Initial Study

Bark Lane Residential Project

File No. PDC17-035

Prepared by the

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

In Consultation with

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

March 2020

MITIGATED NEGATIVE DECLARATION

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

PROJECT NAME: Bark Lane Residential Project

PROJECT FILE NUMBER: PDC17-035

PROJECT DESCRIPTION: Planned Development Rezoning from the A(PD) Planned Development Zoning District to the R-M(PD) Zoning District. The proposed rezoning would facilitate conceptual development of a residential building with up to 85 residential units, below grade parking, and open space, with a height of 71 feet to the top of the roof and 75 feet to the top of the parapet on an approximately 0.90-gross acre site.

PROJECT LOCATION: The project site is located at 7201 Bark Lane, just north of State Route 85, between South De Anza Boulevard and Weyburn Lane in the western most portion of the City of San José.

ASSESSORS PARCEL NO.: 372-24-011

APPLICANT: Jason Lee, 7221 Bark Lane, Unit 12, San José, CA 95129

FINDING

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

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

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

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

C. **AIR QUALITY**

Impact AIR-3: The project would expose sensitive receptors to substantial pollutant concentrations.

MM AIR-3.1: Prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest), the project applicant shall submit a construction operation plan to the Director of Planning or Director's designee, demonstrating that the off-road equipment used for construction of the project would achieve a fleet-wide average of at least 91 percent reduction in particulate matter exhaust emissions.

All mobile diesel-powered off-road equipment operating on-site for more than two days and larger than 25 horsepower shall, at a minimum, meet U.S. Environmental Protection Agency (EPA) particulate matter emissions standards for Tier 4 engines or equivalent. Prior to the issuance of demolition permits, the project applicant shall submit a construction operations plan to the Supervising Planner of the Environmental Review Division of the Department of Planning, Building and Code Enforcement, which includes specifications of the equipment to be used during construction and confirmation this requirement is met.

The construction contractor may use other measures to minimize construction period Diesel Particulate Matter (DPM) emissions to reduce the estimated cancer risk below the thresholds. The use of equipment that includes CARB-certified Level 4 Diesel Particulate Filters or alternatively-fueled equipment (i.e., non-diesel), added exhaust devices, or a combination of these measures could meet this requirement. If any of these alternative measures are proposed, the construction operations plans must include specifications of the equipment to be used during construction prior to the issuance of demolition permits. The plan shall be accompanied by a letter signed by an air quality specialist, verifying the equipment included in the plan meets the standards set forth in this mitigation measure.

D. BIOLOGICAL RESOURCES

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

MM BIO-1.1: The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay Area, extends from February 1st through August 31st (inclusive).

If demolition and construction cannot be scheduled between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests are disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife (CDFW), shall determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

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

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

F. ENERGY RESOURCES—The project would not have a significant impact on energy resources, therefore no mitigation is required.

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

H. GREENHOUSE GAS EMISSIONS—The project would not have a significant impact on geology and soils, therefore no mitigation is required.

I. HAZARDS AND HAZARDOUS MATERIALS—The project would not have a significant impact on as a result of hazards and hazardous materials, therefore no mitigation is required.

J. HYDROLOGY AND WATER QUALITY—The project would not have a significant impact on hydrology and water quality, therefore no mitigation is required.

K. LAND USE AND PLANNING—The project would not have a significant impact on land use and planning, therefore no mitigation is required.

L. MINERAL RESOURCES—The project would not have a significant impact on mineral resources, therefore no mitigation is required.

M. NOISE AND VIBRATION

Impact NOI-1: The project could 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.

MM NOI-1: 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 55 dBA DNL noise level requirement at the nearby noise-sensitive land uses. A qualified acoustical consultant shall be retained by the applicant to review the mechanical noise equipment to determine specific noise reduction measures needed to reduce noise to comply with the City's noise level requirements. Noise reduction measures could include, but are not limited to, selection of equipment that emits low noise levels and installation of noise barriers, such as enclosures and parapet walls, to block the line-of-sight between the noise source and the nearest receptors. The findings and recommendations from the acoustical consultant for noise reduction measures shall be submitted to the Director of Planning or Director's designee prior to the issuance of any building permits.

N. POPULATION AND HOUSING—The project would not have a significant impact on population and housing, therefore no mitigation is required.

O. PUBLIC SERVICES—The project would not have a significant impact on public services, therefore no mitigation is required.

P. RECREATION—The project would not have a significant impact on recreation, therefore no mitigation is required.

Q. TRANSPORTATION/TRAFFIC—The project would not have a significant impact on transportation/traffic, therefore no mitigation is required.

R. TRIBAL CULTURAL RESOURCES—The project would not have a significant impact on tribal cultural resources, therefore no mitigation is required.

S. UTIILTIES AND SERVICE SYSTEMS—The project would not have a significant impact on utilities and service systems, therefore no mitigation is required.

T. WILDFIRE—The project would not have a significant impact on wildfire, therefore no mitigation is required.

U. MANDATORY FINDINGS OF SIGNIFICANCE

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

PUBLIC REVIEW PERIOD

Before 5:00 p.m. **Thursday, April 2, 2020** any person may:

1. Review the Draft MND as an informational document only; or

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

Rosalynn Hughey, Director
Planning, Building, and Code Enforcement

3/9/2020
Date

Deputy

Circulation period: Wednesday, March 13, 2020, and ends on Tuesday April 2, 2020.
Environmental Project Manager: Adam Petersen

TABLE OF CONTENTS

Section 1.0 Introduction and Purpose 1
Section 2.0 Project Information 2
Section 3.0 Project Description 6
Section 4.0 Environmental Setting, Checklist, and Impact Discussion 11
4.1 Aesthetics 12
4.2 Agricultural and Forestry Resources 21
4.3 Air Quality 24
4.4 Biological Resources 41
4.5 Cultural Resources 52
4.6 Energy 59
4.7 Geology and Soils 64
4.8 Greenhouse Gas Emissions 73
4.9 Hazards and Hazardous Materials 82
4.10 Hydrology and Water Quality 92
4.11 Land Use and Planning 101
4.12 Mineral Resources 106
4.13 Noise and Vibration 107
4.14 Population and Housing 120
4.15 Public Services 122
4.16 Recreation 129
4.17 Transportation/Traffic 132
4.18 Tribal Cultural Resources 145
4.19 Utilities and Service Systems 147
4.20 Wildfire 154
4.21 Mandatory Findings of Significance 155
Section 5.0 References 160
Section 6.0 Lead Agency and Consultants 164

Figures

Figure 2.2-1: Regional Map 3
Figure 2.2-2: Vicinity Map 4
Figure 2.2-3: Aerial Photograph and Surrounding Land Uses 5
Figure 3.0-1: Conceptual Site Plan – Ground Level 7
Figure 3.0-2: Conceptual North & South Elevations 8
Figure 3.0-3: Conceptual East & West Elevations 9

Figure 4.3-1: Locations of Off-Site Receptors and Maximum TAC Impact 35
Figure 4.4-1: Tree Map 45
Figure 4.11-1: Conceptual Shade and Shadow Study 105
Figure 4.17-1: Study Intersections 141

Photos

Photos 1 & 2 15
Photos 3 & 4 16
Photo 5 17

Tables

Table 4.3-1: Ambient Air Quality Standards Violations and Highest Concentrations 28
Table 4.3-2: Thresholds of Significance Used in Air Quality Analyses 29
Table 4.3-3: Bay Area 2017 Clean Air Plan Applicable Control Measures 30
Table 4.3-3: Construction Period Emissions 32
Table 4.3-4: Operational Period Emissions 33
Table 4.3-5: Mobile and Stationary Source Community Risk Levels 39
Table 4.4-1: Tree Survey 44
Table 4.4-1: City of San José Standard Tree Replacement Ratios 49
Table 4.6-1: Estimated Annual Energy Use of Existing Development 61
Table 4.6-2: Estimated Annual Energy Use of Proposed Development 62
Table 4.7-1: Active Faults Near the Project Site 67
Table 4.8-1: Annual Project GHG Emissions (MT of CO_2e) 79
Table 4.9-1: Approximate Pervious and Impervious Surfaces On-Site 99
Table 4.12-1: Land Use Compatibility Guidelines for Community Noise in San José 108
Table 4.13-1: Noise Level Measurements 111
Table 4.13-2: Estimated Construction Noise Levels at Nearby Land Uses 114
Table 4.15-1: Local Schools 124
Table 4.15-2: School Capacity and Enrollment 126
Table 4.17-1: Intersection Level of Service Definitions Based on Delay 139
Table 4.17-2: Project Trip Generation Estimates 140
Table 4.17-3: Signalized Study Intersections Level of Service – Existing Conditions 140
Table 4.17-4: Study Intersections Level of Service – Background Conditions 142
Table 4.17-5: Study Intersections Level of Service – Existing Plus Project Conditions 143
Table 4.17-6: Study Intersections Level of Service – Background Plus Project Conditions 144
Table 4.21-1: Mobile and Stationary Sources at Construction MEI 157
Table 4.21-2: Study Intersections Level of Service – Cumulative Conditions 159

Appendices

Appendix A – Air Quality and Greenhouse Gas Assessment
Appendix B – Historic Evaluation
Appendix C – Soil Resource Report
Appendix D – Phase I Environmental Site Assessment
Appendix E – Noise and Vibration Assessment
Appendix F – Transportation Impact Analysis

SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE INITIAL STUDY

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

Based on the conceptual site plan, the project would demolish the existing buildings on-site and propose development standards that would facilitate the construction of an approximately seven-story residential building with 85 units. This Initial Study evaluates the environmental impacts that might reasonably be anticipated to result from implementation of the proposed project.

1.2 PUBLIC REVIEW PERIOD

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

Adam Petersen
Adam.Petersen@sanjoseca.gov
(408) 535-1241
200 East Santa Clara Street
San José, CA 95113

1.3 CONSIDERATION OF THE INITIAL STUDY AND PROJECT

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

1.4 NOTICE OF DETERMINATION

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

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

Bark Lane Residential Project

2.2 PROJECT LOCATION

The 0.9-acre project site is located on Bark Lane, just north of State Route 85, between South De Anza Boulevard and Weyburn Lane in the western most portion of the City of San José.

The project site is shown on the following figures:

Figure 2.2-1 Regional Map
Figure 2.2-2 Vicinity Map
Figure 2.2-3 Aerial Map

2.3 LEAD AGENCY CONTACT

Adam Petersen
Adam.Petersen@sanjoseca.gov
(408) 535-1241
200 East Santa Clara Street
San José, CA 95113

2.4 PROJECT APPLICANT

Jason Lee
7221 Bark Lane Unit 12
San José, CA 95129

2.5 ASSESSOR'S PARCEL NUMBER

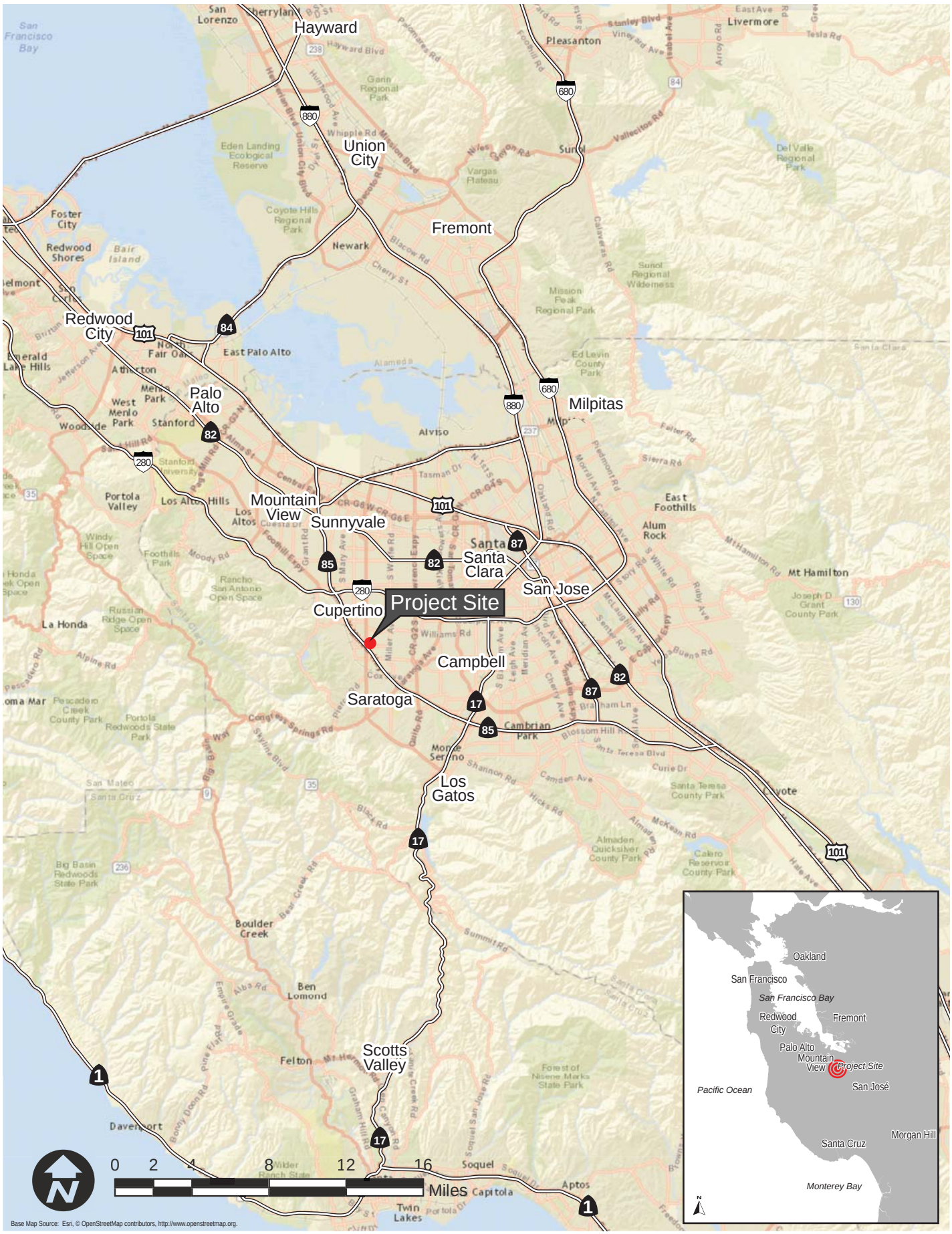
372-24-011

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

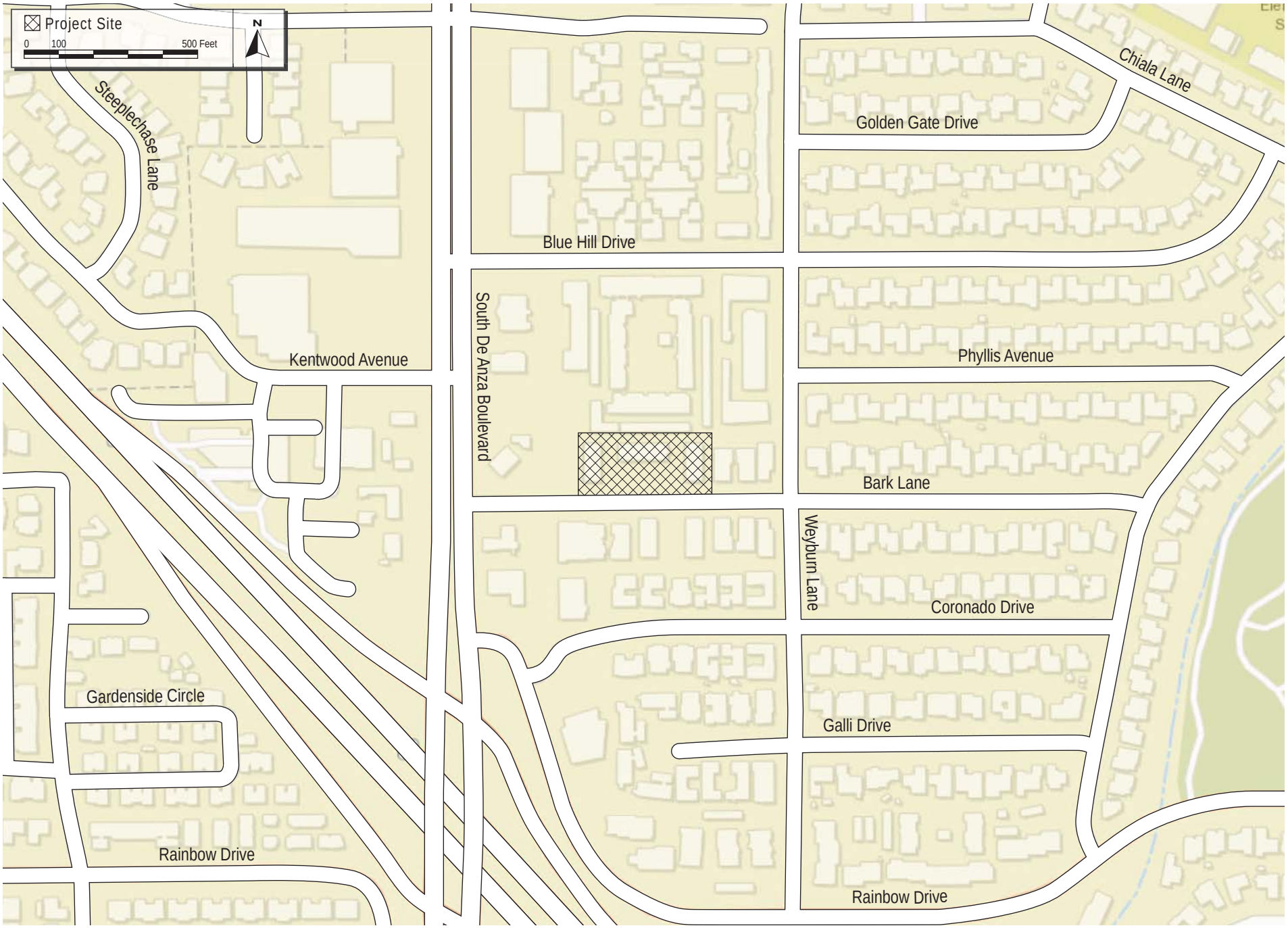
The project site is currently designated *Urban Residential* under the City's General Plan and has a zoning designation of *A(PD) – Planned Development Zoning District.*

2.7 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

- Rezoning
- Demolition Permit(s)
- Public Works Clearances including Grading Permit(s)
- Building Permit(s)
- Encroachment Permits

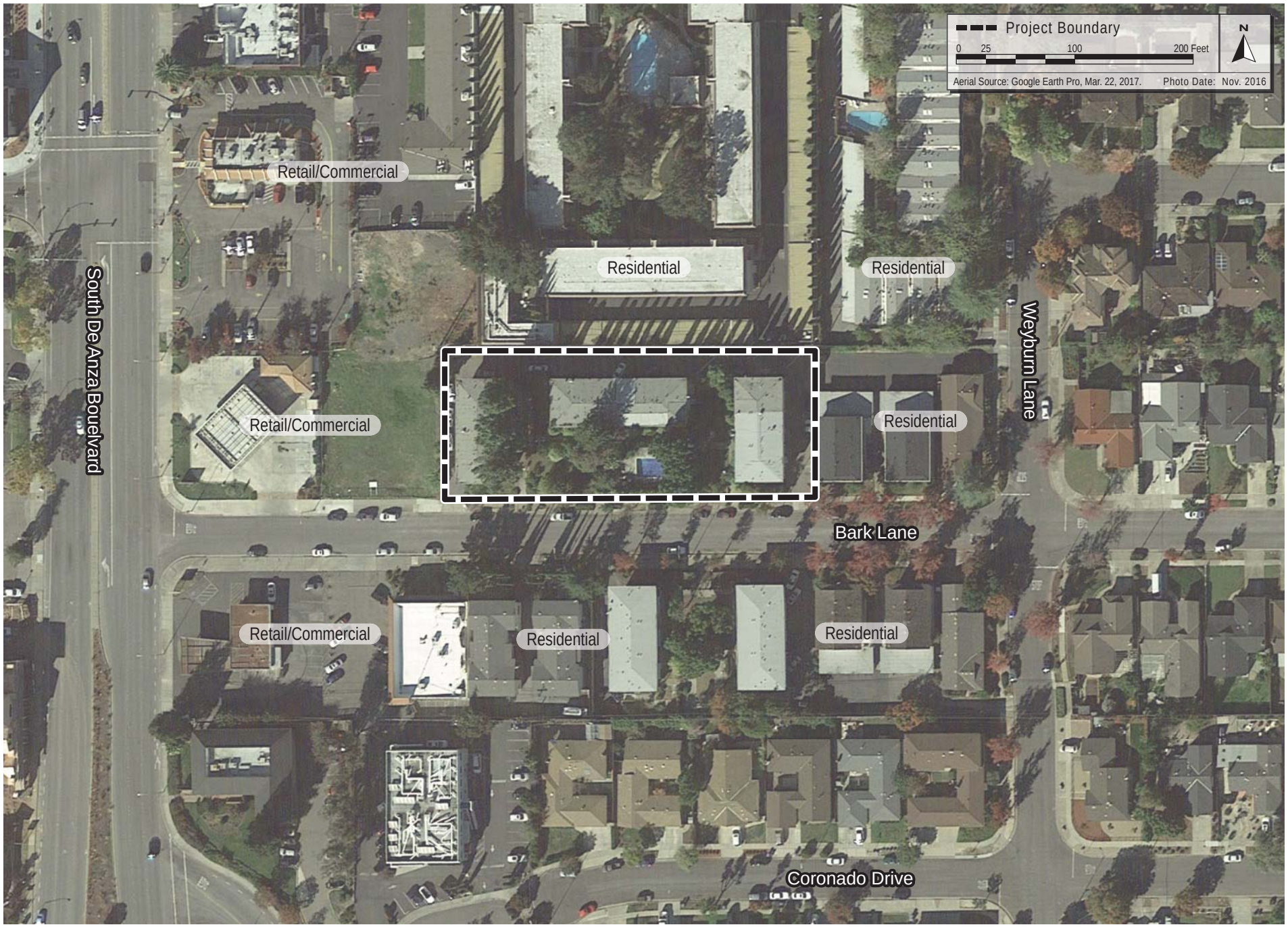


REGIONAL MAP FIGURE 2.2-1



VICINITY MAP

FIGURE 2.2-2



AERIAL PHOTOGRAPH AND SURROUNDING LAND USES FIGURE 2.2-3

SECTION 3.0 PROJECT DESCRIPTION

The 0.9-acre project site is comprised of one parcel (APN 372-24-011) located on Bark Lane, just north of State Route 85, between South De Anza Boulevard and Weyburn Lane in the western most portion of the City of San José. The project site is currently developed with a three-building, 20-unit apartment complex. The project site can be accessed via two ingress/egress driveways on Bark Lane.

Based on the conceptual site plan, the project would demolish the existing buildings on-site and propose development standards that would facilitate the construction of an approximately seven-story residential building with 85 units. The proposed residential building would be approximately 71 feet to the top of the roof and 75 feet to the top of the parapet. The project conceptually includes approximately 15,124 square feet of common open space and approximately 10,080 square feet of private open space is proposed, along with a gym for residents. An approximate 9,111 square-foot common area would be located in a central courtyard surrounded by residential units and the remainder would be located around the perimeter of the building. The building would be set back approximately five feet from the sidewalk (see Figures 3.0-1 to 3.0-3).

