil suitability, slope, erosion, drainage, or stormwater runoff impacts. However, the proposed action shall implement the following permit conditions:</p> <p>Standard Permit Condition: To avoid or minimize potential damage from seismic shaking, the project shall be built using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes, including the 2016 California Building Code Chapter 16, Section 1613, as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on-site and off-site to the extent feasible and in compliance with the Building Code.</p> <ul style="list-style-type: none"> • All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized. • Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting. • Ditches shall be installed to divert runoff around excavations and graded areas if necessary. • The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site. <p>Standard Permit Conditions: The following measures shall be applied to development of the project site to reduce and/or avoid erosion and loss of topsoil:</p> <ul style="list-style-type: none"> • All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized. • Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting. • Ditches shall be installed to divert runoff around excavations and graded areas if necessary.

	<p><u>Standard Permit Condition:</u> The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices will ensure that the future building on the site is designed to properly account for soils-related hazards on the site.</p> <p><u>Standard Permit Conditions:</u> Best Management Practices to prevent stormwater pollution and minimize potential sedimentation shall be applied to project construction, including but not limited to the following:</p> <ul style="list-style-type: none"> • 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.
<p>Contamination and Toxic Substances Measures</p>	<p><u>Site Management Plan:</u> A Site Management Plan (SMP) or similar document shall be prepared to manage the cleanup of potential contamination. The SMP shall be prepared prior to construction to reduce or eliminate exposure risk to human health and the environment, specifically, potential risks associated with the presence of contaminated soils, and shall include the following:</p> <ul style="list-style-type: none"> • A detailed discussion of the site background; • Management of stockpiles, including sampling, disposal, and dust and runoff control including implementation of a stormwater pollution prevention program;

- Procedures to follow if evidence of an unknown historic release of hazardous materials is discovered during excavation or demolition; and
- A health and safety plan (HSP) for each contractor working at the site, in an area below grade, that addresses the safety and health hazards of each site operation phase, including the requirements and procedures for employee protection. The HSP shall outline proper soil handling procedures and health and safety requirements to minimize work and public exposure to hazardous materials during construction.

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

Soil Sampling: Prior to beginning development, including excavation and/or grading, shallow soil samples shall be taken in the near surface soil in areas of historic railroad activity, including rail lines, that occur in the proposed project area. Soil samples will be tested for arsenic, lead, California Heavy Metals Test (CAM) 17 metals, VOCs, TPHs, polynuclear aromatic hydrocarbons (PAHs), and polychlorinated biphenyls (PCBs) to determine if soil contamination from previous historic railroad activity is above established construction worker safety and residential environmental screening levels. The results of soil sampling and testing shall be provided to the Director of Planning, Building and Code Enforcement or the Director’s designee and the Environmental Compliance Officer of the City of San José for review.

Regulatory Oversight: If contaminated soils are found in concentrations above regulatory thresholds, the applicant shall obtain regulatory oversight from SCCDEH (or Department of Toxic Substances Control [DTSC]) under their Voluntary Cleanup Program. The SCCDEH or DTSC will determine which documents are required, such as an SMP, Removal Action Plan (RAP), or equivalent document which must be prepared by a qualified hazardous materials consultant. The plan must establish remedial measures and/or soil management practices to ensure construction worker safety and the health and safety of future workers and residents. The Plan and evidence of regulatory oversight shall be provided to the Director of Planning, Building and Code Enforcement or the Director’s designee and the Environmental Compliance Officer of the City of San José.

In addition, the proposed action shall implement the following permit conditions:

	<p>Standard Permit Condition: The project shall implement the following condition to reduce impacts related to lead-based paint and asbestos:</p> <ul style="list-style-type: none"> • In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be constructed prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials and/or lead-based paint. • During demolition activities, all building materials containing lead-based paint shall be removed in accordance with California Division of Occupational Safety and Health (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. <ul style="list-style-type: none"> ○ 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.
Noise Abatement and Control Measures	<p>Equipment Selection and Use: The project applicant shall implement the following controls to reduce vibration impacts from construction activities:</p>