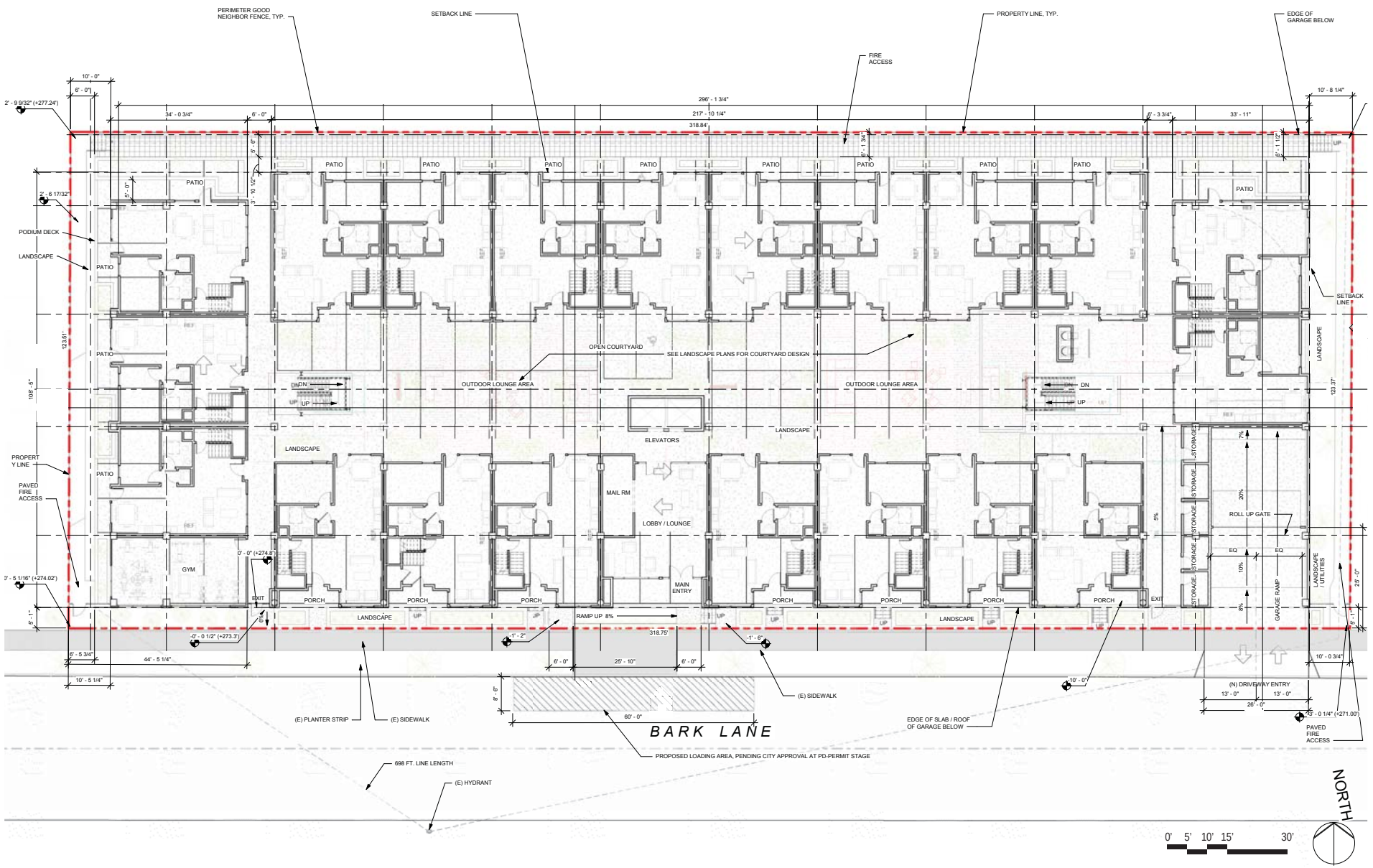
The conceptual parking plan includes a below-grade parking garage. The conceptual parking garage would consist of two levels of below-grade parking which would require the entire site to be excavated to a depth of approximately 19 feet. As mentioned above, the site can be accessed via two ingress/egress driveways along Bark Lane. The project would remove both driveways and construct one egress/ingress driveway at the eastern end of the building that would provide vehicle access to the parking garage. The driveway would be gated and set back approximately 30 feet from the sidewalk. The proposed parking garage would have a total of 192 parking stalls.

Existing Land Use Designation and Zoning

The project site is designated *Urban Residential* under the City's General Plan and has a zoning designation of *A(PD) –Planned Development*. The *Urban Residential* designation is intended for medium density residential development and a broad range of commercial uses, including retail, offices, hospitals, and private community gathering facilities. The *Urban Residential* designation allows for residential densities between 30 to 95 dwelling units per acre (du/ac) and an FAR between 1.0 to 4.0.

Under the existing *A(PD)* Planned Development zoning district approved in October 2007 (Planning File No. PDC06-005), up to 45 townhouse units could be constructed on-site above a podium garage with a maximum height of 50 feet. No building, structure or land shall be used and no building or structure shall be erected, enlarged or structurally altered, or demolished in any planned development district, except in accordance with the provisions set forth in Chapter 20.60 of the Municipal Code and the approved General Development Plan.

Because the project would be inconsistent with the existing Planned Development (PD) zoning designation, the project proposes a PD rezoning from *A(PD)* to *R-M (PD)* to facilitate the proposed project. Please refer to *Section 4.11 Land Use* for a complete discussion of the project's consistency with the General Plan and zoning designation.



Source: Barry Swenson Builder., Sep. 3, 2019.

CONCEPTUAL SITE PLAN

FIGURE 3.0-1

North Elevation

South Elevation

Source: Barry Swenson Builder., July 30, 2019.

CONCEPTUAL NORTH & SOUTH ELEVATIONS

FIGURE 3.0-2

West Elevation

East Elevation

Source: Barry Swenson Builder., September 3, 2019.

CONCEPTUAL EAST & WEST ELEVATIONS FIGURE 3.0-3

While the entitlement request is for the PD rezoning of the site to increase the development intensity from 50 du/ac to 94 du/ac, this Initial Study analyzes the impacts from the conceptual development intensity on the site. Development under the proposed project would be reviewed (i.e., Planned Development Permit) as part of the City's planning review process at a subsequent date.

Green Building Measures

The proposed project would be required to be built in accordance with the California Green Building Standards Code (CALGreen), which includes design provisions intended to minimize wasteful energy consumption and the most recent California Building Code (CBC). In addition, the project would be subject to the Green Building Ordinance.

SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND IMPACT DISCUSSION

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

4.1	Aesthetics	4.12	Mineral Resources
4.2	Agricultural 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, feasible mitigation measures are identified. "Mitigation measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Each impact is numbered to correspond to the checklist question being answered. For example, Impact 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.

4.1 AESTHETICS

4.1.1 Environmental Setting

4.1.1.1 *Regulatory Framework*

State

Scenic Highways Program

The California Scenic Highway Program is managed by the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. State laws governing the Scenic Highway Program are found in the Streets and Highway Code, Sections 260 through 263. There are no state-designated scenic highways in San José. Interstate 280 from the San Mateo County line to State Route 17, which includes segments in San José, is an eligible, but not officially designated, State Scenic Highway.[1]

In Santa Clara County, the one state-designated scenic highway is State Route (SR) 9 from the Santa Cruz County line to the Los Gatos City Limit. Eligible State Scenic Highways (not officially designated) include: SR 17 from the Santa Cruz County line to SR 9, SR 35 from Santa Cruz County line to SR 9, Interstate 280 from the San Mateo County line to SR 17, and the entire length of SR 152 within the County.

Local

Municipal Code

The City's Municipal Code includes several regulations associated with protection of the City's visual character and control of light and glare. For example, Chapter 13.32 (Tree Removal Controls) regulates the removal of trees on private property within the City, in part to promote scenic beauty of the city.

Several sections of the Municipal Code include controls for lighting of signs and development adjacent to residential properties. These requirements call for floodlighting to have no glare and lighting facilities to be reflected away from residential use so that there will be no glare.

The City's Zoning Ordinance (Title 20 of the Municipal Code) includes design standards, maximum building height, and setback requirements.

City Design Guidelines and Design Review Process

Nearly all new private development is subject to a design review process (architecture and site planning). The design review process is used to evaluate projects for conformance with adopted design guidelines and other relevant policies and ordinances. The City prepared and adopted guidelines to assist those involved with the design, construction, review and approval of development

[1] ArcGis. "California Scenic Highways". Accessed August 28, 2019. https://www.arcgis.com/home/webmap/viewer.html?layers=f0259b1ad0fe4093a5604c9b838a486a.

in San José. Adopted design guidelines include those for: Residential, Industrial, Commercial, Downtown/Historic, and Downtown Design Guidelines.

City Council Policy 4-2: Lighting

Council Policy 4-2 requires dimmable, programmable lighting for new streetlights, which would control the amount and color of light shining on streets and sidewalks. Light is to be directed downward and outward. New and replacement streetlights should also offer the ability to change the color of the light from full spectrum (appearing white or near white) in the early evening to a monochromatic light in the later hours of the night and early morning. At a minimum, full-spectrum lights should be able to be dimmed by at least 50 percent in late night hours.

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

Council Policy 4-3 requires private development to use energy-efficient outdoor lighting that is fully shielded and not directed skyward. Low-pressure sodium lighting is required unless a photometric study is done and the proposed lighting referred to Lick Observatory for review and comment. One of the purposes of this policy is to provide for the continued enjoyment of the night sky and for continuing operation of Lick Observatory, by reducing light pollution and sky glow. The Downtown area is exempt from this policy.

Envision San José 2040 General Plan

The General Plan includes the following aesthetic policies applicable to the proposed project.

Policy CD-1.1: Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.

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.

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.

4.1.1.2 *Existing Conditions*

Project Site

The project site is currently developed with a three-building, 20-unit apartment complex and is surrounded by residential and commercial development. The existing buildings on-site were constructed in 1961 and have not been recently ungraded. The buildings are three stories tall and are elevated from the street with retaining walls along the sidewalk. The project frontage is covered with dense shrubs and trees which somewhat block views of the buildings from the street (see Photo 1).

The second and third floors of the apartment complex cantilever over the floors below (see Photo 2), with a flat roof overhanging the third floor. There are six enclosed single-car garages located on the first floor of each building facing out onto a u-shaped drive aisle that loops around the buildings.

Surrounding Land Uses

Development in the project area is primarily residential and retail/commercial. Building heights vary from one- to three-stories. West of the project site is an undeveloped lot with overgrown weeds enclosed by a chain-link fence (see Photo 3), which is the site of an approved five-story hotel (File No. SP18-005). Located immediately south of the project site is Bark Lane, a two-lane roadway. Immediately south of Bark Lane is a two- to three-story apartment complex similar to the existing development on-site (see Photo 4). A retail/commercial building is located southwest of the project site. The building has a four-sided sloping roof and vertical wall cladding. Located east of the project site is a two-story apartment building. The apartment building is primarily stucco with eight rectangular-shaped slider windows located on the western building façade (see Photo 5). North of the project site is a four-building apartment complex. The building is three stories and primarily stucco with a flat roof.

Scenic Views

Based on the City's General Plan, views of hillside areas, including the foothills of the Diablo Range, Silver Creek Hills, Santa Teresa Hills, and foothills of the Santa Cruz Mountains are scenic features in the San José area. The project site and surrounding areas are flat and surrounded by urban development. The project area has minimal to no scenic views of the Diablo foothills to the east, Santa Teresa Hills to the south, and the Silver Creek hills to the southeast. Views of the Santa Cruz Mountains, to the west, can be seen on Bark Lane. No natural scenic resources, such as rock outcroppings, are present on-site or in the project area.

PHOTO 1: View of the project site, looking northwest on Bark Lane.

PHOTO 2: View of the project site, looking east on Bark Lane.

PHOTOS 1 AND 2

PHOTO 3: View of the surrounding development, looking west on Bark Lane.

PHOTO 4: View of the surrounding development, looking south on Bark Lane.

PHOTOS 3 AND 4

PHOTO 5: View of the surrounding development, looking northeast on Bark Lane.

PHOTO 5

4.1.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Except as provided in Public Resources Code Section 21099, would the project:				
1) Have a substantial adverse effect on a scenic vista?	☐	☐	☒	☐
2) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☒	☐
3) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? [2] If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☒	☐
4) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☒	☐

Aesthetic values are, by their nature, subjective. Opinions as to what constitutes a degradation of visual character would differ among individuals. One of the best available means for assessing what constitutes a visually acceptable standard for new buildings are the City's design standards and implementation of those standards through the City's design process. The following discussion addresses the proposed changes to the visual setting of the project area and factors that are part of the community's assessment of the aesthetic values of a project's design, consistent with the assumptions in the General Plan and the General Plan FEIR (as amended).

Impact AES-1:	The project would not have a substantial adverse effect on a scenic vista. **(Less than Significant Impact)**

Impact AES-2:	The project would not substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway. **(Less than Significant Impact)**

The General Plan defines scenic vistas or resources in the City of San José as broad views of the Santa Clara Valley, the hills and mountains surrounding the valley, the urban skyline, and the baylands. The project area has minimal to no scenic views of the Diablo foothills to the east, Santa Teresa Hills to the south, and the Silver Creek hills to the southeast. As mentioned previously, views of the Santa Cruz Mountains, to the west, can be seen on Bark Lane. Additionally, there are no designated scenic resources on-site or within the project area. The site is not located along a state-designated scenic highway. The nearest designated highway is State Route 9 (SR 9), located more

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

than two miles south of the site. The General Plan FEIR (as amended) concluded that new development and redevelopment allowed under the General Plan would alter views from roadways that provide substantial views of the natural environment within or adjacent to the City; however, implementation of applicable General Plan policies would avoid or substantially reduce impacts to natural scenic views from roadways within the City.

In addition, the project site is not located in a designated scenic area or corridor as defined by the General Plan. The construction of a conceptual seven-story residential building on-site would not diminish scenic views in the project area or damage any designated scenic resources. **(Less Than Significant Impact)**

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

The project site is located in a developed, urban area of San José and is surrounded by a mix of residential and retail/commercial land uses. Any new construction on-site would be visible from Bark Lane and surrounding properties. Development of a seven-story residential building would be taller than the existing two-story building and would change the visual character of the immediate project area; however, the development would be generally consistent with the adjacent residential land uses.

The project consists of a Planned Development rezoning of the site to permit increased development intensity from 50 du/ac to approximately 94 du/ac. One of the General Development Standards of the Planned Development Rezoning would be to comply with the City Residential Design Guidelines, as adopted.

Conceptually, the design of the building satisfies the Design Guidelines' intent for future development to relate to the surrounding built environment by generally following the existing setback pattern along the block face, positioning the building along the street frontage, and achieving consistency with perimeter setbacks. Where applicable, the project fulfills the intent for internal organization, as well as the Guidelines for Specific Housing Types. Development under the physical project would be reviewed in accordance with the City's Residential Design Guidelines as required by the proposed Planned Development Zoning's General Development Standards during the Planning Permit stage (i.e., Planned Development Permit) as part of the City's planning review process.

While new development and redevelopment under the General Plan would alter the appearance of the City, implementation of adopted policies and existing regulations would avoid substantial degradation of the visual character or quality of the City. As a result, the proposed project would have a less than significant impact on the visual character of the City and public views of the site and its surroundings. **(Less Than Significant Impact)**

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

As stated above, development on the project site would be visible from Bark Lane and surrounding properties. Sources of light and glare in the project area include streetlights, parking lot lights from nearby businesses, security lights, vehicular headlights, internal building lights, and reflective building surfaces and windows. The General Plan FEIR (as amended) concluded that while new development and redevelopment under the General Plan would create new sources of nighttime light and daytime glare, implementation of adopted plans, and conformance with adopted policies and regulations would avoid substantial light and glare impacts to adjacent properties.

The proposed project would be required to comply with the City Council Lighting Policy 4-3.[3] The project would go through a design review process, prior to the issuance of building permits, and would be reviewed for consistency with the City's Design Guidelines. Reflective materials would be minimally used or coated as needed to reduce glare. As a result, the proposed project would not significantly impact adjacent land uses with increased nighttime light levels or daytime glare from building materials. **(Less Than Significant Impact)**

[3] Policy 4-3 requires exterior lighting on private property to use be low-pressure sodium lighting. The lighting must be directed downward and fully or partially shielded depending on lumen levels.

4.2 AGRICULTURAL AND FORESTRY RESOURCES

4.2.1 Environmental Setting

4.2.1.1 *Regulatory Framework*

State

Farmland Mapping and Monitoring Program

The California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) assesses the location, quality, and quantity of agricultural land and conversion of these lands over time. Agricultural land is rated according to soil quality and irrigation status. The best quality land is called Prime Farmland.

California Land Conservation Act

The California Land Conservation Act (Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space uses. In return, landowners receive lower property tax assessments.

Forest Land, Timberland, and Timberland Production

The California Department of Forestry and Fire Protection (Cal Fire) identifies forest land, timberland, and lands zoned for timberland production that can (or do) support forestry resources.[4]

4.2.1.2 *Existing Conditions*

The Santa Clara County Important Farmland 2016 Map designates the project site as *Urban and Built-Up Land*, which is defined as land with at least one unit to a 1.5-acre parcel (or approximately six structures to a 10-acre parcel).[5] Common examples of "Urban and Built-Up Land" are residential, institutional, industrial, commercial, landfill, golf course, airports, and other utility uses. The project site is developed with a three-building, 20-unit apartment complex and is surrounded by residential and commercial development. There is no forest land located on or adjacent to the project site and the site is not subject to a Williamson Act contract.

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

[5] California Department of Conservation. *Santa Clara County Important Farmland 2016 Map*. Accessed August 28, 2019. ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2016/scl16.pdf.

4.2.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒
2) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒
3) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	☐	☐	☐	☒
4) Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
5) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒

Note: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.

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

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

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

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

Impact AG-5:	The project would not involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use. **(No Impact)**

The proposed project would result in the construction of up to 85 residential units on a site already developed with residential uses. The project would not convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural uses. The project would not conflict with existing zoning for agricultural operations or facilitate in the unplanned conversion of farmland elsewhere in San José to non-agricultural uses. There are no forest lands on or adjacent to the project site and, as a result, the proposed project would not result in the loss of forest lands in San José. For these reasons, the project would not result in impacts to agricultural or forest resources. **(No Impact)**

4.3 AIR QUALITY

The following discussion is based in part on an Air Quality and Greenhouse Gas Assessment prepared by *Illingworth & Rodkin, Inc.* in July 2019.[6,7] A copy of this report is attached in Appendix A.

4.3.1 Environmental Setting

4.3.1.1 *Regulatory Background*

Federal and State

Air Quality Overview

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

Regional and Local Criteria Pollutants

The federal Clean Air Act requires the EPA to set national ambient air quality standards for six common air pollutants (referred to as criteria pollutants), including particulate matter (PM), ground-level ozone (O_3), carbon monoxide (CO), sulfur oxides, nitrogen oxides (NO_x), and lead. The EPA and the CARB have adopted ambient air quality standards establishing permissible levels of these pollutants to protect public health and the climate. Violations of ambient air quality standards are based on air pollutant monitoring data and are determined for each air pollutant.

These pollutants can have health effects such as respiratory impairment and heart/lung disease symptoms. Particulate matter is assessed and measured in terms of respirable particulate matter or particles that have a diameter of 10 micrometers or less (PM_{10}) and fine particulate matter where particles have a diameter of 2.5 micrometers or less ($PM_{2.5}$). Elevated concentrations of PM_{10} and $PM_{2.5}$ are the result of both region-wide (or cumulative) emissions and localized emissions. High particulate matter levels aggravate respiratory and cardiovascular diseases, reduce lung function, increase mortality (e.g., lung cancer), and result in reduced lung function growth in children.

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

[6] At the time this study was completed, it was assumed that the project would take approximately 14 months beginning in 2020. Based on personal communication with Illingworth & Rodkin, Inc., if the construction for the project were to start at a later date and all variables remain the same, constructions emissions would not be worse than what is currently analyzed. The later construction date would likely cause emissions to decrease due to better, cleaner, or higher tiered construction equipment and vehicles.

[7] Please note that the entitlement request is for the PD rezoning of the site and that this Initial Study analyzes the impacts from the conceptual development intensity on the site.

eastern and southern inland valleys that are downwind of air pollutant sources. High ozone levels aggravate respiratory and cardiovascular diseases, reduced lung function, and increase coughing and chest discomfort.

Violations of ambient air quality standards are based on air pollutant monitoring data and are determined for each air pollutant. "Attainment" status for a pollutant means that a given Air District meets the standard set by the EPA and/or CARB. The Bay Area as a whole does not meet state or federal ambient air quality standards for ground level ozone and $PM_{2.5}$, or state standards for PM_{10}. The Bay Area is considered in attainment or unclassified for all other pollutants.

Toxic Air Contaminants

Another group of substances found in ambient air referred to as Toxic Air Contaminants (TACs). TACs are a broad class of compounds known to cause morbidity or mortality, usually because they cause cancer. TACs are found in ambient air, especially in urban areas, and are released by industry, agriculture, fuel combustion, and commercial operations (e.g., dry cleaners). 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. Diesel exhaust is a complex mixture of gases, vapors, and fine particles. CARB has adopted regulations for stationary and mobile sources to reduce emissions of diesel exhaust and diesel particulate matter (DPM). Several of these regulatory programs affect medium and heavy-duty diesel trucks, which represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (most susceptible to injury).[8]

Fine Particulate Matter ($PM_{2.5}$) is a TAC composed of a mix of substances, such as carbon and metals, compounds such as nitrates, organics, and sulfates, and mixtures such as diesel exhaust and wood smoke. Because of their small size (particles are less than 2.5 micrometers in diameter), $PM_{2.5}$ can lodge deeply into the lungs.

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

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

Unlike regional criteria air pollutants, local risks associated with TACs and $PM_{2.5}$ are evaluated on the basis of risk to human health rather than comparison to an ambient air quality standard or emission-based threshold.

Regional

2017 Clean Air Plan

BAAQMD is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how state and federal air quality standards would be met. BAAQMD's most recently adopted plan is the *Bay Area 2017 Clean Air Plan* (2017 CAP). The 2017 CAP focuses on two related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 CAP describes how BAAQMD will continue its progress toward attaining state and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities. To protect the climate, the 2017 CAP includes control measures designed to reduce emissions of methane and other super-greenhouse gasses (GHGs) that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.[9]

CEQA Air Quality Guidelines

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

Sensitive Receptors

CARB has identified the following persons who are most likely to be affected by air pollution: children under 16, the elderly over 65, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive receptors. Locations that may contain a high concentration of these sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, and elementary schools. For cancer risk assessments, children are the most sensitive receptors, since they are more susceptible to cancer causing TACs. Residential locations are assumed to include infants and small children.

Local

Envision San José 2040 General Plan

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

Policy MS-10.1: Assess projected air emissions from new development in conformance with the

[9] BAAQMD. *Final 2017 Clean Air Plan.* April 19, 2017. Accessed September 24, 2019. http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans.

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-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 a minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

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

4.3.1.2 *Existing Conditions*

Air quality is determined by the concentration of various pollutants in the atmosphere. The amount of a given pollutant in the atmosphere is determined by the amount of pollutants released within an area, transport of pollutants to and from surrounding areas, local and regional meteorological conditions, and the surrounding topography of the air basin.

BAAQMD is responsible for assuring that the national and state ambient air quality standards are attained and maintained in the Bay Area. Air quality studies generally focus on four criteria pollutants that are most commonly measured and regulated: carbon monoxide (CO), ground level ozone (O_3), nitrogen dioxide (NO_2), and suspended particulate matter (PM_{10} and $PM_{2.5}$). As shown in Table 4.3-1, violations of state and federal standards at the monitoring station in Downtown San José (the nearest monitoring station to the project site) during the 2016-2018 period (the most recent years for which data is available) include O_3, $PM_{2.5}$, and PM_{10}.[10,11]

[10] PM refers to Particulate Matter. Particulate matter is referred to by size (i.e., 10 or 2.5) because the size of particles is directly linked to their potential for causing health problems.
[11] Bay Area Air Quality Management District. "Annual Bay Area Air Quality Summaries." Accessed June 17, 2019. http://www.baaqmd.gov/about-air-quality/air-quality-summaries. "

Table 4.3-1: Ambient Air Quality Standards Violations and Highest Concentrations				
Pollutant	**Standard**	**Days Exceeding Standard**		
		2016	**2017**	**2018**
SAN JOSÉ STATION				
Ozone	State 1-hour	0	3	0
	Federal 8-hour	0	4	0
Carbon Monoxide	Federal 8-hour	0	0	0
	State 8-hour	0	0	0
Nitrogen Dioxide	State 1-hour	0	0	0
PM_{10}	Federal 24-hour	0	0	0
	State 24-hour	0	6	4
$PM_{2.5}$	Federal 24-hour	0	6	15

"Attainment" status for a pollutant means that a given air district meets the standard set by the EPA and/or CARB. The Bay Area, as a whole, does not meet federal and state ambient air quality standards for $PM_{2.5}$ and ground-level ozone, nor does it meet state standards for PM_{10}. The Bay Area is considered in attainment or unclassified for all other pollutants.

Sensitive Receptors

Sensitive receptors are groups of people that are more susceptible to pollutant exposure (i.e., children, the elderly, and people with illnesses). Locations that may contain a high concentration of sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, elementary schools, parks, and places of assembly.

The nearest sensitive receptors are residences located approximately five feet east of the project site. Additional sensitive receptors are residents located approximately 45 feet north and 75 feet south of the project site.

4.3.2 Impact Discussion

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

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
4) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	☐	☐	☒	☐

4.3.3 CEQA Thresholds of Significance

Impacts from the Project

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the Lead Agency and must be based to the extent possible on scientific and factual data. The City of San José 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 TACs and $PM_{2.5}$. The BAAQMD CEQA Air Quality thresholds used in this analysis are identified in Table 4.3-2 below.

Table 4.3-2: Thresholds of Significance Used in Air Quality Analyses

Pollutant	Construction	Operation-Related	
	Average Daily Emissions (pounds/day)	Average Daily Emissions (pounds/day)	Maximum Annual Emissions (tons/year)
ROG, NO_x	54	54	10
PM_{10}	82 (exhaust)	82	15
$PM_{2.5}$	54 (exhaust)	54	10
Fugitive Dust (PM_{10}/$PM_{2.5}$)	BMPs	None	None
Risk and Hazards for New Sources and Receptors (Project)	Same as Operational Threshold	• Increased cancer risk of >10.0 in one million • Increased non-cancer risk of > 1.0 Hazard Index (chronic or acute) • Ambient $PM_{2.5}$ increase: > 0.3 μ/m^3 [Zone of influence: 1,000-foot radius from property line of source or receptor]	
Risk and Hazards for New Sources and Receptors (Cumulative)	Same as Operational Threshold	• Increased cancer risk of >100 in one million • Increased non-cancer risk of > 10.0 Hazard Index (chronic or acute) • Ambient $PM_{2.5}$ increase: > 0.8 μ/m^3 [Zone of influence: 1,000-foot radius from property line of source or receptor]	

Sources: *BAAQMD* CEQA *Thresholds Options and Justification Report (2009)* and *BAAQMD CEQA Air Quality Guidelines* (dated May 2012).
Notes: ROG = reactive organic gases
NO_x = nitrogen oxides

Table 4.3-2: Thresholds of Significance Used in Air Quality Analyses			
Pollutant	**Construction**	**Operation-Related**	
	Average Daily Emissions (pounds/day)	**Average Daily Emissions (pounds/day)**	**Maximum Annual Emissions (tons/year)**
PM_{10} = course particulate matter with a diameter of 10 micrometers (μm) or less $PM_{2.5}$ = fine particulate matter with a diameter of 2.5 μm or less.			

Impacts to the Project

The California Supreme Court issued an opinion that CEQA does not generally require an analysis of the impacts of locating development in areas subject to environmental hazards (i.e., impacts to a project) unless the project would exacerbate existing environmental hazards.[12] Specific circumstances where CEQA does require the analysis of exposing new populations to environmental hazards include the location of development near airports, schools near sources of toxic contamination, and certain infill and workforce housing.[13] The proposed project does not fall under any of these situations.

Nevertheless, the City of San José has policies that address existing air quality conditions affecting a proposed project, which are discussed below. The criteria used by the City for determining whether new receptors would be affected are the same as those listed for Project Health Risk and Cumulative Health Risk in Table 4.3-2, above.

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

The BAAQMD CEQA *Air Quality Guidelines* set forth criteria for determining consistency with the 2017 CAP. In general, a project is considered consistent if, a) the plan supports the primary goals of the 2017 CAP; b) it includes relevant control measures; and c) it does not interfere with implementation of 2017 CAP control measures. As shown in Table 4.3-3 below, the proposed project would generally be consistent with the intent of the 2017 CAP measures intended to reduce automobile trips, as well as energy and water usage and waste.

Table 4.3-3: Bay Area 2017 Clean Air Plan Applicable Control Measures		
Control Measures	**Description**	**Project Consistency**
Transportation Measures		
Bicycle and Pedestrian Access and Facilities	Encourage planning for bicycle and pedestrian facilities in local	The project would be required to include bicycle parking consistent

[12] California Supreme Court published opinion in *California Building Industry Association v. Bay Area Air Quality Management District, 62 Cal. 4th 369* (No. S 213478), filed December 17, 2015.

[13] Although CEQA does not generally require an evaluation of the effects of existing hazards on future users of the proposed project, it calls for such an analysis in several specific contexts involving certain airport (Public Resources Code Section 21096) and school construction projects (Public Resources Code Section 21151.8), and some housing development projects (Public Resources Code subsection 21159.21, subds.(f), (h), 21159.22, subds. (a), (b)(3), 21159.23, subd. (a)(2)(A), 21159.24, subd. (a)(1), (3), 21155.1, subd. (a)(4), (6)).

Table 4.3-3: Bay Area 2017 Clean Air Plan Applicable Control Measures		
Control Measures	**Description**	**Project Consistency**
	plans, e.g., general and specific plans, fund bike lanes, routes, paths and bicycle parking facilities.	with City standards. The existing network of sidewalks and crosswalks in the immediate vicinity of the project site has good connectivity and provides pedestrians with safe routes. The project is consistent with this measure.
Building Measures		
Green Buildings	Identify barriers to effective local implementation of 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 Ordinance and the most recent CALGreen requirements. The project 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, as well existing surface lots undergoing resurfacing. Develop and promote adoption of model building code requirements for new construction or reroofing/roofing upgrades for commercial and residential multifamily housing.	The project would be required to comply with the City's Green Building Ordinance and the most recent CBC, which would increase building efficiency over standard construction. While the project would comply with the CBC requirements, there is currently no specific proposals for cool roofs or cool paving. Therefore, the project is inconsistent with this control measure.
Natural and Working Lands Measures		
Urban Tree Planting	Develop or identify an existing model municipal tree planting ordinance and encourage local governments to adopt such an ordinance. Include tree planting recommendations, the Air District's technical guidance, best management practices for local plans, and CEQA review.	The project would be required to adhere to the City's tree replacement policy. Therefore, the project is consistent with this control measure.
Recycling and Waste Reduction		
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	The City adopted the Zero Waste Strategic Plan which outlines policies to help the City foster a healthier community and achieve its Green Vision goals, including

Table 4.3-3: Bay Area 2017 Clean Air Plan Applicable Control Measures		
Control Measures	**Description**	**Project Consistency**
	commercial and public construction projects.	75 percent diversion by 2013 and zero waste by 2022. In addition, the project would comply with the City's Construction and Demolition Diversion Program during construction which ensures that at least 75 percent of construction waste generated by the project is recovered and diverted from landfills. Therefore, the project is consistent with this control measure.

The project is consistent with most applicable transportation, building, natural and working lands, and waste management control measures and is consistent with the population projections in the 2017 CAP. The project is also consistent with the City's General Plan. The project, by itself, would not result in a significant impact related to consistency with the Bay Area 2017 CAP. **(Less Than Significant Impact)**

Construction Criteria Pollutant Emissions

The California Emissions Estimator model (CalEEMod) Version 2016.3.2 was used to estimate annual emissions from construction activities. The proposed land uses of the project were input into CalEEMod, which included 85 dwelling units entered as "Apartment Mid-Rise" and 192 parking spaces entered as "Enclosed Parking with Elevator". Demolition of existing buildings on-site and soil export were also input into CalEEMod (refer to Appendix A).

The construction schedule assumes that the project would be built over a period of approximately 14 months beginning January 2020, or an estimated 299 construction workdays. Table 4.3-3 shows the estimated daily air emissions from construction of the proposed project.

Table 4.3-2: Construction Period Emissions				
Scenario	**ROG**	**NOx**	**PM_{10} Exhaust**	**$PM_{2.5}$ Exhaust**
Construction emissions (tons)	1.6	3.6	0.2	0.2
Average daily emissions (pounds)[1]	10.6	24.2	1.1	1.0
BAAQMD Thresholds (pounds per day)	*54*	*54*	*82*	*54*
Exceed Threshold?	**No**	**No**	**No**	**No**
Notes: [1]Assumes 299 construction workdays.				

Construction period criteria pollutant emissions associated with the project would not exceed the BAAQMD significance thresholds; therefore, the project would not result in a significant impact from construction emissions. The proposed project would not conflict with or obstruct implementation of the Bay Area 2017 CAP. **(Less Than Significant Impact)**

Operational Criteria Pollutant Emissions

The proposed project would construct a seven-story residential building with 85 units. Operational period criteria pollutant emissions associated with the project would be generated primarily from vehicles driven by future residents. CalEEMod was used to estimate the emissions from operation of the project assuming full build out. For the purposes of this analysis, it was assumed that the earliest the project would be constructed and operational would be 2022. Any emissions associated with build out later than 2022 would be lower due to assumed efficiencies overtime. The assumptions and results are described further in Appendix A of this document. The estimated daily operational period emissions from the proposed project are summarized in Table 4.3-4 below.

Table 4.3-3: Operational Period Emissions

Scenario	ROG	NOx	PM_{10} Exhaust	$PM_{2.5}$ Exhaust
2022 Project Operational Emissions (tons/year)	0.9	0.6	0.5	0.1
2022 Existing Operational Emissions (tons/year)	<0.2>	<0.2>	<0.2>	<0.1>
Net Annual Operational Emissions (tons)	0.7	0.4	0.3	0.1
BAAQMD Thresholds (tons/year)	*10*	*10*	*15*	*10*
Exceed Threshold?	**No**	**No**	**No**	**No**
2022 Project Operational Emissions (pounds/day)[1]	3.9	2.1	1.6	0.4
BAAQMD Thresholds (pounds/year)	54	54	82	54
Exceed Threshold?	**No**	**No**	**No**	**No**

Notes: [1]Assumes 365-day operation.

Operational criteria pollutant emissions associated with the proposed project would not result in emissions above established thresholds. The proposed project would not conflict with or obstruct implementation of the Bay Area 2017 CAP. **(Less Than Significant Impact)**

Operational Carbon Monoxide Emissions

Carbon monoxide (CO) emissions from traffic generated by the project would be the pollutant of greatest concern at the local level. Congested intersections with a large volume of traffic have the greatest potential to cause high localized concentrations of CO. Air pollutant monitoring data indicate that CO levels have been below State and Federal standards in the Bay Area since the early 1990s; therefore, Santa Clara County is in attainment for CO. Based on the BAAQMD screening criteria, a project would have a significant CO emissions impact if it would cause any intersections to exceed 44,000 vehicles per hour. The project would result in 355 net new daily trips, which is insufficient to increase the traffic volume at any intersection above the screening criteria. Implementation of the project would not result in significant CO emission impacts. **(Less Than Significant Impact)**

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

Construction and operational period criteria pollutant emissions associated with the project would not exceed the BAAQMD significance thresholds (refer to Impact AIR-1). Since the project would have a less than significant criteria pollutant impact, the project would not result in a cumulatively considerable net increase of any criteria pollutant for which the region is in non-attainment. **(Less Than Significant Impact)**

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

Dust Generation

Construction activities on-site would generate dust and other particulate matter that could temporarily impact nearby sensitive receptors. As mentioned in *Section 4.3.1.2*, the nearest sensitive receptors are residences located approximately five feet east, 45 feet north, and 75 feet south of the project site. Consistent with City policies, the project shall implement the following Standard Permit Conditions during all phases of construction to reduce dust and other particulate matter emissions.

Standard Permit Conditions:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded area, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the City of San José regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

With implementation of the Standard Permit Conditions, construction dust and other particulate matter would have a less than significant temporary construction air quality impact. **(Less Than Significant Impact)**

Community Risk Impacts – Toxic Air Contaminants

Emissions from construction-related automobiles, trucks, and heavy equipment are a primary concern due to release of DPM, organic TACs, and $PM_{2.5}$, which are regulated air pollutants. A health risk assessment of construction activities was completed to evaluate emissions of DPM and associated health risks to the nearby sensitive receptors. As mentioned previously, the nearest sensitive receptors are located approximately five feet east of the project site. Additional sensitive receptors are located approximately 45 feet north and 75 feet south of the project site.

The maximum-modeled annual DPM and $PM_{2.5}$ concentrations were identified on the second floor of a multi-family residence located east of the project site (refer to Figure 4.3-1 below).

Figure 4.3-1: Locations of Off-Site Receptors and Maximum TAC Impact

Residential receptors are designated in yellow and the maximum off-site exposure location for residents is circled in pink. At this location, the maximum residential cancer risk would be 109.8 in one million for an infant exposure and 1.8 in one million for an adult exposure. The maximum residential infant excess cancer risk would be greater than the BAAQMD significance threshold of 10 in one million.

The maximum modeled annual $PM_{2.5}$ concentration, which is based on combined exhaust and fugitive dust emissions, was 0.9 $\mu g/m^3$, occurring at the same location where maximum cancer risk would occur. This annual $PM_{2.5}$ concentration would be greater than the BAAQMD significance threshold of 0.3 $\mu g/m^3$.

The maximum computed Hazard Index (HI) is 0.12, which is below the BAAQMD significance criterion of an HI greater than 1.0.

Mitigation and Avoidance Measures

The following mitigation measure and identified Standard Permit Conditions for dust control would be implemented during all demolition and construction activities to reduce TAC emissions impacts.

MM AIR-3.1: Prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest), the project applicant shall submit a construction operation plan to the Director of Planning or Director's designee, demonstrating that the off-road equipment used for construction of the project would achieve a fleet-wide average of at least 91 percent reduction in particulate matter exhaust emissions.

All mobile diesel-powered off-road equipment operating on-site for more than two days and larger than 25 horsepower shall, at a minimum, meet U.S. Environmental Protection Agency (EPA) particulate matter emissions standards for Tier 4 engines or equivalent. Prior to the issuance of demolition permits, the project applicant shall submit a construction operations plan to the Supervising Planner of the Environmental Review Division of the Department of Planning, Building and Code Enforcement, which includes specifications of the equipment to be used during construction and confirmation this requirement is met.

The construction contractor may use other measures to minimize construction period Diesel Particulate Matter (DPM) emissions to reduce the estimated cancer risk below the thresholds. The use of equipment that includes CARB-certified Level 4 Diesel Particulate Filters or alternatively-fueled equipment (i.e., non-diesel), added exhaust devices, or a combination of these measures could meet this requirement. If any of these alternative measures are proposed, the construction operations plans must include specifications of the equipment to be used during construction prior to the issuance of demolition permits. The plan shall be accompanied by a letter signed by an air quality specialist, verifying the equipment included in the plan meets the standards set forth in this mitigation measure.

Implementation of the identified Standard Permit Conditions would reduce exhaust emissions by five percent and fugitive dust emissions by over 50 percent. Implementation of MM AIR-3.1 would further reduce on-site diesel exhaust emissions from construction equipment by 93 percent. Implementation of both the identified Standard Permit Conditions and Mitigation Measure AIR-3.1 would reduce the infant residential cancer risk and the maximum $PM_{2.5}$ to 7.8 million and 0.1 $\mu g/m^3$, respectively. With incorporation of the Standard Permit Conditions and Mitigation Measure AIR-3.1, the project would be below the BAAQMD threshold of 10 in one million for cancer risk and annual $PM_{2,5}$ concentration of 0.3 $\mu g/m^3$. The proposed project has a less than significant impact with respect to community risk caused by construction activities. **(Less Than Significant Impact with Mitigation Incorporated)**

Criteria Pollutant Emissions

In a 2018 decision (*Sierra Club v. County of Fresno*), the state Supreme Court determined that CEQA requires that when a project's criteria air pollutant emissions would exceed applicable thresholds and contribute a cumulatively considerable contribution to a significant cumulative regional criteria pollutant impact, the potential for the project's emissions to affect human health in the air basin must be disclosed. State and federal ambient air quality standards are health-based standards and exceedances of those standards result in continued unhealthy levels of air pollutants. As stated in the 2017 BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size, by itself, to result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. In developing thresholds of significance for air pollutants, BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. If a project has a less than significant impact for criteria pollutants, it is assumed to have no adverse health effect.

The proposed project would result in a less than significant operational and construction criteria pollutant impact as discussed in Impact AIR-1. Therefore, the project would result in a less than significant health impact to sensitive receptors. **(Less Than Significant Impact)**

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

The project would generate localized emissions of diesel exhaust during construction equipment operation and truck activity. These emissions may be noticeable from time to time by adjacent receptors; however, the odors would be localized and temporary and are not likely to affect people off-site. The proposed residential project would not be a source of long-term odors. Implementation of the proposed project would not result in long-term or short-term odor impacts. **(Less Than Significant Impact)**

4.3.4 Non-CEQA Effects

Per *California Building Industry Association v. Bay Area Air Quality Management District,* 62 Cal. 4th 369 *(BIA v. BAAQMD)*, effects of the environment on the project are not considered CEQA impacts. The following discussion is included for informational purposes only because the City of San José has policies that address existing air quality conditions affecting a proposed project. Pursuant to General Plan policies MS-10.1, MS-11.1, and MS-11.2, a health risk assessment was prepared to ensure sensitive receptors introduced onto the project site are not exposed to substantial TAC emissions.

Operational Community Risk Impacts

Local community risk and hazards are associated with TACs and $PM_{2.5}$ because emissions of these pollutants can have significant health impacts at the local level. The City's General Plan Policy MS-11.1 requires 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. The policy also requires new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project design or be located an adequate distance from sources of TACs to avoid significant risks to health and safety.

BAAQMD recommends that projects be evaluated for community health risks when they are located within 1,000 feet of stationary permitted sources of TACs, and/or within 1,000 feet of freeways and high traffic volume roadways (10,000 average daily trips [ADT] or more). Traffic on high volume roadways is a source of TAC emissions that may adversely impact sensitive receptors in close proximity the roadway. A review of the project area indicates that South De Anza Boulevard, State Route 85 (SR 85), and three stationary sources of TAC emissions are located within 1,000 feet of the project site, as discussed below.

Roadway and Highway

South De Anza Boulevard

The BAAQMD CEQA Air Quality Guidelines (dated May 2017) include significance thresholds used to assess potential cancer risk and annual $PM_{2.5}$ concentrations. Based on these thresholds, a project would result in a significant construction TAC or $PM_{2.5}$ impact if:

- An excess cancer risk level of more than 10 in one million, or a non-cancer (chronic or acute hazard index greater than 1.0)
- An incremental increase of more than 0.3 micrograms per cubic meter ($\mu g/m^3$) annual average $PM_{2.5}$.

The existing ADT volume on South De Anza Boulevard was estimated to be approximately 42,150 vehicles. The *Roadway Screening Analysis Calculator* was used to assess whether South De Anza Boulevard would have a significant effect on the proposed project. At a distance of approximately 245 feet from the roadway, it is estimated that the cancer risk would be 6.4 per million and the $PM_{2.5}$ concentration risk would be 0.2 $\mu g/m^3$. The South De Anza Boulevard roadway does not, therefore,

generate emissions that would exceed the thresholds for long-term residential exposure on the project site.

State Route 85

SR 85 is located approximately 680 feet southwest of the project site and has an ADT of 113,000, as reported by the California Department of Transportation (Caltrans) in the *2015 Traffic Volumes on California State Highways*. Dispersion modeling of DPM and $PM_{2.5}$ emissions were analyzed using the U.S. EPA AERMOD model. It is estimated that the cancer risk would be 0.6 per million, the $PM_{2.5}$ concentration risk would be 0.09 $\mu g/m^3$, and the hazard index (HI) would be less than 0.01, which would be below BAAQMD's significance thresholds. The South De Anza Boulevard roadway does not generate emissions that would exceed the thresholds for long-term residential exposure on the project site.

Stationary Sources

Three operational stationary sources of TACs were identified within 1,000 feet of the project site using the BAAQMD *Stationary Source Risk & Hazard Analysis Tool*. This mapping tool uses Google Earth to identify the location of stationary sources and their estimated risk and hazard impacts. The three operational stationary sources and their locations are listed below.

- Plant 111612 is a gas station approximately 1,000 feet northwest of the project site.
- Plant 111341 is a gas station approximately 100 feet west of the project site.
- Plant 112512 is a gas station approximately 350 feet northwest of the project.

A summary of the mobile and stationary sources and the community risk levels are shown in Table 4.3-5 below.

Table 4.3-5: Mobile and Stationary Source Community Risk Levels

Source	Location from Project Site	Cancer Risk (per million)	Annual $PM_{2.5}$ Concentration ($\mu g/m^3$)	Hazard Index
State Route 85	680 feet southwest	0.6	0.09	<0.01
South De Anza Boulevard	245 feet east	6.4	0.2	<0.03
Plant 111612	1,000 feet west	<0.1	0.0	<0.01
Plant 111341	100 feet west	6.3	0.0	0.03
Plant 112512	350 feet northwest	1.0	0.0	<0.01
BAAQMD Threshold – Single Sources		>10	>0.3	>1.0
Threshold Exceeded?		**No**	**No**	**No**
Cumulative Total		<14.4	0.31	<0.09
BAAQMD Threshold – Cumulative Sources		>100	>0.8	>10.0
Threshold Exceeded?		**No**	**No**	**No**

Source: *Illingworth & Rodkin, Inc. Bark Lane Residential Project Community Risk Assessment*, July 30, 2019.

None of the mobile or stationary sources would generate emission that would exceed the thresholds for long-term residential exposure on the project site. Therefore, the proposed project would be consistent with General Plan Policy MS-11.1.

4.4 BIOLOGICAL RESOURCES

The following discussion is based upon a Tree Survey prepared by David J. Powers & Associates, Inc. in May 2017.

4.4.1 Environmental Setting

4.4.1.1 *Regulatory Framework*

Federal and State

Special-Status Species

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

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

Migratory Bird and Birds of Prey Protections

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, possessing, or trading in migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, and bird nests and eggs. Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment, a violation of the MBTA. Additionally, nesting birds are considered special-status species and are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

Sensitive Habitats

Wetland and riparian habitats are considered sensitive habitats under CEQA. They are also afforded protection under applicable federal, state, and local regulations, and are generally subject to regulation, protection, or consideration by the US Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), CDFW, and/or the USFWS under provisions of the federal

Clean Water Act (e.g., Sections 303, 304, 404) and State of California Porter-Cologne Water Quality Control Act.

Regional and Local

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (SCVHP) was approved in 2013 and covers an area of 519,506 acres, or approximately 62 percent of Santa Clara County. It was developed and adopted through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (Valley Water), Santa Clara Valley Transportation Authority (VTA), US Fish and Wildlife Service (USFWS), and California Department of Fish and Wildlife (CDFW). The SCVHP is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan.