- Avoid impact pile driving where possible. Drilled piers or rammed aggregate piers cause lower vibration levels where geological conditions permit their use.
- Where possible, prohibit operation of earth-moving equipment or other heavy vibration-generating equipment within distances of 25 feet of adjacent structures.
- Phase demolition, earth-moving, and ground impacting operations so as not to occur during the same time period.
- A list of all heavy construction equipment to be used for this project and anticipated time duration of using the equipment that is known to produce high vibration levels (clam shovel drops, vibratory rollers, tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.) shall be submitted to the City by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort for reducing vibration levels below the thresholds.
- Place operating equipment on the construction site as far as possible from vibration-sensitive receptors. Prohibit the use of heavy vibration-generating construction equipment, such as vibratory rollers or excavation using clam shell or chisel drops, within 30 feet of any adjacent building.
- Use smaller equipment to minimize vibration levels below the limits.
- Avoid using vibratory rollers and tampers near sensitive areas.
- Select demolition methods not involving impact tools.
- Modify/design or identify alternative construction methods to reduce vibration levels below the limits.
- Avoid dropping heavy objects or materials.
- If pile driving is required, notify neighbors within 500 feet of the construction site of the construction schedule and that there could be noticeable vibration levels resulting from pile driving.
- If pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
- If pile driving is required, jet or partially jet piles into place to minimize the number of impacts required to seat the pile.

Vibration Monitoring Plan: The project applicant shall implement the following controls to identify and monitor construction vibration:

- Implement a construction vibration monitoring plan to document conditions at all structures located within 125 feet of construction prior to, during, and after pile driving. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. The construction vibration monitoring plan shall be implemented to include the following tasks:

	<ul style="list-style-type: none"> ○ Identification of sensitivity to groundborne vibration of nearby structures. Vibration limits shall be applied to all vibration-sensitive structures located within 300 feet of any pile driving activities and 75 feet of other construction activities identified as sources of high vibration levels. ○ Performance of a photo survey, elevation survey, and crack monitoring survey for each structure of normal construction within 125 feet of pile driving activities and/or within 25 feet of other construction activities identified as sources of high vibration levels. Surveys shall be completed prior to any pile driving activity, in regular intervals during pile driving, and after completion, and shall include internal and external crack monitoring in structures, settlement, and distress and shall document the condition of all foundations, walls, and other structural elements in the interior and exterior of said structures. ○ Development of a vibration monitoring and construction contingency plan to identify structures where monitoring would be completed, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to complete photo, elevation, and crack surveys to document conditions before and after pile driving. Alternative construction methods shall be identified for when vibration levels approach the limits. ○ At a minimum, vibration monitoring shall be completed during pavement demolition, excavation, and pile driving activities. Monitoring results may indicate the need for more or less intensive measurements. ○ If vibration levels approach limits (0.2 inch per second PPV), suspend construction and implement contingencies to either lower vibration levels or secure the affected structure. ○ Complete post-construction surveys on structures where either monitoring has indicated high vibration levels or complaints of damage have been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities. ○ The results of all vibration monitoring shall be summarized and submitted in a report shortly after substantial completion of each phase identified in the project schedule. The report will include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration monitoring locations. An explanation of all events that exceeded vibration limits will be included together with proper documentation supporting any such claims. ○ Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site. <p>In addition, the proposed action shall implement the following permit conditions:</p>
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Standard Permit Condition: The project applicant shall implement the following Standard Permit Condition to reduce mechanical equipment noise.

- Prior to the issuance of a building permit, mechanical equipment shall be selected and designed to reduce impacts on surrounding uses to meet the City’s requirements. A qualified acoustical consultant shall be retained by the project applicant to review mechanical noise as the equipment systems are selected in order to determine specific noise reduction measures necessary to reduce noise to comply with the City’s noise limits at the shared property lines of 55 dBA at receiving noise-sensitive land uses and 60 dBA at receiving commercial land uses. Noise reduction measures could include, but are not limited to, selection of equipment that emits low noise levels, installation of acoustical louvers and mufflers, and the construction of acoustical enclosures. The acoustical consultant’s report shall be provided to the Director of Planning, Building and Code Enforcement or the Director’s designee for approval prior to the issuance of a building permit.

Standard Permit Conditions: The project applicant shall implement the following Standard Permit Conditions to minimize the impacts of construction-generated noise.

- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Prohibit unnecessary idling of internal combustion engines.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent businesses, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.
- If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.