City of San José Tree Ordinance

Ordinance-sized and heritage trees and street trees make up the urban forest and are protected under the City of San José Tree Ordinance. The City of San José Tree Removal Controls (San José City Code, Sections 13.31.010 to 13.32.100) protect all trees having a trunk that measures 38 inches or more in circumference (12.1 inches in diameter) at the height of 4.5 feet above the natural grade. A tree removal permit is required from the City prior to removal of any trees. In addition, any tree found by the City Council to have special significance can be designated as a Heritage Tree due to its size, history, unusual species, or unique quality. It is illegal to prune or remove a heritage tree without first consulting the City Arborist and obtaining a permit.

Envision San José 2040 General Plan

The General Plan includes the following biological resource policies applicable to the proposed project.

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

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

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

4.4.1.2 *Existing Conditions*

Special-Status Species

The project site is located within an urbanized area of San José. Vegetation on and in the vicinity of the project site include landscape trees, shrubs, and grass. Habitats in developed areas, such as the project site, are low in species diversity and include predominately urban adapted birds and animals. Most special status species occurring in the Bay Area use habitats that are not present on the project site, such as salt marsh, freshwater marsh, and serpentine grassland habitats. Since the native vegetation of the area is no longer present on-site, native wildlife species have been supplanted by species that are more compatible with an urbanized area; however, there is still potential for nesting birds to be located in trees on or adjacent to the project site.

The project site is located within the SCVHP area and is designated as "Urban-Suburban" land.[14] "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 having one or more structures per 2.5 acres.

Trees

Mature trees (both native and non-native) are valuable to the human environment for the benefits they provide including resistance to global climate change (i.e., carbon dioxide absorption), protection from weather, nesting and foraging habitat for raptors and other migratory birds, and as a visual enhancement to the urban environment. In accordance with City policy, trees that are a minimum of 12.1 inches in diameter (38 inches in circumference) at 4.5 feet above the natural grade, as well as Heritage Trees, are protected from removal without a permit.

There are a total of 66 trees on-site and adjacent to the site, including two dead trees (Tree Numbers 20 and 22) and two native trees (Tree Numbers 12 and 46, Coast live oak). Of the 66 trees, there are 12 pittosporum, 12 xylosma, seven Victorian boxes, six American sweetgums, four fern pines, three Canary Island pines, three Glossy privets, three Weeping figs, two coast live oaks, two Japanese loquats, two silk oaks, two swamp myrtles, one bottlebrush, one cabbage tree, one camphor tree, one Chinese pistache, one Mexican fan palm, one monkey puzzle, one oleander, and one red river gum. Of the 66 trees, five are street trees (Tree Numbers 1, 2, 24, 25, and 26).

[14] Santa Clara Valley Habitat Agency. "GIS Data & Key Maps." Accessed August 28, 2019. http://scv-habitatagency.org/193/GIS-Data-Key-Maps.

The following table lists all trees identified on and adjacent to the site as part of a tree survey completed by David J. Powers & Associates, Inc. on May 3, 2017. The location of trees is shown on Figure 4.4-1.

Table 4.4-1: Tree Survey

Tree No.	Scientific Name	Common Name	Circumference (inches)	Diameter (inches)
1	*Liquidambar styraciflua*	American sweetgum	28	9
2	*Liquidambar styraciflua*	American sweetgum	25	8
3	*Ligustrum lucidum*	Glossy privet	51	16
4	*Pittosporum undulatum*	Victorian box	52	16
5	*Tristaniopsis laurina*	Swamp myrtle	20	6
6	*Tristaniopsis laurina*	Swamp myrtle	45	14
7	*Podocarpus gracilior*	Fern pine	63	20
8	*Podocarpus gracilior*	Fern pine	73	23
9	*Podocarpus gracilior*	Fern pine	57	18
10	*Podocarpus gracilior*	Fern pine	59.5	19
11	*Washingtonia robusta*	Mexican fan palm	60	19
12	*Quercus agrifolia*	Coast live oak	43	13
13	*Eriobotrya japonica*	Japanese loquat	33	10
14	*Xylosma congestum*	Xylosma	64	20
15	*Grevillea robusta*	Silk oak	77	24
16	*Eucalyptus camaldulensis*	Red river gum	60	19
17	*Pinus canariensis*	Canary island pine	84	27
18	*Pinus canariensis*	Canary island pine	88	24
19	*Pinus canariensis*	Canary island pine	76	24
20	*Cinnamomum camphora*	Camphor tree	--	--
21	*Pittosporum undulatum*	Victorian box	48	15
22	*Cordyline australis*	Cabbage tree	--	--
23	*Pistachia chinensis*	Chinese pistache	48	15
24	*Liquidambar styraciflua*	American sweetgum	27	8
25	*Liquidambar styraciflua*	American sweetgum	21.5	7
26	*Liquidambar styraciflua*	American sweetgum	29	9
27	*Liquidambar styraciflua*	American sweetgum	5.5	2
28	*Grevillea robusta*	Silk oak	19	6
29	*Ficus benjamina*	Weeping fig	34.5	11
30	*Ficus benjamina*	Weeping fig	8	2
31	*Xylosma congestum*	Xylosma	20	6
32	*Xylosma congestum*	Xylosma	19	6
33	*Xylosma congestum*	Xylosma	14.5	4
34	*Xylosma congestum*	Xylosma	35	11
35	*Pittosporum undulatum*	Victorian box	27	8
36	*Xylosma congestum*	Xylosma	35	11
37	*Xylosma congestum*	Xylosma	14	4
38	*Xylosma congestum*	Xylosma	19	6
39	*Xylosma congestum*	Xylosma	19	6
40	*Xylosma congestum*	Xylosma	25.5	8
41	*Araucaria araucana*	Monkey puzzle	9	3
42	*Pittosporum undulatum*	Victorian box	54.5	17

BARK LANE TREE LOCATION MAP

FIGURE 4.4-1

Table 4.4-1: Tree Survey				
Tree No.	**Scientific Name**	**Common Name**	**Circumference (inches)**	**Diameter (inches)**
43	*Pittosporum undulatum*	Victorian box	57	18
44	*Ficus benjamina*	Weeping fig	19	6
45	*Callistermon*	Bottlebrush	44	14
46	*Quercus agrifolia*	Coast live oak	4	1
47	*Pittosporum sp.*	Pittosporum	8	2
48	*Ligustrum lucidum*	Glossy privet	16	5
49	*Pittosporum sp.*	Pittosporum	43	13
50	*Pittosporum sp.*	Pittosporum	14	4
51	*Eriobotrya japonica*	Japanese loquat	10	3
52	*Pittosporum undulatum*	Victorian box	7	2
53	*Ligustrum lucidum*	Glossy privet	25	8
54	*Pittosporum undulatum*	Victorian box	5	1
55	*Nerium oleander*	Oleander	30.5	10
56	*Xylosma congestum*	Xylosma	13	4
57	*Xylosma congestum*	Xylosma	61	19
58	*Pittosporum sp.*	Pittosporum	44	14
59	*Pittosporum sp.*	Pittosporum	12	4
60	*Pittosporum sp.*	Pittosporum	37.5	12
61	*Pittosporum sp.*	Pittosporum	48	15
62	*Pittosporum sp.*	Pittosporum	48	15
63	*Pittosporum sp.*	Pittosporum	37	12
64	*Pittosporum sp.*	Pittosporum	29	9
65	*Pittosporum sp.*	Pittosporum	37	12
66	*Pittosporum sp.*	Pittosporum	42	13
Notes: Ordinance sized trees are 38+ inches in circumference. ** denotes off-site trees to be retained				

4.4.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?	☐	☒	☐	☐
2) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?	☐	☐	☒	☐

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
3) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☒	☐
4) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	☐	☐	☒	☐
5) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☒	☐
6) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☒	☐

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

While the project is located within an urban environment, the mature trees on and adjacent to the project site could provide nesting and/or foraging habitat for migratory birds adapted to urban environments. Migratory birds, like nesting raptors, are protected under the Migratory Bird Treaty Act and the CDFW Code Sections 3503, 3503.5, and 3800. The CDFW defines "taking" as causing abandonment and/or loss of reproductive efforts through disturbance. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute a significant impact.

Mitigation and Avoidance Measures

The following mitigation measures would be implemented during all construction activities to avoid abandonment of raptors and other protected migratory birds' nests.

MM BIO-1.1: The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay Area, extends from February 1st through August 31st (inclusive).

If demolition and construction cannot be scheduled between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests are disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife (CDFW), shall determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

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

Implementation of the identified mitigation measure would reduce construction impacts to migratory birds to a less than significant level. **(Less Than Significant Impact with Mitigation Incorporated)**

Impact BIO-2:	The project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS. **(Less than Significant Impact)**

Impact BIO-3:	The project would not have a substantial adverse effect on state or federally protected wetlands through direct removal, filling, hydrological interruption, or other means. **(Less than Significant Impact)**

Calabazas Creek is located approximately 0.2 mile east of the site. Because the project area is developed and has no natural habitat, no habitats exist that would support endangered, threatened, or special status wildlife species. There are no wetlands on-site and, as a result, the project would not affect any federally protected wetlands defined by Section 404 of the Clean Water Act. The proposed project would not adversely affect special-status species, riparian habitat, or wetland habitat. **(Less Than Significant Impact)**

Impact BIO-4:	The project would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. **(Less than Significant Impact)**

As mentioned under Impacts BIO-2 and BIO-3, no natural habitat exists on-site that would support endangered, threatened, or special-status wildlife species. The project site is not used as a wildlife corridor by any native resident or migratory fish or wildlife species. Therefore, the proposed project would not interfere with the movement of any fish or wildlife species. **(Less than Significant Impact)**

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

As mentioned previously, there are a total of 66 trees on and adjacent to the project site, including two trees that are dead. The project proposes to remove Tree Numbers one through 26 which includes one native tree and two dead trees. As a Condition of Project Approval, any tree removed as a result of the project would be required to be replaced in accordance with all applicable laws, policies, or guidelines, including:

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

Table 4.4-1: City of San José Standard Tree Replacement Ratios

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

[1]As measured 4.5 feet above ground level
[2] x:x = tree replacement to tree loss ratio
[3]Ordinance-sized tree
Notes: Trees greater than 38 inches in circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For multi-family residential, commercial, and industrial properties, a Tree Removal Permit is required for removal of trees of any size.
A 38-inch tree equals 12.1 inches in diameter.
One 24-inch box tree = two 15-gallon trees.

In accordance with City policy, tree replacement would be implemented as shown in Table 4.4-2.[15] The 24 trees to be removed would be replaced as follows: 16 trees would be replaced at a 4:1 ratio, and seven trees would be replaced at a 2:1 ratio with a 15-gallon container. Because one native tree would be removed, one tree would be replaced at a 5:1 ratio with a 15-gallon container. The total number of trees required to be planted on-site would be 83. The species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures would be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage:

- The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site, at the development permit stage.
- Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance to the City Council approved Fee Resolution. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

The proposed project would be required to the City's tree replacement policy. The General Plan FEIR concluded that compliance with local laws, policies or guidelines, as proposed by the project, would reduce impacts to the urban forest to a less than significant level. **(Less Than Significant Impact)**

Impact BIO-6:	The project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. **(Less than Significant Impact)**

The project site is located within the SCVHP area and is subject to the SCVHP if it meets the following criteria:

- The activity is subject to either ministerial or discretionary approval by the County or one of the cities;
- The activity is described in Section 2.3.2 *Urban Development* or in Section 2.3.7 *Rural Development;*[16]

[15] Since completion of the tree survey in May 2017, the City has adopted new tree ordinance guidelines (February 9th, 2018). The previous guidelines protected all trees having a trunk that measures 56 inches or more in circumference (18 inches in diameter) at a height of two feet above natural grade. As such, the data in the tree survey was based on measurements taken at two feet above natural grade. The new guidelines protect all trees having a trunk measuring 38 inches or more in circumference (12.1 inches in diameter) at a height of 4.5 feet above natural grade. The analysis provides tree replacement ratios based on the current guidelines. It should be noted that trees are typically wider near the base of the truck and decrease in size near the canopy. Because the tree survey was completed on the lower section of the trees, the measurements used to determine the replacement ratios are conservative.

[16] Covered activities in urban areas include residential, commercial, and other types of urban development within the Cities of Gilroy, Morgan Hill, and San José planning limits of urban growth in areas designated for urban or rural

- In Figure 2-5 (of the SCVHP), the activity is located in an area identified as "Private Development is Covered," OR the activity is equal to or greater than two acres AND

  The project is located in an area identified as "Rural Development Equal to or Greater than two acres is Covered," or "Urban Development Equal to or Greater than 2 Acres is Covered" OR

  The activity is located in an area identified as "Rural Development is not Covered" but, based on land cover verification of the parcel (inside the Urban Service Area) or development area, the project is found to impact serpentine, wetland, stream, riparian, or pond land cover types; or the project is located in occupied or occupied nesting habitat for western burrowing owl.

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

Standard Permit Condition:

- The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant shall submit a SCVHP Coverage Screening Form or Nitrogen Deposition Only Application Form (if no land cover fees apply) to the Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement for review and shall complete subsequent forms, reports, and/or studies as needed.

Implementation of the proposed project would have a less than significant implementation of the SCVHP. **(Less Than Significant Impact)**

development, including areas that are currently in the unincorporated County (i.e., in "pockets" of unincorporated land inside the cities' urban growth boundaries).

4.5 CULTURAL RESOURCES

The following discussion is based on a Historic Evaluation prepared by Archives & Architecture in April 2017. A copy of the Historic Evaluation is included in Appendix B of this document.

4.5.1 Setting

4.5.1.1 *Regulatory Framework*

Below is an overview of criteria used to assess the historic significance and eligibility of a building, structure, object, site or district for listing in the National Register of Historic Places (NRHP), the California Register of Historical Resources (CRHR), and the City of San José Historic Resources Inventory.

Federal

National Historic Preservation Act

The National Register of Historic Places (NRHP), established under the National Historic Preservation Act, is a comprehensive inventory of known historic resources throughout the U.S. The National Register is administered by the National Park Service and includes buildings, structures, sites, objects and districts that possess historic, architectural, engineering, archaeological or cultural significance. National Register Bulletin Number 15, How to Apply the National Register Criteria for Evaluation, describes the Criteria for Evaluation as being composed of two factors. First, the property must be "associated with an important historic context", and second the property must retain integrity of those features necessary to convey its significance.

The National Register identifies four possible context types or criteria, at least one of which must be applicable at the national, state, or local level. As listed under Section 8, "Statement of Significance," of the National Register of Historic Places Registration Form, these are:

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

State

California Register of Historical Resources

The California Register of Historical Resources (CRHR) is a guide to cultural resources that must be considered when a government agency undertakes a discretionary action subject to CEQA. The CRHR aids government agencies in identifying, evaluating, and protecting California's historical resources, and indicates which properties are to be protected from substantial adverse change (Public Resources Code, Section 5024.1(a)). The CRHR is administered through the State Office of Historic Preservation (SHPO), which is part of the California State Parks system. The context types to be used

when establishing the significance of a property for listing on the California Register of Historical Resources are very similar, with emphasis on local and state significance. They are:

1. It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States; or
2. It is associated with the lives of persons important to local, California, or national history; or
3. It embodies the distinctive characteristics of a type, period, or method of construction or 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.

State Regulations Regarding Cultural and Paleontological Resources

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

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

Local

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).

Any potentially historic property can be nominated for designation as a city landmark by the City Council, the Historic Landmarks Commission or by application of the owner or the authorized agent of the owner of the property for which designation is requested.

Based upon the criteria of the City of San José Historic Preservation Ordinance, the San José Historic Landmarks Commission established a quantitative process, based on the work of Harold Kalman (1980), by which historical resources are evaluated for varying levels of significance. This historic evaluation criterion, and the related Evaluation Rating Sheets, is utilized within the Guidelines for Historic Reports published by the City's Department of Planning, Building and Code Enforcement, as last revised on February 26, 2010.

Although the criteria listed within the Historic Preservation Ordinance are the most relevant determinants when evaluating the significance of historic resources in San José, the numerical tally system is used as a general guide for the identification of potential historic resources. The "Historic Evaluation Sheet" reflects the historic evaluation criteria for the Registers as well as the City's Historic Preservation Ordinance, and analyzes resources according to the following criteria:

- Visual quality/design
- History/association
- Environment/context
- Integrity
- Reversibility

Envision San José 2040 General Plan

The General Plan includes the following policies applicable to all development projects in San José.

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.

4.5.1.2 *Existing Conditions*

Prehistoric Subsurface Resources

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

The Ohlone people were hunter/gatherers focusing on hunting, fishing and collecting seasonal plant and animal resources, including tidal and marine resources from San Francisco Bay Area. The customary way of living, or lifeway, of the Costanoan/Ohlone people disappeared by about 1810 due to disruption by introduced diseases, a declining birth rate, and the impact of the California Mission system established by the Spanish in the area in 1777.

Most prehistoric sites have been found along or very near fresh water sources such as creeks and springs. The nearest waterway to the project site is Calabazas Creek, located approximately 0.20 miles east of the site. Although the project site has not been previously surveyed for archaeological resources, two major archaeological surveys nearby have failed to find prehistoric resources in the area.[17]

Historic Subsurface Resources

Mission Period

Spanish explorers began coming to Santa Clara Valley in 1769. From 1769 to 1776 several expeditions were made to the area during which time the explorers encountered the Native American tribes who had occupied the area since prehistoric times. Expeditions in the Bay Area and throughout California lead to the establishment of the California Missions and, in 1777, the Pueblo de San José de Guadalupe.

The pueblo was originally located near the old San José City Hall. Because the location was prone to flooding, the pueblo was relocated in the late 1780's or early 1790's south to what is now downtown

[17] City of San José. *Bark Lane Townhomes Initial Study*. July 2007.

San José. The current intersection of Santa Clara Street and Market Street in downtown San José was the center of the second pueblo. The physical distance between the project site and the second pueblo is approximately 8.0 miles.

Post-Mission Period to Mid-20th Century

In the mid-1800's, San José began to be redeveloped as America took over the territory from Mexico and new settlers began to arrive in California as a result of the gold rush and the expansion of business opportunities in the west. Much of San José, outside of the downtown area, was undeveloped or used as farm lands until after World War II.

The project site was constructed in 1961 by Trojan Construction Company. Apartment complexes similar to the existing structures on-site appeared throughout the City along major thoroughfares post World War II including Saratoga-Sunnyvale Road, Winchester Boulevard, Monterey Road, Hamilton Avenue, and Fruitvale Avenue between the 1950s and 1960s to meet housing demands.

Historic Structures

The existing buildings on-site, constructed in 1961, have minimalist modern design elements (refer to Photos 1, 4 and 5 in *Section 4.1*). According to the historic evaluation, the existing structures on-site reflect minor patterns of development during the City's period of industrialization and urban expansion. The buildings and historic land uses of this property are not associated with persons found to be historically significant in the history of San José. In addition, the buildings lack distinctive architectural styles and form; therefore, the existing structures on-site do not qualify as a historic resource under any criteria for the California and National Registers.

4.5.2 Impact Discussion

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

Impact CUL-1: The project would not cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5. **(Less than Significant Impact)**

The project site is developed with a three-building, 20-unit apartment complex constructed in 1961. Although the buildings are approximately 58 years old, the site is not listed on the San José Historic Resources Inventory, nor has it been evaluated as a part of any local historic resource survey. The site is in a state of deterioration and is not associated with persons found to be historically significant. In addition, the site lacks distinctive architectural styles. As outlined in *Section 4.5.1.3*, the property would not qualify for the National or California Registers and is not considered significant by the City's standards; therefore, implementation of the project would have a less than significant impact to historic structures. **(Less Than Significant Impact)**

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

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

Prehistoric and Historic Resources

Build out of the General Plan may result in impacts to prehistoric and historic subsurface archaeological resources, including tribal resources. While no archaeological resources have been recorded on or within the vicinity of the project site, earthmoving activities on-site may result in the loss of unknown subsurface prehistoric resources on the project site. The project would be required, as a condition of project approval, to implement the following Standard Permit Conditions.

Standard Permit Conditions:

Consistent with General Plan policies ER-10.2 and ER-10.3, the following standard permit conditions are included in the project to reduce or avoid impacts to subsurface cultural resources.

- In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Supervising Environmental Planner and Historic Preservation Officer of the Department of Planning, Building and Code Enforcement shall be notified, and the archaeologist shall examine the find and make appropriate recommendations 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 during monitoring would be submitted to the Director of Planning, Building and Code Enforcement.

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

who shall then notify the Santa Clara County Coroner. The Coroner shall make a determination as to whether the remains are Native American.

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

If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

- The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission.
- The descendant identified fails to make a recommendation; or
- The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

With implementation of the Standard Permit Conditions, the proposed project would have a less than significant impact on subsurface cultural resources. **(Less Than Significant Impact)**

4.6 ENERGY

The following discussion is based upon an Air Quality and Greenhouse Gas Assessment prepared by *Illingworth & Rodkin, Inc.* in July 2019.[18] The report is attached in Appendix A of this document.

4.6.1 Environmental Setting

4.6.1.1 *Regulatory Framework*

Federal and State

Energy Star and Fuel Efficiency

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

Renewables Portfolio Standard Program

In 2002, California established its Renewables Portfolio Standard Program, with the goal of increasing the percentage of renewable energy in the state's electricity mix to 20 percent of retail sales by 2010. In 2008, Executive Order S-14-08 was signed into law, requiring retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 requires retail sellers and publicly owned utilities to procure 50 percent of their electricity from renewable sources by 2030. SB 100, passed in 2018, requires 100 percent of electricity in California to be provided by 100 percent renewable and carbon-free sources by 2045.

California Building Standards Code

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.[19]

California Green Building Standards Code

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

[18] Please note that the entitlement request is for the PD rezoning of the site and that this Initial Study analyzes the impacts from the conceptual development intensity on the site.
[19] California Building Standards Commission. "California Building Standards Code." Accessed September 5, 2019. https://www.dgs.ca.gov/BSC/Codes.

Advanced Clean Cars Program

CARB adopted the Advanced Clean Cars program in 2012 in coordination with the EPA and National Highway Traffic Safety Administration. The program combines the control of smog-causing pollutants and GHG emissions into a single coordinated set of requirements for vehicle model years 2015 through 2025. The program promotes development of environmentally superior passenger cars and other vehicles, as well as saving the consumer money through fuel savings.[20]

4.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 7,881 trillion British thermal units (Btu) in the year 2017, the most recent year for which this data was available.[21] 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 (1,416 trillion Btu) for residential uses, 19 percent (1,473 trillion Btu) for commercial uses, 23 percent (1,818 trillion Btu) for industrial uses, and 40 percent (3,175 trillion Btu) for transportation.[22] 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 2018 was consumed primarily by the commercial sector (77 percent), followed by the residential sector consuming 23 percent. In 2018, a total of approximately 16,668 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[23]

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, which provides 80 percent GHG emission-free electricity. Customers can choose to enroll in SJCE's TotalGreen program at any time to receive 100 percent GHG emission-free electricity form entirely renewable sources.

Natural Gas

PG&E provides natural gas services within the City of San José. In 2018, approximately one percent of California's natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada.[24] In 2018, residential and commercial customers in California used 34 percent of the state's natural gas, power plants used 35 percent, the industrial sector used 21 percent, and other uses used 10 percent. Transportation accounted for one percent of natural gas use in California. In 2018, Santa Clara County used approximately 3.5 percent of the

[20] California Air Resources Board. "Advanced Clean Cars Program." Accessed September 5, 2019. https://ww2.arb.ca.gov/our-work/programs/advanced-clean-cars-program/about.
[21] United States Energy Information Administration. "State Profile and Energy Estimates, 2017." Accessed September 5, 2019. https://www.eia.gov/state/?sid=CA#tabs-2.
[22] Ibid.
[23] California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed September 5, 2019. http://ecdms.energy.ca.gov/elecbycounty.aspx.
[24] California Gas and Electric Utilities. 2019 *California Gas Report.* Accessed September 5, 2019. https://www.socalgas.com/regulatory/documents/cgr/2019_CGR_Supplement_7-1-19.pdf.

state's total consumption of natural gas.[25]

Fuel for Motor Vehicles

In 2018, 15.6 billion gallons of gasoline were sold in California.[26] The average fuel economy for light-duty vehicles (autos, pickups, vans, and sport utility vehicles) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 24.9 mpg in 2018.[27] 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.[28,29]

Energy Use by Existing Development

The estimated annual energy use of the existing development on-site is shown below in Table 4.6-1.

Table 4.6-1: Estimated Annual Energy Use of Existing Development

Development	Electricity Use (kWh)	Natural Gas Use (kBtu)	Gasoline[1] (gallons per year)
Apartments – Mid-Rise	71,643	172,174	19,039
Total:	71,643	172,174	19,039

Notes: Illingworth & Rodkin, Inc. *Santa Clara University Housing Air Quality & Greenhouse Gas Assessment*. July 30, 2019.
[1] 474,063 Annual VMT / 24.9 mpg = 19,039 gallons of gasoline per year.

As shown in the table above, the existing development on-site uses approximately 71,643 kWh of electricity and 172,174 kBtu of natural gas. The existing building consumes approximately 19,039 gallons of gasoline per year.

[25] California Energy Commission. "Natural Gas Consumption by County." Accessed September 5, 2019. http://ecdms.energy.ca.gov/gasbycounty.aspx.
[26] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed September 5, 2019. https://www.cdtfa.ca.gov/taxes-and-fees/spftrpts.htm.
[27] United States Environmental Protection Agency. "The 2018 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." March 2019. https://nepis.epa.gov/Exe/ZyPDF.cgi/P100W5C2.PDF?Dockey=P100W5C2.PDF
[28] United States Department of Energy. *Energy Independence & Security Act of 2007.* Accessed September 5, 2019. http://www.afdc.energy.gov/laws/eisa.
[29] Public Law 110–140—December 19, 2007. *Energy Independence & Security Act of 2007.* Accessed September 5, 2019. http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf.

4.6.2 Impact Discussion

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

Impact EN-1:	The project would not result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation. **(Less than Significant Impact)**

Impact EN-2:	The project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. **(Less than Significant Impact)**

Estimated Energy Use of the Proposed Project

Energy would be consumed primarily from building heating and cooling, lighting, and water heating. Table 4.6-2 summarizes the estimated energy use of the proposed project.

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

Development	Electricity Use (kWh)	Natural Gas Use (kBtu)	Gasoline[2] (gallons per year)
Apartments – Mid-Rise	350,910	734,353	51,247
Enclosed Parking with Elevator	419,435	--	--
Total:	**770,345**	**734,353**	**51,247**

Notes: Illingworth & Rodkin, Inc. *Santa Clara University Housing Air Quality & Greenhouse Gas Assessment*. July 30, 2019.
[1] 1,276,058 Annual VMT / 24.9 mpg = 51,247 gallons of gasoline per year.

Energy Efficiency from Construction

It is estimated that the project would be built over a period of approximately 14 months beginning in January 2020 (299 construction workdays).[30] The project would require demolition, site preparation, grading, trenching, building construction, paving, and architectural coating. The overall construction schedule and process is already designed to be efficient in order to avoid excess monetary costs. That is, equipment and fuel would not be used wastefully on-site because of the added expense associated

[30] At the time this study was completed, it was assumed that the project would take approximately 14 months beginning in 2020. Based on personal communication with Illingworth & Rodkin, Inc., if the construction for the project were to start at a later date and all variables remain the same, constructions emissions would not be worse than what is currently analyzed. The later construction date would likely cause emissions to decrease due to better, cleaner, or higher tiered construction equipment and vehicles.

with renting the equipment, maintaining it, and fueling it. Therefore, the opportunities for future efficiency gains during construction are limited. The proposed project, however, does include several measures that would improve the efficiency of the construction process. Implementation of the City's Standard Permit Conditions detailed in *Section 4.3, Air Quality*, would restrict equipment idling times to five minutes or less and would require the applicant to post signs on-site reminding workers to shut off idle equipment.

Implementation of applicable General Plan policies and existing regulations and programs would also reduce energy waste from construction and demolition. The project would be required to recycle or salvage approximately 75 percent of construction waste as part of its LEED certification and compliance with the City's Construction and Demolition Diversion Program. Therefore, construction of the proposed project would not consume energy in a manner that is wasteful, inefficient, or unnecessary. **(Less than Significant Impact)**

Energy Efficiency from Operation

The proposed project would result in a net increase in electricity usage of approximately 698,702 kWh and natural gas usage of approximately 562,179 kBtu. Annual gasoline consumption as a result of the project would have a net increase of approximately 32,208 gallons of gasoline.

The energy use increase is likely overstated because the estimates for energy use do not take into account the efficiency measures incorporated into the project. The project would be built to the most recent CALGreen requirements, which includes insulation and design provisions to minimize wasteful energy consumption, and Title 24 energy efficiency standards, which would ensure the energy efficiency of the overall project. Additionally, SJCE would provide electricity to the proposed development from renewable sources including solar, wind, and hydropower. Though the proposed project does not include on-site renewable energy resources, the proposed project would be built to achieve minimum LEED certification consistent with San José's Council Policy 6-32 and the City's Green Building Ordinance. Per the City's bicycle parking requirement, the proposed project would be required to provide a total of 22 bicycle parking spaces. The project proposes 22 bicycle parking spaces.

The nearest bus stop to the project site are located along De Anza Boulevard (Route 53). The inclusion of bicycle parking and proximity to transit would incentivize the use of alternative methods of transportation to and from the site, thus reducing potential gasoline consumption. For these reasons, implementation of the proposed project would comply with existing state energy standards and would not obstruct implementation of a state or local plan for renewable energy or energy efficiency. **(Less than Significant Impact)**

4.7 GEOLOGY AND SOILS

The following discussion is based in part on a Soil Resource Report generated from the Natural Resources Conservation Service's website in April 2017. A copy of this report is attached in Appendix C.

4.7.1 Environmental Setting

4.7.1.1 *Regulatory Framework*

State

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act was passed following the 1971 San Fernando earthquake. The act regulates development in California near known active faults due to hazards associated with surface fault ruptures. Alquist-Priolo maps are distributed to affected cities, counties, and state agencies for their use in planning and controlling new construction. Areas within an 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.

Seismic Hazards Mapping Act

The Seismic Hazards Mapping Act (SHMA) was passed in 1990 following the 1989 Loma Prieta earthquake. The SHMA directs the California Geological Survey (CGS) to identify and map areas prone to liquefaction, earthquake-induced landslides, and amplified ground shaking. CGS has completed seismic hazard mapping for the portions of California most susceptible to liquefaction, landslides, and ground shaking, including the central San Francisco Bay Area. The SHMA requires that agencies only approve projects in seismic hazard zones following site-specific geotechnical investigations to determine if the seismic hazard is present and identify measures to reduce earthquake-related hazards.

California Building Standards Code

The CBC prescribes standards for constructing safer buildings. The CBC contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, ground strength, and distance to seismic sources. The CBC requires that a site-specific geotechnical investigation report be prepared for most development projects to evaluate seismic and geologic conditions, such as surface fault ruptures, ground shaking, liquefaction, differential settlement, lateral spreading, expansive soils, and slope stability. The CBC is updated every three years; the current version is the 2016 CBC.

California Division of Occupational Safety and Health Regulations

Excavation, shoring, and trenching activities during construction are subject to occupational safety standards for stabilization by the California Division of Occupational Safety and Health (Cal/OSHA) under Title 8 of the California Code of Regulations and Excavation Rules. These regulations minimize the potential for instability and collapse that could injure construction workers on the site.

Paleontological Resources Regulations

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

Local

City of San José Municipal Code

Title 24 of the San José Municipal Code includes the 2016 California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. Requirements for building safety and earthquake hazard reduction are also addressed in Chapter 17.40 (Dangerous Buildings) and Chapter 17.10 (Geologic Hazards Regulations) of the Municipal Code. Requirements for grading, excavation, and erosion control are included in Chapter 17.04 (Building Code, Part 6 Excavation and Grading). In accordance with the Municipal Code, the Director of Public Works must issue a Certificate of Geologic Hazard Clearance prior to the issuance of grading and building permits within defined geologic hazard zones, including State Seismic Hazard Zones for Liquefaction.

Envision San José 2040 General Plan

The General Plan includes the following geologic policies applicable to the proposed project.

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: 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 shall 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.

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-10.3: Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

4.7.1.2 *Existing Conditions*

Regional Geology

San José is located within the Santa Clara Valley, a broad alluvial plain with alluvial soils extending several hundred feet below ground surface (bgs). The Santa Clara Valley consists of a large structural basin containing alluvial deposits derived from the Diablo Range to the east and the Santa Cruz Mountains to the west. The valley sediments were deposited as a series of coalescing alluvial fans by streams that drain the adjacent mountains.

On-Site Geologic Conditions

Topography and Soils

Soils on-site are comprised of the Urbanland-Botella complex. Expansive near-surface soil is subject to volume changes during seasonal fluctuations in moisture content, which may cause movement and cracking of foundations, pavements, slabs, and below-grade walls. The project site is underlain by soils that have a low- to moderate-expansion potential. There are no unique geological features on or adjacent to the project site and the topography of the project area is relatively flat.

Liquefaction

Liquefaction occurs when water-saturated soils lose structural integrity due to seismic activity. Soils that are most susceptible to liquefaction are loose to moderately dense, saturated granular soils with poor drainage. According to the Santa Clara County Geologic Hazard Zones Map, the project site is not located in a potential liquefaction zone.

Seismicity and Seismic-Related Hazards

The San Francisco Bay Area is one of the most seismically active region in the United States. Faults in the region are capable of generating earthquakes of magnitude 6.7 or higher, and strong to very strong ground shaking would be expected to occur at the project site during a major earthquake on one of the nearby faults. Based on a 2014 forecast completed by the U.S. Geological Survey, there is a 72 percent probability that one or more major earthquakes would occur in the San Francisco Bay Area by 2044.[31]

Table 4.7-1: Active Faults Near the Project Site

Fault	Distance from Site
Hayward	14 miles north
Calaveras	17 miles east
San Andreas	5 miles west

The site is not located within a designated Alquist-Priolo Earthquake Zone, Santa Clara County Fault Hazard Zone, or City of San José Potential Hazard Zone.[32] Nearby active faults include the Hayward, Calaveras, and San Andreas faults (see Table 4.7-1 above). No active faults have been mapped on the project site, therefore, the risk of fault rupture at the site is low.

Lateral Spreading

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area, such a steep bank of a stream channel. The nearest waterway is Calabazas Creek, located east of the project site. The physical distance between the proposed project site and Calabazas Creek is approximately 0.2 miles. At this distance, the potential for lateral spreading on-site is low.

Landslide

The site is not located within a Santa Clara County Landslide Hazard Zone.[33] The project area is relatively flat and, therefore, the probability of landslides occurring at the site during a seismic event is low.

[31] U.S. Geological Survey. "UCERF3: A New Earthquake Forecast for California's Complex Fault System. Fact Sheet 2015-3009." March 2015. Accessed April 6, 2017. http://pubs.usgs.gov/fs/2015/3009/pdf/fs2015-3009.pdf.
[32] Santa Clara County. *Santa Clara County Geologic Hazard Zones, Map 26.* Accessed April 6, 2017. https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf.
[33] Ibid.

4.7.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
– Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42)?	☐	☐	☒	☐
– Strong seismic ground shaking?	☐	☐	☒	☐
– Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
– Landslides?	☐	☐	☒	☐
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
c) Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☒	☐
d) Be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?	☐	☐	☒	☐
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☒	☐
f) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?	☐	☐	☒	☐

Impact GEO-1: The project would not directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault; strong seismic ground shaking; seismic-related ground failure, including liquefaction; or landslides. **(Less than Significant Impact)**

Impact GEO-3:	The project would not be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse. **(Less than Significant Impact)**

Impact GEO-4:	The project would not be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property. **(Less than Significant Impact)**

Faults in the area are considered active and have a long history of seismic activity. Earthquake faults in the region, specifically the Hayward, Calaveras, and San Andreas faults, are capable of generating earthquakes larger than 6.7 in magnitude. As a result, the project site would experience intense ground shaking in the event of a large earthquake.

The project site is located within an area of low to moderate expansion potential and a low potential for lateral spreading during large seismic events. Consistent with the General Plan and current standard practices in the City of San José, the project proposes to implement the following Standard Permit Condition to reduce significant seismic and seismic-related impacts.

Standard Permit Condition:

- The project shall be constructed in conformance with the recommendations of the design-level geotechnical investigation, which will be reviewed and approved by the City Geologist. The project would be built using standard engineering and seismic safety design techniques and shall meet the requirements of the 2016 California Building Code (CBC), or subsequent adopted codes. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk of life or property to the extent feasible and in compliance with the Building Code.

With implementation of the identified Standard Permit Condition, the proposed project would have a less than significant impact on seismic and seismic-related impacts. **(Less Than Significant Impact)**

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

Construction of the project would require ground disturbance due to demolition of the existing building, grading, excavation of the underground parking, and construction of the proposed project. Ground disturbance would expose soils and increase the potential for wind or water-related erosion and sedimentation until construction is completed.

Under the City's NPDES General Construction Permit, projects that disturb more than one acre of land would be required to submit a Notice of Intent (NOI) to the SWRCB and a Storm Water Pollution Prevention Plan (SWPPP) must be prepared prior to commencement of construction. The SWPPP is required to include Best Management Practices (BMPs) to minimize erosion, sedimentation, and water quality degradation. Because the project would comply with the NPDES

General Construction Permit, implementation of the proposed project would have a less than significant erosion impact.

In addition, the City would require the project to comply with all applicable City regulatory programs pertaining to construction related erosion including the following Standard Permit Conditions for avoiding and reducing construction related erosion impacts.

Standard Permit Conditions:

- 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, if necessary, to divert runoff around excavations and graded areas.

The General Plan FEIR concluded that with the regulatory programs currently in place, the probable impacts of accelerated erosion during construction would be less than significant. As a result, implementation of the proposed project would have a less than significant erosion impact. **(Less Than Significant Impact)**

Impact GEO-5:	The project would not 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 than Significant Impact)**

The project site is located within an urbanized area of San José where sewers are available to dispose of wastewater from the project site. Therefore, the site would not need to support septic tanks or alternative wastewater disposal systems. **(No Impact)**

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

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. Most of the City is situated on alluvial fan deposits of Holocene age that have a low potential to contain significant nonrenewable paleontological resources; however, older Pleistocene sediments present at or near the ground surface at some locations have high potential to contain these resources. These older sediments, often found at depths of greater than 10 feet below the ground surface, have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates. The General Plan FEIR found the project site to have a high sensitivity (at depth) for paleontological resources.

The project proposes two levels of below-grade parking, requiring the entire site to be excavated to a depth of approximately 29 feet. At this depth, the project has the potential for encountering paleontological resources during construction. Construction activities may result in the accidental destruction and disturbance of paleontological resources and would result in a significant impact to paleontological resources. The City would require the project to comply with all applicable City regulatory programs pertaining to unknown buried paleontological resources including the following

Standard Permit Conditions for avoiding and reducing construction related paleontological resources impacts.

Standard Permit Conditions:

- The project proponent shall ensure all construction personnel receive paleontological awareness training that includes information on the possibility of encountering fossils during construction, the types of fossils likely to be seen, based on past finds in the project areal and proper procedures in the event fossils are encountered. Worker training shall be prepared and presented by a qualified paleontologist.

- If vertebrae 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 ensuring that the recommendations of the paleontological monitor regarding treatment and reporting are implemented.

Because the proposed project would comply with the applicable City policies and regulatory programs related to paleontological resources including the City's Standard Permit Conditions, implementation of the proposed project would have a less than significant paleontological resources impact. **(Less Than Significant Impact)**

4.7.3 Non-CEQA Effects

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

On-Site Seismic Conditions

The policies of the General Plan have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City. General Plan Policy EC-4.2 states that development is allowed 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. To ensure this, the policy requires the City of San José Geologist to review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process. In addition, Policy EC-4.4 requires all new development to conform to the City of San José's Geologic Hazard Ordinance. To ensure that proposed development sites are suitable, Action EC-4.11 requires 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.

The project applicant would be required, as a condition of project approval, to submit a design-specific geotechnical report. The proposed project would be built and maintained in accordance with the design-specific geotechnical report and applicable regulations including the most recent CBC, which contains the regulations that govern the construction of structures in California. The General Plan FEIR concluded that adherence to the CBC would reduce seismic related issues and ensure new development proposed within areas of geologic hazards would not be endangered by the hazardous conditions on the site.

Because the proposed project would comply with the design-specific geotechnical report, the most recent CBC, and regulations identified in the General Plan FEIR that ensure geologic hazards are adequately addressed, the project would comply with Policies EC-4.2 and EC-4.4.

Soil Hazards

The project site is located within an area of low to moderate expansion potential. Consistent with General Plan Policy EC-4.2, since the project site is located in an area of soil hazard (e.g. high shrink-swell potential), the site would be evaluated to determine the severity of the hazard, and future mitigation would be incorporated into project design. Because the site is located within an area of moderate to high expansion potential, it is recommended that post-tensioned mat foundation be used to compact the soil. As mentioned above, the project would be built and maintained in accordance with the design-specific geotechnical report and the CBC. As a result, future site occupants would not be exposed to geologic hazard risks related to expansive soils and would comply with Policy EC-4.2.

4.8 GREENHOUSE GAS EMISSIONS

The following discussion is based upon an Air Quality and Greenhouse Gas Assessment prepared by *Illingworth & Rodkin, Inc.* in July 2019.[34] The report is attached in Appendix A of this document.

4.8.1 Environmental Setting

4.8.1.1 *Regulatory Background*

Unlike emissions of criteria and toxic air pollutants, which have local or regional impacts, emissions of greenhouse gases (GHGs) have a broader, global impact. Global warming is a process whereby GHGs accumulating in the atmosphere contribute to an increase in temperature of the earth's atmosphere. The principal GHGs contributing to global warming and associated climate change are carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), and fluorinated compounds. Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the transportation, industrial/manufacturing, utility, residential, commercial, and agricultural sectors.

Federal

Clean Air Act

The US EPA is the federal agency responsible for implementing the Clean Air Act (CAA). The US Supreme Court in its 2007 decision in *Massachusetts et al. v. Environmental Protection Agency et al.,* ruled that carbon dioxide (CO_2) is an air pollutant as defined under the CAA, and that EPA has the authority to regulate emissions of greenhouse gases (GHGs). Following the court decision, EPA has taken actions to regulate, monitor, and potentially reduce GHG emissions (primarily mobile emissions).

State

California Global Warming Solutions Act

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

On September 8, 2016, Governor Brown signed Senate Bill 32 (SB 32) into law, amending the California Global Warming Solution Act. SB 32 requires the California Air Resources Board to ensure that statewide greenhouse gas emissions are reduced to 40 percent below the 1990 level by 2030. As a part of this effort, CARB is required to update the *Climate Change Scoping Plan* to express the 2030 target in terms of million metric tons of carbon dioxide equivalent. CARB has initiated the public process to update the state's *Climate Change Scoping Plan*. The updated plan

[34] Please note that the entitlement request is for the PD rezoning of the site and that this Initial Study analyzes the impacts from the conceptual development intensity on the site.

would provide a framework for achieving the 2030 target and is anticipated to be completed and adopted by CARB in 2017.

Senate Bill 375 – Redesigning Communities to Reduce Greenhouse Gases

SB 375, known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. It builds on AB 32 by requiring CARB to develop regional GHG reduction targets to be achieved from the automobile and light truck sectors for 2020 and 2035 when compared to emissions in 2005. The per capita reduction targets for passenger vehicles in the San Francisco Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.[35]

Consistent with the requirements of SB 375, MTC partnered with the Association of Bay Area Governments (ABAG), BAAQMD, and the 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*.

MTC and ABAG adopted *Plan Bay Area* in July 2013 and CARB accepted the technical evaluation of the SCS in April 2014. The strategies in the plan are intended to promote compact, mixed-use development close to public transit, jobs, schools, shopping, parks, recreation, and other amenities, particularly within Priority Development Areas (PDAs) identified by local jurisdictions.

MTC and ABAG are currently updating *Plan Bay Area*. *Plan Bay Area 2040*, released in early 2017, is a limited and focused update that builds upon the growth pattern and strategies developed in the original *Plan Bay Area* but with updated planning assumptions that incorporate key economic, demographic and financial trends from the last four years. MTC and ABAG plan to revise the draft *Plan Bay Area 2040* and prepare a Final Environmental Impact Report with consideration of adoption in July 2017.

Clean Car Standards

CARB has adopted amendments to the "Pavley" regulations that are designed to reduce GHG emissions in new passenger vehicles. It is expected that the Pavley regulations would reduce GHG emissions from new California passenger vehicles by approximately 30 percent in 2016, all while improving fuel efficiency and reducing motorists' costs.[36]

Regional

Bay Area Air Quality Management District

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

[35] The emission reduction targets are for those associated with land use and transportation strategies, only. Emission reductions due to the California Low Carbon Fuel Standards or Pavley emission control standards are not included in the targets.
[36] CARB. "Clean Car Standards - Pavley, Assembly Bill 1493." Accessed June 22, 2017. http://www.arb.ca.gov/cc/ccms/ccms.htm.

- *Regional Clean Air Plans*: BAAQMD and other agencies prepare clean air plans as required under the state and federal Clean Air Acts. The Bay Area 2017 Clean Air Plan (2017 CAP) focuses on two closely related BAAQMD goals: protecting public health and protecting the climate. Consistent with the GHG reduction targets adopted by the state of California, the 2017 CAP lays the groundwork for the BAAQMD's long-term effort to reduce Bay Area GHG emissions 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050. The 2017 CAP includes a wide range of control measures designed to decrease emissions of methane and other "super-GHGs" that are potent climate pollutants in the near-term; and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

- *BAAQMD CEQA Air Quality Guidelines*: The *BAAQMD CEQA Air Quality Guidelines* are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. As discussed in the CEQA Guidelines, the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of San José and other jurisdictions in the San Francisco Bay Area Air Basin often utilize the thresholds and methodology for greenhouse gas emissions developed by the BAAQMD. The Guidelines include information on legal requirements, BAAQMD rules, plans and procedures, methods of analyzing greenhouse gas emissions, mitigation measures, and background information.

Bay Area 2017 Clean Air Plan

BAAQMD and other agencies prepare clean air plans as required under the State and Federal Clean Air Acts. The 2017 CAP, entitled Spare the Air/Cool the Climate, is a blueprint for BAAQMD's efforts to reduce air pollution and protect public health and the global climate. Consistent with the GHG reduction targets adopted by the state of California, the 2017 CAP lays the groundwork for the BAAQMD's long-term effort to reduce Bay Area GHG emissions 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050.

BAAQMD CEQA Guidelines

BAAQMD identifies sources of information on potential thresholds of significance and mitigation strategies for operational GHG emissions from land-use development projects in its CEQA Air Quality Guidelines. The BAAQMD CEQA Guidelines also outline a methodology for estimating GHG emissions. In jurisdictions where a qualified GHG Reduction Strategy has been reviewed under CEQA and adopted by decision-makers, compliance with the GHG Reduction Strategy would reduce a project's contribution to cumulative GHG emission impacts to a less than significant level. The BAAQMD CEQA Guidelines also outline a methodology for estimating GHG emissions.