	<ul style="list-style-type: none"> • Designate a “disturbance coordinator” who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule. • Limit construction to the hours of 7:00 AM to 7:00 PM Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific “construction noise mitigation plan” and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses. <p><u>Permit Condition:</u> The following condition shall be implemented by the project applicant:</p> <ul style="list-style-type: none"> • When refining the project’s site plan, locate common outdoor areas away from adjacent noise sources and continue to shield noise-sensitive outdoor spaces with buildings or noise barriers where feasible. Courtyard noise levels shall be reduced to 60 dBA DNL. <p><u>Condition of Approval:</u> The project applicant shall be required to implement the following:</p> <ul style="list-style-type: none"> • The project applicant shall prepare final design plans that incorporate building design and acoustical treatments to ensure compliance with State Building Codes and City noise standards. A project-specific acoustical analysis shall be prepared to ensure that the design incorporates controls to reduce interior noise levels to 45 dBA DNL or lower within the residential unit. The project applicant shall conform with any special building construction techniques requested by the City’s Building Department, which may include sound-rated windows and doors, sound-rated wall constructions, and acoustical caulking.
Vegetation, Wildlife Measures	<p><u>Avoidance:</u> 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 30th (inclusive), as amended.</p> <p><u>Nesting Bird Surveys:</u> If it is not possible to schedule demolition and construction between September 1 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. The plan for conducting pre-</p>

construction surveys shall be prepared by a qualified ornithologist and submitted to the Director of Planning, Building and Code Enforcement or the Director’s designee prior to issuance of a grading permit. 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 30th inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.

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.

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

In addition, the proposed action shall implement the following permit conditions:

Standard Permit Condition: The trees removed by the proposed project would be replaced according to tree replacement ratios required by the City, as provided in Table 6.0-1 below.

Table 6.0-1: 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 container
19 – 38 inches	3:1	2:1	None	15-gallon container
Less than 19 inches	1:1	1:1	None	15-gallon container

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.

	<p>A 38-inch tree is 12.1 inches in diameter. One 24-inch box tree = two 15-gallon trees.</p> <ul style="list-style-type: none"> The species of trees to be planted shall be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement. If replacement trees cannot be fully planted on the subject project site, the project proponents shall make payment to the City for funding to plant any additional trees within the City boundary prior to the issuance of any building permits. These funds will be used for tree planting and maintenance of planted trees for approximately three years. The project proponent shall provide the payment receipt for “off-site tree planting” to the Planning Project Manager prior to issuance of any building permit. <p>Standard Permit Condition: The project shall implement the following condition to reduce the impacts to endangered and threatened species:</p> <ul style="list-style-type: none"> The project applicant shall submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning, Building and Code Enforcement or the Director’s designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit. The Habitat Plan supporting materials can be viewed at www.scv-habitatplan.org.
Educational and Cultural Facilities	<p>No formal mitigation measures are required for educational and cultural facilities impacts. However, the proposed action shall implement the following permit condition:</p> <p>Standard Permit Condition: In accordance with California Government Code Section 65996, the developer shall pay a school impact fee to the School District, to offset the increased demands on school facilities caused by the proposed project.</p>
Parks, Open Space, and Recreation	<p>No formal mitigation measures are required for parks, open space, or recreation. However, the proposed action shall implement the following permit condition:</p> <p>Standard Permit Condition: The project shall conform to the City’s Park Impact Ordinance and Parkland Dedication Ordinance.</p>

**McEvoy Affordable Housing Project
City of San José**

Determination:

- Finding of No Significant Impact** [24 CFR 58.40(g)(1); 40 CFR 1508.27]
The project will not result in a significant impact on the quality of the human environment.
- Finding of Significant Impact** [24 CFR 58.40(g)(2); 40 CFR 1508.27]
The project may significantly affect the quality of the human environment.

Preparer Signature:  Date: 1/7/2020

Name/Title/Organization: Hannah Darst, Project Manager
David J. Powers & Associates, Inc.

Certifying Officer Signature: _____ Date: _____

Name/Title: _____
Rosalynn Hughey, Director, Planning, Building and Code Enforcement, City of San José

This original, signed document and related supporting material must be retained on file by the Responsible Entity in an Environmental Review Record (ERR) for the activity/project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).

SECTION 7.0 LIST OF SOURCES

List of Sources, Agencies, and Persons Consulted [40 CFR 1508.9(b)]

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