Local

City of San José Municipal Code

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

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

Envision San José 2040 General Plan and Greenhouse Gas Reduction Strategy

The General Plan includes strategies, policies, and action items that are incorporated in the City's GHG Reduction Strategy to help reduce GHG emissions. Multiple policies and actions in the General Plan have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings. The City's Green Vision, as reflected in these policies, also has a monitoring component that allows for adaptation and adjustment of City programs and initiatives related to sustainability and associated reductions in GHG emissions. The GHG Reduction Strategy is intended to meet the mandates outlined in the CEQA 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. Voluntary measures could be incorporated as mitigation measures for proposed projects, at the City's discretion.

The primary test for consistency with the City's GHG Reduction Strategy is conformance with the General Plan Land Use/Transportation Diagram and supporting policies. CEQA clearance for development proposals are required to address the consistency of individual projects with the goals and policies in the General Plan designed to reduce GHG emissions. Compliance with the mandatory measures and voluntary measures (if required by the City) would ensure an individual project's consistency with the GHG Reduction Strategy. Projects that are consistent with the GHG Reduction Strategy would have a less than significant impact related to GHG emissions through 2020 and would not conflict with targets in the currently adopted State of California Climate Change Scoping Plan through 2020.

The environmental impacts of the GHG Reduction Strategy were analyzed in the General Plan EIR as supplemented. Beyond 2020, the emission reductions in the GHG Reduction Strategy are not large enough to meet the City's identified 3.04 metric tons (MT) CO_2e/SP efficiency metric for 2035. An additional reduction of 5,392,000 MT CO_2e per year would be required for the projected service population to meet the City's target for 2035.[37]

[37] As described in General Plan EIR, the 2035 efficiency target above, reflects a straight line 40 percent emissions reduction compared to the projected citywide emissions (10.90 MT CO_2e) for San José in 2020. It was developed prior to issuance of Executive Order S-30-15 in April 2015, which calls for a statewide reduction target of 40 percent by 2030 (five years earlier) to keep on track with the more aggressive target of 80 percent reduction by 2050. The necessary information to estimate a second mid-term or interim efficiency target (e.g., statewide emissions, population and employment in 2030) is being developed by CARB.

Achieving the substantial communitywide GHG emissions reductions needed beyond 2020 cannot be done alone with the measures identified in the GHG Reduction Strategy adopted by the City Council in 2015. The General Plan EIR disclosed that it would require an aggressive multiple-pronged approach that includes policy decisions and additional emission controls at the Federal and State level, new and substantially advanced technologies, and substantial behavioral changes to reduce single occupant vehicle trips—especially to and from work places. Future policy and regulatory decisions by other agencies (such as CARB, California Public Utilities Commission, California Energy Commission, MTC, and BAAQMD) and technological advances are outside the City's control, and therefore could not be relied upon as feasible mitigation strategies at the time of the latest revisions to the GHG Reduction Strategy (e.g., when the Final Supplemental EIR to the General Plan EIR was certified on December 15, 2015). Thus, the City Council adopted overriding considerations for the identified cumulative impact for the 2035 timeframe.

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

The General Plan includes the following greenhouse gas policies applicable to the proposed project.

Policy MS-2.11: Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g. design to maximize cross ventilation and interior daylight) and through site design techniques (e.g. orienting buildings on sites to maximize the effectiveness of passive solar design).

Policy MS-14.4: Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.

Policy CD-2.10: Recognize that finite land area exists for development and that density supports retail vitality and transit ridership. Use land regulations to require compact, low-impact development that efficiently uses land planned for growth, particularly for residential development which tends to have a long life-span. Strongly discourage small-lot and single-family detached residential product types in growth areas

Policy CD-3.2: Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure that the design of new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity.

Policy CD-5.1: Design areas to promote pedestrian and bicycle movements and to facilitate interaction between community members and to strengthen the sense of community.

Policy LU-5.4: Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections; and including secure and convenient bike storage.

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

4.8.1.2 *Existing On-Site GHG Emissions*

The project site is currently developed with a three-building, 20-unit apartment complex and is surrounded by residential and commercial development. GHG emissions are generated by daily vehicle trips to and from the project site. Emissions are also generated by the production of electricity required for lighting, heating, and cooling of the buildings.

4.8.2 Impact Discussion

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

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

Construction

The proposed residential development would result in temporary increases in GHG emissions associated with construction activities including operation of construction equipment and emissions from construction workers' personal vehicles traveling to and from the project site. Construction-related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel. Because project construction would be temporary and would not result in a permanent increase in emissions that would interfere with AB 32 or SB 32, the temporary increase in emissions would be less than significant. **(Less Than Significant Impact)**

Operation

The 2017 BAAQMD CEQA Air Quality Guidelines include thresholds of significance for GHG emissions. Pursuant to the CEQA Air Quality Guidelines, a local government may prepare a Qualified Greenhouse Gas Reduction Strategy that is consistent with AB 32 goals. If a project is consistent with an adopted Qualified Greenhouse Gas Reduction Strategy, it can be presumed that the project would not have significant GHG emissions under CEQA.[38] BAAQMD also developed a quantitative threshold for project-level analyses based on estimated GHG emissions, as well as per service population metrics. These thresholds are the basis for which post-2020 GHG thresholds have been developed at the project level.

The BAAQMD GHG recommendations include a project-level GHG emission efficiency metric of 4.6 MT of CO_2e per service population (future residences) per year as the average efficiency to achieve the 2020 AB 32 statewide targets. GHG emissions resulting from operation of the project at maximum build out have been compared to an efficiency metric threshold consistent with state goals detailed in SB 32 EO B-30-15 and EO S-3-05 to reduce GHG emissions by 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050, respectively. Though BAAQMD has not published a quantified threshold for 2030 yet, this assessment uses a "Substantial Progress" efficiency metric of 2.6 MT CO_2e per year per service population and a bright-line threshold of 660 metric tons (MT) CO_2e/year based on EO B-30-15. The service population metric of 2.6 is calculated for 2030 based on the 1990 inventory and the project 2030 statewide population and employment levels[39]. The 2030 bright-line threshold is a 40 percent reduction of the 2020 1,100 MT CO_2e per year threshold.

The CalEEMod model, along with the project vehicle trip generation rates, was used to estimate daily emissions associated with operation of the proposed project. Annual emissions resulting from project operations are shown in Table 4.8-1 based on a service population of 272 residents assuming 3.20 persons per household.[40,41]

Table 4.8-1: Annual Project GHG Emissions (MT of CO_2e)

Source Category	Project in 2022
Area	4
Energy Consumption	142
Mobile	471
Solid Waste Generation	20
Water Usage	9
Total	646
Project MT of CO_2e per year per service population	**2.4**
Significance Threshold	2.6 in 2030

[38] Bay Area Air Quality Management District. *California Environmental Quality Act Air Quality Guidelines*. May 2017.
[39] Association of Environmental Professionals, 2016. *Beyond 2020 and Newhall: A Field Guide to New CEQA Greenhouse Gas Thresholds and Climate Action Plan Targets for California*. April.
[40] Illingworth & Rodkin, Inc. *Bark Lane Residential Project Air Quality & Greenhouse Gas Assessment*. July 30, 2019.
[41] State of California, Department of Finance. "E-5 Population and Housing Estimates for Cities, Counties, and the State, 2011-2019." Accessed September 18, 2019. http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/.

Assuming no additional GHG reduction measures would be included in the project, the proposed project would not exceed the 2.6 MT CO_2e per year per service population threshold in 2030. Therefore, implementation of the proposed project would not result in a GHG emissions impact. **(Less Than Significant Impact)**

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

Per 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. Since the project is consistent with the land use assumptions of the San José GHG Reduction Strategy, compliance with the mandatory measures and voluntary measures required by the City would ensure its consistency with the City's GHG Reduction Strategy. The proposed project's consistency with these measures is discussed below.

Mandatory Criteria

1. Consistency with the Land Use/Transportation Diagram (General Plan Goals/Policies IP-1, LU-10)

2. Implementation of Green Building Measures (General Plan Goals: MS-1, MS-2, MS-14)
   - Solar Site Orientation
   - Site Design
   - Architectural Design
   - Construction Techniques
   - Consistency with City Green Building Ordinances and Policies
   - Consistency with GHG Reduction Strategy Policies: MS-1.1, MS-1.2, MC-2.3, MS-2.11, and MS-14.4

3. Pedestrian/Bicycle Site Design Measures
   - Consistency with Zoning Ordinance
   - Consistency with GHGRS Policies: CD-2.1, CD-3.2, CD-3.3, Cd-3.4, CD-3.6, CD-3.8, CD-3.10, CD-5.1, LU-5.4, LU-5.5, LU-9.1, TR-2.8, TR-2.11, TR-2.18, TR-3.3, TR-6.7

4. Salvage building materials and architectural elements from historic structures to be demolished to allow re-use (General Plan Policy LU-16.4), if applicable;

5. Complete an evaluation of operational energy efficiency and design measures for energy-intensive industries (e.g. data centers) (General Plan Policy MS-2.8), if applicable;

6. Preparation and implementation of the Transportation Demand Management (TDM) Program at large employers (General Plan Policy TR-7.1), if applicable; and

7. Limits on drive-through and vehicle serving uses; all new uses that serve the occupants of vehicles (e.g. drive-through windows, car washes, service stations) must not disrupt pedestrian flow. (General Plan Policy LU-3.6), if applicable.

The proposed project is consistent with the General Plan land use designation for the site. The building would be constructed in compliance with the San José Green Building Ordinance (Policy 6-32) and CBC requirements. The project would be designed to achieve minimum LEED certification in compliance with Policy 6-32. Given the project's consistency with the General Plan land use designation and compliance with Policy 6-32, the project would be consistent with the mandatory criteria 1, 2, and 3.

Criteria 4 - 7 are not applicable to the proposed project because the project there are no historic structures on-site, the project does not include a data center or other energy-intensive use, nor would it be a large employer in the area, and the site does not propose drive-through or vehicle serving uses. Since the project would be consistent with applicable mandatory GHG Reduction Strategy goals and policies intended to reduce GHG emissions, the project would result in a less than significant GHG emission impact. **(Less Than Significant Impact)**

4.9 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based on a Phase I Environmental Site Assessment (ESA) prepared by *AEI Consultants* in June 2017. A copy of the report is attached in Appendix D of this document.

4.9.1 Environmental Setting

4.9.1.1 *Regulatory Framework*

Hazardous Materials Overview

Hazardous materials encompass a wide range of substances including petroleum products, pesticides, herbicides, metals, asbestos, and chemical compounds used in manufacturing and other uses. Hazardous materials in various forms can cause death, serious injury, long-lasting health effects and damage to the environment. As a result, numerous laws and regulations were developed to regulate the management of hazardous materials and mitigate potential impacts.

Hazardous waste generators and hazardous materials users in the City are required to comply with regulations enforced by several Federal, State, and County agencies. The regulations are designed to reduce the risk associated with human exposure to hazardous materials and minimize adverse environmental effects. State and Federal construction worker health and safety regulations require protective measures during construction activities where workers may be exposed to asbestos, lead, and/or other hazardous materials.

Federal

Cortese List (Government Code Section 65962.5)

Section 65962.5 of the Government Code requires CalEPA to develop and update a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by the state, local agencies, and developers to comply with CEQA requirements. The Cortese List includes hazardous substance release sites identified by the Department of Toxic Substances Control (DTSC), State Water Resources Control Board (SWRCB), and CalRecycle. The project site is not on the Cortese List.[42]

Asbestos-Containing Material and Lead Paint Regulations

Friable asbestos is any asbestos containing material (ACM) that, when dry, can easily be crumbled or pulverized to a powder by hand, allowing the asbestos particles to become airborne. Common examples of products that have been found to contain friable asbestos include acoustical ceilings, plaster, wallboard, and thermal insulation for water heaters and pipes. Non-friable ACMs are materials that contain a binder or hardening agent that does not allow asbestos particles to become airborne easily. Common examples of non-friable ACMs are asphalt roofing shingles and vinyl asbestos floor tiles. Use of friable asbestos products was banned in 1978. National Emission

[42] CalEPA. "Cortese List Data Resources". Accessed September 24, 2019. https://calepa.ca.gov/sitecleanup/corteselist.

Standards for Hazardous Air Pollutants (NESHAP) guidelines require that potentially friable ACMs be removed prior to building demolition or remodel that may disturb the ACMs.

The U.S. Consumer Product Safety Commission banned the use of lead-based paint in 1978. Removal of older structures with lead-based paint is subject to requirements outlined by Cal/OSHA Lead in Construction Standard, Title 8, California Code of Regulations 1532.1 during demolition activities. Requirements include employee training, employee air monitoring, and dust control. If lead based paint is peeling, flaking, or blistered, it is required to be removed prior to demolition.

State

California Accidental Release Prevention Program (CalARP)

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

Local

Envision San José 2040 General Plan

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

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

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

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

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

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

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

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

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

4.9.1.2 *Existing Conditions*

The project site is currently developed with a three-building, 20-unit apartment complex. According to the Phase I ESA, groundwater depth encountered in the vicinity of the site ranges between 67 to 100 feet bgs. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall, and underground drainage patterns.

Site History

A land use history of the site was compiled based on aerial photographs, historical city directories, Sanborn fire insurance maps, and agency records. Based on a review of these sources, the site was agricultural land from 1939 to 1956. The property has been developed with the existing apartment buildings since 1961.

4.9.1.3 *On-Site Sources of Contamination*

Based on a database records search, the site is listed in the Department of Transportation (DOT) Office of Pipeline Safety (OPS) database. In 1984, a release of natural gas was reported due to a corroded pipe. The leak was fixed and is not a significant environmental concern. The project site is not listed on any other regulatory databases and has no record of hazardous releases or use of hazardous materials. Because the project site was previously used for agricultural purposes from 1939 to 1956, there is a potential for impacts to the soil due to residual agricultural chemicals.

Asbestos Containing Materials

Friable asbestos is any asbestos containing material (ACM) that, when dry, can easily be crumbled or pulverized to a powder by hand allowing the asbestos particles to become airborne. Common examples of products that have been found to contain friable asbestos include acoustical ceilings, plaster, wallboard, and thermal insulation for water heaters and pipes. Non-friable ACMs are materials that contain a binder or hardening agent that does not allow the asbestos particles to become airborne easily. Common examples of non-friable ACMs are asphalt roofing shingles, and vinyl asbestos floor tiles. Non-friable ACMs can pose the same hazard as friable asbestos during remodeling, repairs, or other construction activities that would damage the material. Use of friable asbestos products was banned in 1978.

The existing buildings on-site were constructed in 1961; therefore, it is reasonable to assume that ACMs are still present in the buildings.

Lead-Based Paint

Lead-based paint is of concern both as a source of direct exposure through ingestion of paint chips, and as a contributor to lead interior dust and exterior soil. Lead was widely used as a major ingredient in most interior and exterior oil-based paints prior to 1950. Lead compounds continued to be used as corrosion inhibitors, pigments and drying agents from the early 1950's. In 1972, the \ Consumer Products Safety Commission limited lead content in new paint to 0.5 percent (5,000 parts per million [ppm]) and in 1978, to 0.06 percent (600 ppm). In 1978, the Consumer Products Safety Commission banned paint and other surface coating materials containing lead. As mentioned above, the existing buildings on-site were constructed in 1961; therefore, it is reasonable to assume that lead-based paint is still present in the buildings.

4.9.1.4 *Off-Site Sources of Contamination*

The ESA identified 23 documented hazardous materials locations on various databases within a one mile radius of the project site. The sites, which include gas stations, dry cleaners, medical offices, and a fire station, were listed for use and/or storage of hazardous materials or because of a hazardous materials release. Of the 23 sites, 22 were determined to not represent a significant environmental concern for the project site because no release has occurred, or based on the distance of the facility from the project site and/or the direction of groundwater flow.

A residential condominium complex located at 7150 Rainbow Drive was listed in the Spills, Leaks, Investigation and Cleanup (SLIC) database. The residential complex is located approximately 0.2 miles southeast (cross-gradient) of the project site. In 2009, a pipe supplying hydraulic fluid to an elevator leaked and approximately 25 gallons of hydraulic fluid was lost. Groundwater at the spill site was not sampled; however, according to the EDR report prepared for the site no groundwater was impacted. This is due to the small quantity of fluid spilled and the depth to groundwater at the spill location. The soils surrounding the spill area were impacted and the impacted soil was removed and soil samples were collected. As of 2012, the site received case closure from the Santa Clara County Department of Environmental Health (SCCDEH).

4.9.1.5 *Other Hazards*

Airports

The Norman Y. Mineta San José International Airport is located approximately 14.0 miles northeast of the project site. Based on the Airport Comprehensive Land Use Plan (CLUP), the project site is not located within the Airport Influence Area (AIA) nor is the project located within a CLUP-defined safety zone. The project is not located in the vicinity of a private airstrip.

Wildfire Hazards

The project site is located in an urbanized area that is not subject to wildland fires.

4.9.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐
2) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☒	☐
3) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☒	☐
4) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?	☐	☐	☒	☐
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☐	☒
6) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
7) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	☐	☐	☐	☒

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

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

On-Site Potential Contamination Sources

The project site was used as agricultural land for at least 17 years before the project site and adjacent properties began to redevelop. Based on the past use of the site, agricultural chemicals, such as pesticides, herbicides, and fertilizers, may have been used. Development of the project would require demolition of the existing buildings, grading, excavation of the underground parking, and trenching for utilities, all of which could result in impacts to construction workers from exposure to residual soil contamination related to agricultural operations.

Mitigation and Avoidance Measures

The following mitigation measures would be implemented to reduce the risk of construction works to residual contaminated soils.

MM HAZ-2.1: Prior to the issuance of grading permits, shallow soil samples shall be taken to determine if contaminates from previous agricultural operations are located on-site in concentrations above established residential screening levels. Once the soil sampling analysis is complete, a report of the findings shall be provided to the Director of Planning, Building and Code Enforcement, and other applicable City staff for review prior to issuance of any grading permits.

MM HAZ-2.2: A Site Management Plan (SMP) shall be prepared and implemented (as outlined below) and any contaminated soils found in concentrations above established thresholds shall be removed and disposed of according to California Hazardous Waste Regulations or the contaminated portions of the site shall be capped beneath the planned development under the regulatory oversight of the Santa Clara County Department of Environmental Health (SCCDEH) or State Department of Toxic Substances Control (DTSC). The contaminated soil removed from the site shall be hauled off-site and disposed of at a licensed hazardous materials disposal site.

Components of the SMP shall include, but shall not be limited to:

- A detailed discussion of the site background;
- Preparation of a Health and Safety Plan (HSP) by an industrial hygienist;

- Notification procedures if previously undiscovered significantly impacted soil or free fuel product is encountered during construction;
- On-site soil reuse guidelines based on the California Regional Water Quality Control Board (RWQCB), San Francisco Bay Region's reuse policy;
- Sampling and laboratory analyses of excess soil requiring disposal at an appropriate off-site water disposal facility;
- Soil stockpiling protocols.

MM HAZ-2.3: All contractors and subcontractors at the project site shall develop a HSP specific to their scope of work and based upon the known environmental conditions for the site. The HSP shall be provided to the Planning, Building and Code Enforcement Supervising Environmental Planner and Environmental Services Department (ESD) and implemented under the direction of a Site Safety and Health Officer. The HSP shall include, but shall not be limited to, the following elements, as applicable:

- Provisions for personal protection and monitoring exposure to construction workers;
- Procedures to be undertaken in the event that contamination is identified above action levels or previously unknown contamination is discovered;
- Procedures for the safe storage, stockpiling, and disposal of contaminated soils;
- Provisions for the on-site management and/or treatment of contaminated groundwater during extraction or dewatering activities; and
- Emergency procedures and responsible personnel.

The HSP shall be submitted to SCCDEH, DTSC, or equivalent regulatory agency for review and approval. Copies of the approved HSP shall be provided to the Planning, Building and Code Enforcement Supervising Environmental Planner and ESD prior to issuance of grading permits.

With implementation of the identified mitigation measures, the proposed project would not result in a significant hazard to the public or the environment. **(Less Than Significant Impact with Mitigation Incorporated)**

Asbestos-Containing Materials and Lead-Based Paint

An asbestos and lead-based paint survey was not conducted as part of the ESA. The buildings were constructed in 1961 and most likely have materials that contain ACMs and/or lead-based paint. If the buildings are demolished, asbestos particles could be released and expose construction workers and nearby building occupants to harmful levels of asbestos.

If the lead-based paint is still bonded to the building materials, its removal is not required prior to demolition. If the lead-based paint is flaking, peeling, or blistering, it should be removed prior to demolition. It would be necessary to follow applicable Occupational Safety and Health Administration (OSHA) regulations and any debris containing lead must be disposed appropriately. Demolition of the existing structures on-site could expose construction workers and nearby building occupants to harmful levels of lead.

The project would be required to implement the following Standard Permit Conditions measures to reduce impacts due to the presence of ACMs and/or lead-based paint.

Standard Permit Conditions:

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

The General Plan concluded that conformance with regulatory requirements would result in a less than significant impact from ACMs and Lead. **(Less Than Significant Impact)**

Future Operations

Operation of the proposed project would likely include the on-site use and storage of cleaning supplies and maintenance chemicals in small quantities. The small quantities of cleaning supplies and maintenance chemicals used on-site would be comparable to the operations of adjacent facilities and would not pose a risk to adjacent land uses. **(Less Than Significant Impact)**

Off-Site Potential Contamination Sources

As mentioned in *Section 4.9.2.3*, the ESA identified 23 documented hazardous materials locations within a one mile radius of the project site. Of the 23 sites, 22 were determined not to represent a

significant environmental concern for the project site because no release has occurred, or based on the distance of the facility from the project site and/or the direction of groundwater flow.

The residential condominium complex located at 7150 Rainbow Drive is listed in the SLIC database. A pipe supplying hydraulic fluid to an elevator leaked and approximately 25 gallons of hydraulic fluid was lost. The impacted soil was removed and soil samples were collected. As of 2012, the site received case closure from the SCCDEH and is not considered an ongoing environmental concern. Redevelopment of the project site would not expose future residents from off-site contamination sources. **(Less Than Significant Impact)**

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

The project site is not located within one-quarter mile of any proposed or existing school. Implementation of the proposed project would not emit hazardous emissions or handle hazardous materials impact to schools in the project area. **(No Impact)**

Impact HAZ-4:	The project would not be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or the environment. **(Less than Significant Impact)**

The project site is not on the Cortese List. As a result, the project would not create a significant hazard to the public or the environment.[43] **(Less Than Significant Impact)**

Impact HAZ-5:	The project would not be located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport. The project would not result in a safety hazard or excessive noise for people residing or working in the project area. **(No Impact)**

The proposed project is not located within an AIA or within two miles of a public or private airstrip, and would not result in a substantial safety hazard for people residing or working in the project area or interfere with airport operations. **(No Impact)**

Impact HAZ-6:	The project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. **(No Impact)**

The project would be constructed in accordance with current building and fire codes, consistent with General Plan Policy EC-3.1. Additionally, the San José Fire Department (SJFD) would review the conceptual site plan to ensure adequate emergency access is provided. The proposed project would

[43] CalEPA. "Cortese List Data Resources". Accessed September 24, 2019. https://calepa.ca.gov/sitecleanup/corteselist.

not impair or interfere with the implementation of an adopted emergency response plan or emergency evacuation plan. **(No Impact)**

Impact HAZ-7:	The project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires. **(No Impact)**

The project site is in a developed urban area and it is not adjacent to any wildland areas that would be susceptible to fire. Therefore, implementation of the proposed project would not expose future site users or the proposed building to wildland fires. **(No Impact)**

4.9.3 Non-CEQA Effects

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

General Plan Policy EC-7.1 requires the evaluation of a project site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment. 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 and provide as part of the environmental review process for all development and redevelopment projects.

The project site was previously used for agricultural purposes; however, a SMP and HSP shall include a soil sampling and handling plan (refer to Mitigation Measures HAZ-2.1 and HAZ-2.2). Contaminated soils would be hauled off-site and disposed of at a licensed hazardous materials disposal site. The existing buildings on-site contain ACMs and lead-based paint. The project would be required to implement the identified Standard Permit Conditions in Impact HAZ-2 to reduce ACM and lead-based paint impacts.

Therefore, the project would be consistent with General Plan Policy EC-7.1 and would have no effect on future site occupants.

4.10 HYDROLOGY AND WATER QUALITY

4.10.1 Environmental Setting

4.10.1.1 *Regulatory Setting*

Water Quality Overview

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

Federal

National Flood Insurance Program

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

State

Statewide Construction General Permit

The SWRCB has implemented a NPDES General Construction Permit for the State of California. For any projects that disturb one or more acres of land, the project applicant is required to submit a NOI to the State Board and a SWPPP must be prepared prior to commencement of construction. The SWPPP addresses appropriate measures for reducing construction and post-construction impacts.

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

Regional

San Francisco Bay Basin Plan

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

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

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

Santa Clara Valley Urban Runoff Pollution Prevention Program

The Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) was developed in accordance with the requirements of the 1986 San Francisco Bay Basin Water Quality Control Plan, for the purpose of reducing water pollution associated with urban stormwater runoff. This program was also designed to fulfill the requirements of Section 304(1) of the Federal Clean Water Act, which mandated that the Federal Environmental Protection Agency develop NPDES application requirements for storm water runoff.

Dam Safety

Dam failure is the uncontrolled release of impounded water behind a dam. Flooding, earthquakes, blockages, landslides, lack of maintenance, improper operation, poor construction, vandalism, and terrorism can all cause a dam to fail.[44] Because dam failure that results in downstream flooding may affect life and property, dam safety is regulated at both the federal and state level.

As part of its comprehensive dam safety program, the Valley Water routinely monitors and studies the condition of each of its 10 dams. The Valley Water also has its own Emergency Operations

[44] State of California. "2018 California Multi-Hazard Mitigation Plan." Accessed August 13, 2019. https://www.caloes.ca.gov/cal-oes-divisions/hazard-mitigation/hazard-mitigation-planning/state-hazard-mitigation-plan.

Center and a response team that inspects dams after significant earthquakes. These regulatory inspection programs reduce the potential for dam failure.

Local

Post-Construction Urban Runoff Management (City Council Policy No. 6-29)

The City of San José's Policy No. 6-29 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. The City's Policy No. 6-29 requires all new and redevelopment projects regardless of size and land use to implement post-construction BMPs and Treatment Control Measures (TCM) to the maximum extent practicable. This policy also established specific design standards for post-construction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surface area.

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

The City of San José's Policy No. 8-14 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. 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).

Based on the SCVUPPP watershed map for the City of San José, the project site is exempt from the NPDES hydromodification requirements because it is located in a subwatershed greater than or equal to 65 percent impervious.[45]

Envision San José 2040 General Plan

The General Plan includes the following policies applicable to the proposed project.

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

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

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

Policy EC-5.1: The City shall require evaluation of flood hazards prior to approval of development projects within a Federal Emergency Management Agency (FEMA) designated floodplain. Review new development and substantial improvements to existing structures to ensure it is designed to provide protection from flooding with a one percent annual chance of occurrence, commonly referred

[45] Santa Clara Valley Urban Runoff Pollution Prevention Program. Accessed August 29, 2017. http://www.scvurppp-w2k.com/hmp_maps.htm.

to as the "100-year" flood or whatever designated benchmark FEMA may adopt in the future. New development should also provide protection for less frequent flood events when required by the State.

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

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

4.10.1.2 *Existing Conditions*

Flooding and Dam Failure

Based on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (Map 06085C0217H), the project site is located in Flood Zone D.[46] Zone D is in an area of undetermined but possible flood hazard that is outside the 100-year flood plain. There are no City floodplain requirements for Zone D.

The project site is not located within the Lexington or Anderson dam failure inundation zone.[47]

Earthquake-Induced Waves and Mudflow Hazards

There are no landlocked bodies of water near the project site that would affect the site in the event of a seiche. There are no bodies of water near the project site that would affect the site in the event of a tsunami. The project area is flat and there are no mountains in proximity that would affect the site in the event of a mudflow.

Storm Drainage and Water Quality

The City of San José owns and maintains the municipal storm drainage system which serves the project site. Stormwater from the project site drain into Calabazas Creek. Calabazas Creek carries stormwater from the local storm drains into San Francisco Bay. There is no overland stormwater flow from the project site to any waterway.

The water quality of Calabazas Creek is directly affected by pollutants contained in stormwater runoff from a variety of urban and non-urban uses. Stormwater from urban uses contains metals, pesticides, herbicides, and other contaminants, including oil, grease, asbestos, lead, and animal wastes. The State Water Resource Control Board's lists Calabazas Creek as contaminated with diazinon on its 303(d)[48] list.[49]

[46] Federal Emergency Management Agency. *Flood Insurance Rate Map. Map Number 0608C0217H*. May 18, 2009.
[47] Santa Clara County. *Leroy Anderson Dam Flood Inundation Maps.* April 2016.
[48] The Clean Water Act (CWA), Section 303, establishes water quality standards and Total Maximum Daily Load (TMDL) programs. The 303(d) list is a list of impaired water bodies.
[49] State Water Resources Control Board. "Final 2012 California Integrated Report (Clean Water Act Section 303(d) List/305(b) Report)." Accessed April 6, 2017.

Currently, 30 percent of the project site is pervious. Currently, there is no storm drain line along Bark Lane; however, there is an existing 12-inch storm drain line along Weyburn Lane[50] that serves the site. The proposed project would extend the storm drain connection from Weyburn Lane to the project frontage to serve the site.

Groundwater

Groundwater levels fluctuate seasonally depending on variations in rainfall, tidal influences, and other factors. Groundwater depth encountered within the vicinity of the site ranges between 67 to 100 feet bgs.

4.10.2 Impact Discussion

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

http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2012.shtml?wbid=CAR20640012199902181 14210.

[50] City of San José. *Bark Lane Townhomes Initial Study*. July 2007.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☒	☐

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

Implementation of the proposed project would involve excavation and grading activities at the project site. Ground-disturbing activities related to construction would temporarily increase the amount of debris on-site and grading activities could increase erosion and sedimentation that could be carried by runoff into the San Francisco Bay. Because the project would disturb more than the one acre of land, the project would be required to comply with the general stormwater permit and prepare a SWPPP for construction activities. In addition, the following Standard Permit Conditions have been included in the project as a condition of project approval to reduce potential construction-related water quality impacts:

Standard Permit Conditions:

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities would be suspended during periods of high winds.
- All exposed or disturbed soil surfaces would be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind would be watered or covered.
- All trucks hauling soil, sand, and other loose materials would be covered and all trucks would be required to maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites would be swept daily (with water sweepers).
- Vegetation in disturbed areas would 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 may also be installed at the request of the City.

The General Plan FEIR (as amended) concluded that with the regulatory programs currently in place, stormwater runoff from construction activities would have a less than significant impact on stormwater quality. Because construction of the proposed project would include the specific measures and actions identified above, the project would have a less than significant construction-related water quality impact. **(Less Than Significant Impact)**

Post-Construction Impacts

Under existing conditions, the project site is 70 percent impervious (approximately 27,486 square feet). Upon completion of the project, impervious surfaces on-site would increase by approximately 23 percent. Construction of the project would replace more than 10,000 square feet of impervious surfaces and, therefore, is required to comply with the City's Post-Construction Urban Runoff Policy 6-29 and RWQCB's MRP NPDES Permit/C.3 requirements. Details of specific site design, pollutant source control, and stormwater treatment control measures demonstrating compliance with the aforementioned policies shall be included in the project design, to the satisfaction of the Director of Planning, Building and Code Enforcement.

The project proposes flow-through planters and a bioretention area. The General Plan 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. Compliance with the City's Urban Runoff Policy 6-29 and RWQCB's MRP NPDES Permit/C.3 requirements would result in a less than significant water quality impact. **(Less Than Significant Impact)**

Impact HYD-2:	The project would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin. **(Less than Significant Impact)**

The project site is approximately 70 percent impervious and is not located within a natural or facility groundwater recharge area. The General Plan FEIR concluded that development and redevelopment of new residential, commercial, or industrial uses allowed under the General Plan is not proposed to occur within any of the SCVWD's percolation facilities for groundwater recharge nor would it otherwise affect the operation of the percolation or recharge facilities. As a result, implementation of the proposed project would not interfere with groundwater recharge or cause a reduction in overall groundwater supply. **(Less Than Significant Impact)**

Impact HYD-3:	The project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site; substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or impede or redirect flood flows. **(Less than Significant Impact)**

Storm Drainage Pattern Impacts

The existing and proposed square footages of pervious and impervious surfaces are shown on Table 4.9-1 below.

Table 4.9-1: Approximate Pervious and Impervious Surfaces On-Site						
Site Surface	**Existing/Pre-Construction (square feet)**	**%**	**Conceptual Project/Post Construction (square feet)**	**%**	**Difference (square feet)**	**%**
Impervious						
Roof Area(s)	11,756	30	23,121	59	+11,365	+29
Parking	10,450	27	0	0	-10,450	-27
Patios, Paths, etc.	5,280	13	13,302	34	+8,022	+21
Subtotal	27,486	70	36,423	93	+8,937	+23
Pervious						
Dirt, Pavement, and Landscaping	11,866	30	2,929	7	-8,937	-23
Total:	39,352	100	39,352	100		

Under existing conditions, the site is covered with approximately 27,486 square feet of impervious surfaces (70 percent). Under project conditions, the impervious surfaces would increase by approximately 23 percent, which would result in an increase in stormwater runoff. The General Plan FEIR concluded that although new development and redevelopment allowed under the General Plan may result in an increase in impervious surfaces, implementation of applicable City policies and existing regulations would substantially reduce drainage hazards. As a result, the proposed project would have a less than significant impact on the existing storm drainage system. **(Less Than Significant Impact)**

Storm Drainage Pattern Impacts

The proposed project would not substantially alter the existing drainage pattern of the site or area through the alteration of any waterway. As a result, the project would not substantially increase erosion or increase the rate or amount of stormwater runoff. **(Less Than Significant Impact)**

Impact HYD-4: The project would not risk release of pollutants due to project inundation in flood hazard, tsunami, or seiche zones. **(Less than Significant Impact)**

Seiches, Tsunamis, and Mudflows

Due to the location of the project site, the project would not be subject to inundation by seiche or tsunami. In addition, the project area is flat and there are no mountains in proximity. As a result, development of the project site would not release pollutants due to project inundation in tsunami or seiche zones. **(Less Than Significant Impact)**

Dam Inundation

The project site is not located within the Lexington or Anderson dam failure inundation zone; therefore, the project would not release pollutants due to dam inundation. **(Less Than Significant Impact)**

Impact HYD-5:	The project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan. **(Less than Significant Impact)**

The proposed project would comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the MRP; therefore, implementation of the project would not significantly impact water quality. The project site is not located within a groundwater recharge area and would not interfere with groundwater recharge. For these reasons, the project would not conflict with implementation of a water quality or groundwater management plan. **(Less than Significant Impact)**

4.10.3 Non-CEQA Effects

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

General Plan Policy EC-5.1 requires evaluation of flood hazards prior to approval of development within a FEMA designated floodplain. New development shall be reviewed to ensure it is designed to provide protection from flooding with a one percent annual chance of occurrence or the 100-year flood. Based on the FEMA flood insurance rate maps, the project site is outside the 100-year floodplain. As a result, the proposed project would not redirect flows or expose people or structures to significant flood hazards. The project site is not located within the Lexington or Anderson dam failure inundation zone; therefore, future occupants of the site would not be exposed to flooding hazards. For all these reasons, the project would be consistent with General Plan Policy EC-5.1 and would have no effect on future site occupants.

4.11 LAND USE AND PLANNING

4.11.1 Environmental Setting

4.11.1.1 *Regulatory Framework*

Local

Envision San José 2040 General Plan

The General Plan includes the following land use policies applicable to the proposed project.

Policy CD-1.1: Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.

Policy CD-1.8: Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity through the City.

Policy CD-1.12: 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-1.23: Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.

Policy CD-4.5: For new development in transition areas between identified Growth Areas and nongrowth areas, use a combination of building setbacks, building step-backs, materials, building orientation, landscaping, and other design techniques to provide a consistent streetscape that buffers lower-intensity areas from higher-intensity areas and that reduces potential shade, shadow, massing, view shed, or other land use compatibility concerns.

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).

4.11.1.2 *Existing Conditions*

Project Site

The 0.9-acre project site is comprised of one parcel (APN 372-24-011) located on Bark Lane, just north of State Route 85, between South De Anza Boulevard and Weyburn Lane in the western most portion of City of San José. The site is currently developed with a three-building, 20-unit apartment complex in an area developed with multifamily and retail/commercial uses. Figure 2.2-3 shows an aerial of the project site.

Surrounding Land Uses

North of the site is a three-story apartment complex. East of the site is a two-story apartment complex. South of the project site is Bark Lane, a multi-directional roadway. Located on the south side of Bark Lane are two- to three-story apartments and one one-story retail/commercial building. West of the project site is an open field and a gas station. The open field to the west is approved to be redeveloped into a five-story, 126-room hotel (File No. SP18-005).

Land Use Designation and Zoning

The project site is designated *Urban Residential* under the City's General Plan and has a zoning designation of *A(PD) –Planned Development.* The *Urban Residential* designation is intended for medium density residential development and a broad range of commercial uses, including retail, offices, hospitals, and private community gathering facilities. The *Urban Residential* designation allows for residential densities between 30 to 95 dwelling units per acre (du/ac) and an FAR between 1.0 to 4.0.

Under the existing *A(PD)* Planned Development Zoning District approved in October 2007 (Planning File No. PDC06-005), up to 45 townhouse units could be constructed on-site above a podium garage with a maximum height of 50 feet. However, no Planned Development Permit has been approved; therefore, this zoning district is not effectuated. No building, structure or land shall be used and no building or structure shall be erected, enlarged or structurally altered, or demolished in any planned development district, except in accordance with the provisions set forth for effectuating a Planned Development zoning district in Chapter 20.60 of the Municipal Code.

4.11.2 Impact Discussion

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

Impact LU-1:	The project would not physically divide an established community. **(Less than Significant Impact)**

Changes in land use are not adverse environmental impacts in and of themselves, but they may create conditions that adversely affect existing uses in the immediate vicinity. The entitlement request is for the Planned Development rezoning of the site. This Initial Study analyzes the impacts from the conceptual development intensity on the site which consists of construction of a seven-story residential building with up to 85 units. The project site is located within a primarily multi-family residential area and is surrounded by apartments on three sides. While the proposed apartment building would be larger and the site more densely developed that the surrounding properties, the site would still operate as a multi-family residence. Therefore, the proposed project would be compatible with the surrounding land uses and would not physically divide an established community. **(Less Than Significant Impact)**

Impact LU-2:	The project would not cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. **(Less than Significant Impact)**

Consistency with the General Plan Land Use Designation and Zoning

As mentioned in *Section 4.11.1.2*, the site is currently designated *Urban Residential* under the City's General Plan and has a zoning designation of *A(PD)*. Based on the conceptual site plan, the project would demolish the existing apartment complex and construct a seven-story residential building with up to 85 units.[51] The project would have a residential density of 94 du/ac and an FAR of 3.0, consistent with the General Plan designation.

The proposed development is inconsistent with the site's current PD zoning designation, which allows for the construction of up to 45 townhouse units. As a result, the project proposes a PD rezoning to allow for the construction of the 85-unit residential project. With approval of the rezoning, the project would be consistent with applicable land use controls. If the rezoning is not approved, the proposed development cannot be constructed as proposed. **(Less Than Significant Impact)**

Shade and Shadow

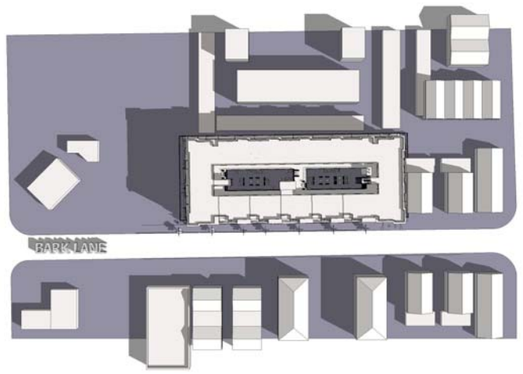
The proposed seven-story residential building would have a maximum height of 75 feet to the top of the parapet. There is no specific City policy which quantifies the impacts of shadows from new development projects. The City of San José, however, typically identifies shade and shadow impacts as occurring when a building or other structure substantially reduces natural sunlight on public open spaces within downtown San José.

[51] Please note that the entitlement request is for the PD rezoning of the site and that this Initial Study analyzes the impacts from the conceptual development intensity on the site.

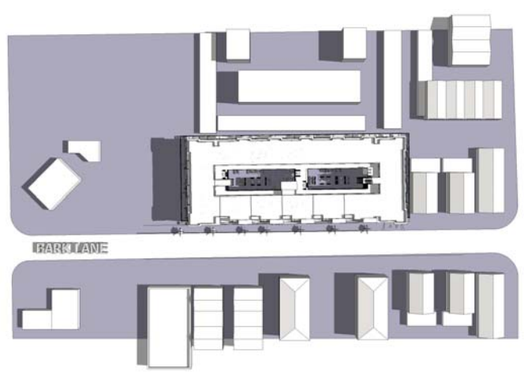
To determine the specific shading of the proposed development on the surrounding land uses, a shade and shadow analysis was completed. Shade and shadow analyses are typically prepared for March 21, June 21, and December 21. This provides an analysis of each season as well as the longest and shortest days of the year, covering the full spectrum of possible shade and shadow issues. The analysis provides data for 9:00 AM, noon, and 3:00 PM. As shown on Figure 4.11-1, the maximum shading from the project would occur in the winter months during morning and afternoon hours. In

the winter morning hours, the project would cast shadows to the northwest, extending onto the undeveloped lot to the northwest and the residences to the north. In the afternoon, the project would cast shadows to the northeast, extending onto the existing residences. As of March 2018, there were no existing solar collectors seen on the roofs of the adjacent residential properties that would be impacted by shading from the project. Shading from the project would not occur year-round on any of the adjacent properties and would not substantially impair the use of adjacent land uses.

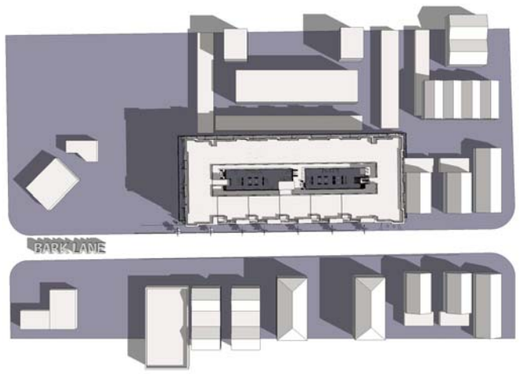
While the proposed project would shade the adjacent residences, it would not shade any existing public parks or open space areas in proximity to the site. As a result, the proposed project would have a less than significant shade and shadow impact. **(Less Than Significant Impact)**



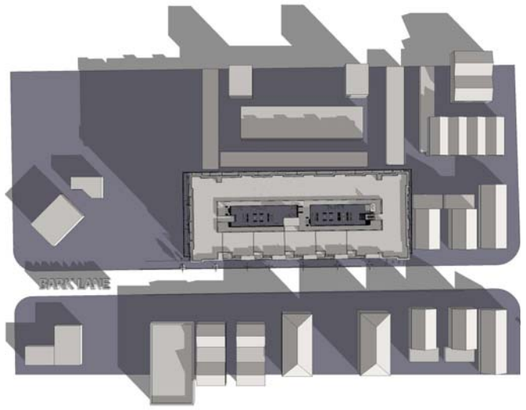
VERNAL EQUINOX - 0900



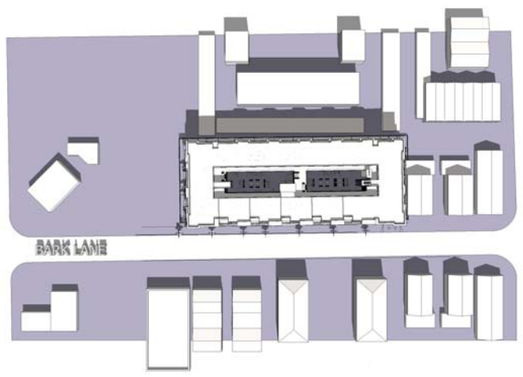
SUMMER SOLSTICE - 0900



AUTUMNAL EQUINOX - 0900

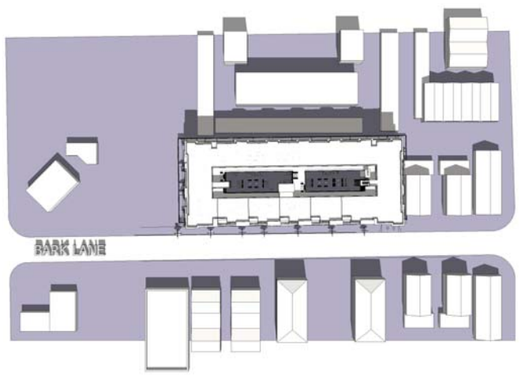


WINTER SOLSTICE - 0900

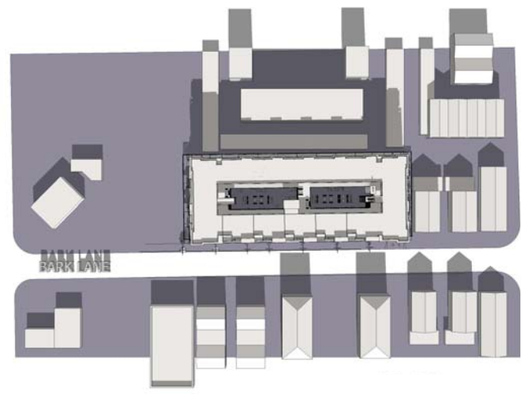


VERNAL EQUINOX - 1200

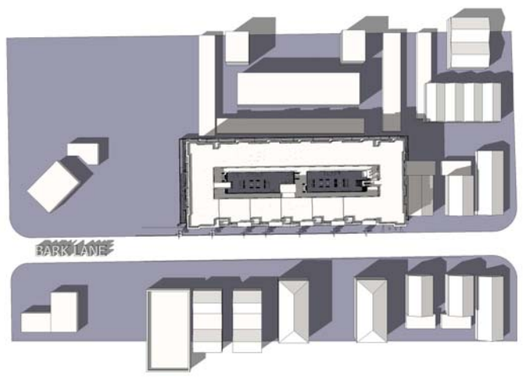
SUMMER SOLSTICE - 1200



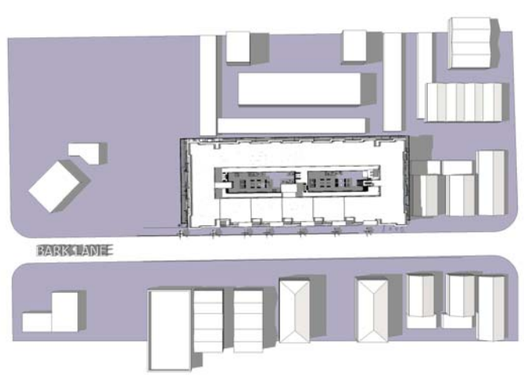
AUTUMNAL EQUINOX - 1200



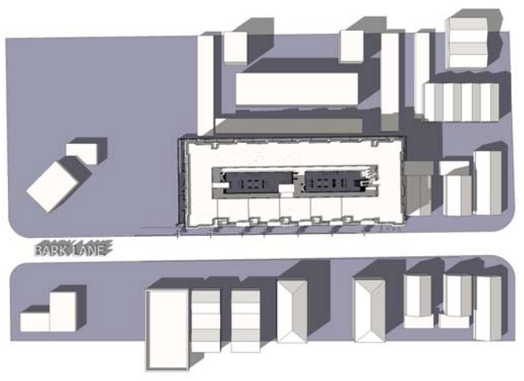
WINTER SOLSTICE - 1200



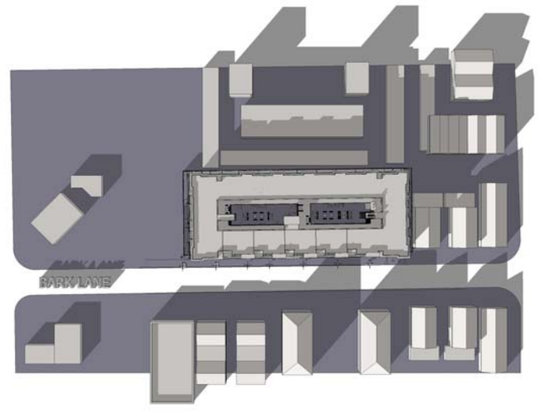
VERNAL EQUINOX - 1500



SUMMER SOLSTICE - 1500



AUTUMNAL EQUINOX - 1500



WINTER SOLSTICE - 1500

CONCEPTUAL SHADE AND SHADOW STUDY

FIGURE 4.11-1

4.12 MINERAL RESOURCES

4.12.1 Environmental Setting

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

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

4.12.2 Impact Discussion

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

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

Impact MIN-2: The project would not result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan. **(No Impact)**

The proposed project is not located in an area containing known mineral resources. The project site is located approximately nine miles west of the Communications Hill area. Therefore, implementation of the project would not result in the loss of availability of a known mineral resource. **(No Impact)**

4.13 NOISE AND VIBRATION

The following discussion is based upon a Noise and Vibration Assessment completed by *Illingworth & Rodkin, Inc.* in July 2019. A copy of the report is attached in Appendix E of this document.

4.13.1 Setting

4.13.1.1 *Background Information*

Noise is typically defined as unwanted sound and is subjective due to varying tolerances. Acceptable levels of noise also vary from land use to land use. In any one location, the noise level would vary over time, from the lowest background or ambient noise level to temporary increases caused by traffic or other sources. State and Federal standard s have been established as guidelines for determining the compatibility of a particular land use with its noise environment.

Sound levels are usually measured in decibels (dB) with dB corresponding roughly to the threshold of hearing. Most of the sounds which we hear in the environment do not consist of a single frequency, but rather a broad band of frequencies, with each frequency differing in sound level. The intensities of each frequency add together to generate a sound. The method commonly used to quantify environmental sounds consists of evaluating all of the frequencies of a sound in accordance with a weighting that reflects the fact that human hearing is less sensitive at low frequencies and extreme high frequencies than in the frequency mid-range. This is called "A" weighting, and the dB level measured is call the A-weighted sound level (dBA).

Because sound levels can vary markedly over a short period of time, a method for describing either the average character of the sound or the statistical behavior of the variations must be utilized. Most commonly, environmental sounds are described in terms of an average level that has the same acoustical energy as the summation of all the time-varying events. This energy-equivalent sound/noise descriptor is called L_{eq}. The most common averaging period is hourly, but L_{eq} can describe any series of noise events of arbitrary duration.

Although the A-weighted noise level may adequately indicate the level of environmental noise at any instant in time, community noise levels vary continuously. Most environmental noise includes a conglomeration of noise from distant sources which create a relatively steady background noise in which no particular source is identifiable. To describe the time-varying character of environmental noise, the statistical noise descriptors, L_{01}, L_{10}, L_{50}, and L_{90}, are commonly used. They are the A-weighted noise levels equaled or exceeded during 1, 10, 50, and 90 percent of a stated time period.

Sound level meters can accurately measure environmental noise levels to within about plus or minus one dBA. Since the sensitivity to noise increases during the evening hours, 24-hour descriptors have been developed that incorporate artificial noise penalties added to quiet-time noise events. The Day/Night Average Sound Level, *DNL*, is the average A-weighted noise level during a 24-hour day, obtained after the addition of 10 dB to noise levels measured in the nighttime between 10:00 PM and 7:00 AM.

Construction Noise

Construction is a temporary source of noise impacting residences and businesses located near construction sites. Construction noise can be significant for short periods of time with grading and excavation generating the highest noise levels and lower noise levels occurring during building construction. Large pieces of earth-moving equipment, such as graders, scrapers, and bulldozers, generate maximum noise levels of 85 to 90 dBA at a distance of 50 feet. Typically, hourly average construction-generated noise levels are approximately 80 to 85 dBA measured at a distance of 50 feet from the site during busy construction periods. Some construction techniques, such as impact pile driving, can generate very high levels of noise (105 dBA L_{max} at 50 feet) that are difficult to control. Construction activities can elevate noise levels at adjacent businesses and residences by 15 to 20 dBA or more during construction hours.

4.13.1.2 *Regulatory Framework*

State

California Building Standards Code

The California Building Standards Code (CBC) establishes uniform minimum noise insulation performance standards to protect persons within new buildings which house people, including hotels, motels, dormitories, apartment houses and dwellings other than single-family dwellings. Title 24 mandates that interior noise levels attributable to exterior sources shall not exceed 45 dBA DNL or CNEL[52] in any habitable room.

Local

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes policies applicable to the proposed project. The City's noise and land use compatibility guidelines are shown in Table 4.12-2, below.

Table 4.12-1: Land Use Compatibility Guidelines for Community Noise in San José

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						

[52] DNL (or Ldn) stands for Day-Night Level and is a 24-hour average of noise levels, with 10 dB penalties applied to noise occurring between 10:00 PM and 7:00 AM. CNEL stands for Community Noise Equivalent Level; it is similar to the DNL except that there is an additional five (5) dB penalty applied to noise which occurs between 7:00 PM and 10:00 PM. Title 24 states that the determination of whether to apply DNL or CNEL should be consistent with the metric used in the noise element of the local general plan.

Table 4.12-1: Land Use Compatibility Guidelines for Community Noise in San José

Land Use Category	Exterior DNL Value in Decibels					
	55	60	65	70	75	80
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters						

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

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

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

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

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

Interior Noise Levels

The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meeting this standard. For sites with exterior noise levels of 60 dBA 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 *Environmental General Plan* traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan.

Exterior Noise Levels

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: Minimize the noise impacts of new development on land uses sensitive to increased noise levels by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would:

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

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

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

- 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.

Municipal Code – Construction Standards

According to San José Municipal Code Title 20 (Zoning Ordinance), construction hours within 500 feet of a residential unit are limited to the hours of 7:00 a.m. to 7:00 p.m. on Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval. The Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.

4.13.1.3 *Existing Noise Environment*

A noise monitoring survey was performed on-site and in the vicinity of the project site between May 31, 2017 and June 2, 2017. Noise on-site and in the surrounding area result primarily from vehicular traffic along the local streets, South De Anza Boulevard, and State Route 85. The monitoring survey included two long-term noise measurements (LT-1 and LT-2) and five short-term noise measurements (ST-1 through ST-5), as shown in Figure 4.12-1.

LT-1 was located approximately 20 feet east of the Weyburn Lane centerline. Hourly average noise levels range from 52 to 63 dBA L_{eq} at this location during daytime hours, and from 33 to 51 dBA L_{eq} at night. The day-night average noise level was 57 dBA DNL. LT-2 was located approximately 275 feet east of the South De Anza Boulevard centerline and 140 feet north of the Bark Lane centerline. Hourly average noise levels ranged from 54 to 59 dBA L_{eq} at this location during daytime hours, and from 45 to 57 dBA L_{eq} at night. The day-night average noise level was 59 dBA DNL.

The results of the short-term noise levels are shown in Table 4.13-1 below.

Table 4.13-1: Noise Level Measurements

Measurement	Location	L_{max}	$L_{(1)}$	$L_{(10)}$	$L_{(50)}$	$L_{(90)}$	L_{eq}
ST-1	South side of 7180 Bark Lane Apartments	59	53	48	45	44	46
ST-2	North side of 7183 Bark Lane Apartments	65	63	52	47	44	51
ST-3	7140 Bark Lane	65	61	54	48	46	51
ST-4	7240 Bark Lane	68	55	52	49	48	51
ST-5a	7245 Bark Lane 2nd Floor	66	63	56	52	49	54
ST-5b	7245 Bark Lane 1st Floor	72	66	57	52	49	55

The Norman Y. Mineta San José International Airport is located approximately 14.0 miles northeast of the project site. The site lies outside the City's 2027 aircraft noise contours shown in the City's General Plan.

Sensitive Receptors

The nearest sensitive receptors are residences located approximately five feet east of the project site. Additional sensitive receptors are residences located approximately 45feet north and 75 feet south of the project site.

4.13.2 Impact Discussion

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

The CEQA Guidelines state that a project would normally be considered to have a significant impact if noise levels conflict with adopted environmental standards or plans, or if noise levels generated by the project would substantially increase existing noise levels at noise-sensitive receivers on a permanent or temporary basis. CEQA does not define what noise level increase would be substantial. A three dBA noise level increase is considered the minimum increase that is perceptible to the human ear. Typically, project generated noise level increases of three dBA DNL or greater are considered significant where resulting exterior noise levels would exceed the normally acceptable noise level standard. Where noise levels would remain at or below the normally acceptable noise level standard with the project, a noise level increase of five dBA DNL or greater is considered significant.

The proposed project would include new sensitive receptors in the form of residences. CEQA does not generally require an analysis of existing conditions on new development, such as exposure of the proposed project to elevated levels of noise and vibration.[53] Specific circumstances where CEQA does require the analysis of exposing new populations to environmental hazards include the location of development near airports and certain exemptions for infill and workforce housing.[54]

[53] California Supreme Court published opinion in *California Building Industry Association v. Bay Area Air Quality Management District, 62 Cal. 4th 369* (No. S 213478), filed December 17, 2015. Although CEQA does not generally require an evaluation of the effects of existing hazards on future users of the proposed project, it calls for such an analysis in several specific contexts involving certain airport (Public Resources Code Section 21096) and school construction projects (Public Resources Code Section 21151.8), and some housing development projects (Public Resources Code subsection 21159.21, subds.(f), (h), 21159.22, subds. (a), (b)(3), 21159.23, subd. (a)(2)(A), 21159.24, subd. (a)(1), (3), 21155.1, subd. (a)(4), (6)).

[54] Although CEQA does not generally require an evaluation of the effects of existing hazards on future users of the proposed project, it calls for such an analysis in several specific contexts involving certain airport (Public Resources Code Section 21096) and school construction projects (Public Resources Code Section 21151.8), and some housing development projects (Public Resources Code subsection 21159.21, subds.(f), (h), 21159.22, subds. (a), (b)(3), 21159.23, subd. (a)(2)(A), 21159.24, subd. (a)(1), (3), 21155.1, subd. (a)(4), (6)).

Impact NOI-1:	The project would not result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. **(Less than Significant Impact with Mitigation Incorporated)**

Operational Noise Impacts

Project Generated Traffic Noise Impacts

An increase of three dBA is considered substantial in noise sensitive areas along roadways. Vehicular traffic on roadways in the City are anticipated to increase as development occurs and the population increases; however, the proposed project would have to double the existing traffic volumes in the area to substantially increase noise levels (by three dBA or more). The proposed project would result in a net increase of 355 daily traffic trips (refer to *Section 4.17 Transportation*). Implementation of the project would increase noise levels by approximately one dBA DNL. Typically, a three dBA increase is required to result in a perceptible increase in ambient noise levels. Although the project generated traffic would result in an increase in traffic noise, the increase in ambient noise levels would not be perceptible and would not substantially increase noise levels. Therefore, the project would have a less than significant long-term noise impact. **(Less Than Significant Impact)**

Mechanical Equipment

The project proposes a residential development which could include various mechanical equipment such as air conditioners, exhaust fans, air handling equipment, etc. that could increase ambient noise levels in the immediate project vicinity. The type and location of mechanical equipment is unknown at this time; therefore, the impacts of the proposed mechanical equipment noise on nearby noise-sensitive uses would be assessed during the final project design stage.

Currently, the nearest sensitive receptors are residences located approximately five feet east of the project site. Pursuant to General Plan Policy EC-1.3, noise levels from building equipment would be limited to 55 dBA DNL at receiving noise-sensitive land uses. Given the proximity of the nearest residences to the project site and unknown details of the proposed mechanical equipment, there is potential for noise (from the mechanical equipment) to exceed 55 dBA DNL at noise sensitive land uses nearby.

Mitigation and Avoidance Measures

The project applicant shall be required to implement the following mitigation measure to reduce the noise level to 55 dBA DNL at nearby noise-sensitive land uses.

MM NOI-1.1:	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 55 dBA DNL noise level requirement at the nearby noise-sensitive land uses. A qualified acoustical consultant shall be retained by the applicant to review the mechanical noise equipment to determine specific noise reduction measures needed to reduce noise to comply with the City's noise

level requirements. Noise reduction measures could include, but are not limited to, selection of equipment that emits low noise levels and installation of noise barriers, such as enclosures and parapet walls, to block the line-of-sight between the noise source and the nearest receptors. The findings and recommendations from the acoustical consultant for noise reduction measures shall be submitted to the Director of Planning or Director's designee prior to the issuance of any building permits.

With implementation of the identified mitigation measure, the project would have a less than significant impact operational noise impact from mechanical equipment. **(Less Than Significant Impact with Mitigation Incorporated)**

Construction Noise Impacts

Construction noise impacts depend on the noise generated by various pieces of construction equipment, the timing and duration of noise-generating activities, and the distance between construction noise sources and noise sensitive receptors. The construction of the proposed project would involve demolition of the existing buildings, site excavation for the below-grade parking garage, trenching, structural framing and siding, and paving. Maximum noise levels generated by project construction typically ranges from 80 to 90 dBA L_{max} at a distance of 50 feet from the noise source. Typical hourly average construction-generated noise levels for residential buildings range from 81 to 88 dBA L_{eq} measured at a distance of 50 feet from the center of the site during busy construction periods.

A detailed list of equipment that would be used for construction of the proposed project were not available at the time this study was completed. To estimate the construction noise levels generated by the proposed project, the typical range of construction noise levels (refer to Table 6 from Appendix E) were used to estimate the construction noise levels at the nearby existing land uses. The estimates were calculated by measuring the distance from the center of the project site to the property lines of the nearby receptors. As shown in Table 4.13-2, ambient noise levels at the surrounded land uses would be exceeded by five dBA L_{eq} or more throughout project construction.

Table 4.13-2: Estimated Construction Noise Levels at Nearby Land Uses

Construction Phase	Estimated Noise Levels at Nearby Land Uses, dBA L_{eq}		
	East Residences and Future West Hotel (150 feet) in dBA L_{eq}	North Residences (60 feet) in dBA L_{eq}	South Residences (130 feet) in dBA L_{eq}
Ground Clearing	73	81	75
Excavation	78	86	80
Foundations	71	79	73
Erection	71	79	73
Finishing	78	86	80

Construction of the proposed project would temporarily increase noise levels in the immediate vicinity of the project site for 14 months. Therefore, the project shall implement the following mitigation measure to reduce potential impacts to less than significant.

Mitigation and Avoidance Measures

Consistent with the Municipal Code and in accordance with the General Plan FEIR, particularly Policy EC-1.7, the proposed project would be required to implement the following measures to avoid construction noise impacts.

MM NOI-1.2 Prior to the issuance of any grading permits or demolition, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. As part of the noise logistic plan and project, construction activities for the proposed project shall include, but is not limited to, the following:

- Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends within 500 feet of residences.
- Construct temporary noise barriers, where feasible, to screen stationary construction equipment. The temporary noise barrier fences would provide a five dBA noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receiver and if the barrier is constructed in a manner that eliminates any cracks or gaps.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- 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. Temporary noise barriers could reduce construction noise levels by five dBA.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise source and noise-sensitive receptors nearest the project site during project construction.

- Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors.
- 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.
- Additional temporary noise control blanket barriers could be erected, if necessary, along other residential building façades facing the site if determined to be necessary during construction. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include in it the notice sent to neighbors regarding the construction schedule.

Implementation of the identified mitigation measure and compliance with General Plan policies and the City's Municipal Code would result in a less than significant impact from the temporary increase in ambient noise levels in the project area. **(Less Than Significant Impact with Mitigation Incorporated)**

Impact NOI-2:	The project would not result in generation of excessive groundborne vibration or groundborne noise levels. **(Less than Significant Impact with Mitigation Incorporated)**

Construction activities such as drilling, the use of jackhammers (approximately 0.035 in/sec PPV at 25 feet), rock drills and other high-power vibratory tools (approximately 0.09 in/sec PPV at 25 feet), and rolling stock equipment such as tracked vehicles, compactors, etc. (approximately 0.89 in/sec PPV at 25 feet) may generate substantial vibration in the immediate site vicinity. Pile driving would not be required for project construction.

According to Policy EC-2.3 of the City's General Plan, a vibration limit of 0.2 in/sec PPV shall be used to minimize damage at buildings of normal conventional construction. The nearest sensitive receptors are located approximately five feet east of the project site. In addition, a five-story hotel has been approved to the west, located approximately five feet from the project site. At this distance, vibration levels due to construction activities would be up to 1.2 in/sec PPV, which would exceed the City's threshold of 0.2 in/sec PPV. Additional sensitive receptors are located approximately 45 feet north and 75 feet south of the project site. At these distances, vibration levels due to construction

activities would be up to 0.1 and 0.06 in/sec PPV, respectively, which would be below the 0.2 in/sec PPV threshold.

Because residences to the east and west of the project site would be exposed to vibration levels in excess of City standards, the project would result in a significant noise impact from groundborne vibration.

Mitigation and Avoidance Measures

The following mitigation measures would be implemented to reduce potential groundborne vibration impacts to a less than significant level:

MM NOI-2.1: Prior to the issuance of any demolition, grading, or building permits the project applicant shall prepare and implement a Construction Vibration Monitoring, Treatment, and Reporting Plan (Plan) to document conditions prior to, during, and after vibration generating construction activities. All Plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. The plan shall be submitted to the Supervising Environmental Planner of City of San José Department of Planning, Building and Code Enforcement for review and approval. The Plan shall include the following:

- A list of all heavy construction equipment to be used for this project and the anticipated time duration of using equipment that has been known to produce high vibration levels (tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.) shall be submitted to the City's Supervising Environmental Planner by the contractor.
- The use of heavy vibration-generating construction equipment, such as vibratory rollers or excavation using clam shell or chisel drops, shall be prohibited within 30 feet of any adjacent building. The 30-foot boundary shall be clearly marked on all construction plans and confirmed by the planning official prior to issuance of grading permits.
- The project applicant shall designate a person responsible for registering and investigating claims of excessive vibration. The contact information of the designated person shall be clearly posted on the construction site.
- The operating equipment on-site shall be placed as far as possible from vibration-sensitive receptors.
- Smaller equipment shall be used to minimize vibration levels below the vibration limits.
- 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.

With implementation of Mitigation Measure NOI-2.1, and compliance with applicable General Plan policies, the project would have a less than significant construction vibration impact. **(Less Than Significant Impact with Mitigation Incorporated)**

Impact NOI-3:	The project would not be located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport. The project would not expose people residing or working in the project area to excessive noise levels. **(Less than Significant Impact)**

The Norman Y. Mineta San José International Airport is located approximately 14.0 miles northeast of the project site. The project site is not within the AIA or Airport Noise Contours and would not expose people residing or working in the area to excessive noise levels. **(Less Than Significant Impact)**

4.13.3 Non-CEQA Effects

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

Interior Noise Levels

The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meeting this standard. For sites with exterior noise levels of 60 dBA 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 *Environmental General Plan* traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan.

Exterior Noise Levels

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 would 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.

Future Exterior Noise Environment

Based on applicable noise standards and policies for the site, exterior noise levels should not exceed 60 dBA DNL and interior day-night average noise levels cannot exceed 45 dBA DNL (General Plan *Policy EC-1.1*). The project proposes an open space courtyard enclosed by the proposed residential

building. The courtyard would be shielded from roadway noise, which would reduce the noise level in the courtyard to between 50 to 55 dBA DNL. As a result, the future exterior noise environment would comply with the City's acceptable exterior noise level.

Future Interior Noise Environment

The City's General Plan require that interior noise levels be maintained at 45 dBA DNL or less for residents. Interior noise levels would vary depending upon the design of the building (ratio of window area to wall area) and the selected construction materials and methods. Standard 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.

Residential units would be located on floors one through seven. The western and southern façades would be exposed to a noise level of approximately 63 dBA DNL. The interior noise levels with standard construction and windows open would be up to 48 dBA DNL, which exceeds the City's threshold for interior noise.

The following Condition of Approval would be required to ensure the project is consistent with applicable City policies.

Condition of Approval:

- Include the provision of forced-air mechanical ventilation for all residential units on-site so windows could be kept closed at the occupant's discretion to control traffic noise exposure.

With implementation of the identified Condition of Approval, the interior noise levels would be maintained at 45 dBA DNL or less for residents.

4.14 POPULATION AND HOUSING

4.14.1 Environmental Setting

The population of San José was estimated to be approximately 1,043,058 in January 2019 with an average of 3.20 persons per household. As of January 2019, the City has approximately 335,887 housing units and, by 2040, the City's population is projected to reach 1,445,000 with 472,000 households.[55, 56]

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

4.14.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☒	☐
2) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☒	☐

Impact POP-1:	The project would not induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure). **(Less than Significant Impact)**

Impact POP-2:	The project would not displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere. **(Less than Significant Impact)**

The project site is currently developed with 20 residential units. Per the conceptual site plan, the proposed project would result in the construction of up to 85 residential units. Assuming 3.20 persons per household for each of the units, the project would generate approximately 272 new residents (208 net new residents) in the City of San José.

[55] State of California, Department of Finance. "E-5 Population and Housing Estimates for Cities, Counties, and the State, 2011-2019." Accessed September 18, 2019. http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/.

[56] Center for the Continuing Study of the California Economy, *Projections of Jobs, Populations, and Households for the City of San José*, August 2008. Accessed April 6, 2017. http://www.sanjoseca.gov/DocumentCenter/View/3326.

The proposed dwelling units would comprise a small portion of the 120,000 net new dwelling units planned for in the General Plan. While the project would increase housing within the City, it would not result in unplanned residential growth and would not impact the jobs/housing imbalance. **(Less Than Significant Impact)**

Construction of the proposed project site would result in the demolition of 20 dwelling units. Since the proposed project would be replacing the existing residential units with 85 new dwelling units (a net increase of 65 units), the project will not result in a reduction in the total number of housing units on the project site or within the City, nor would it necessitate the construction of housing elsewhere.

As the existing apartment building was constructed prior to 1979, the property owner will be required to comply with all applicable requirements of the City's Ellis Act Ordinance, including, but not limited to, tenant noticing requirements and relocation benefits. It should be noted that if a project's social and economic effects do not result in physical changes, the effects are not environmental impacts under CEQA. Because there is no physical change to the environment that would result from the displacement of residents in the existing apartments, no further discussion is required. **(Less than Significant Impact)**

4.15 PUBLIC SERVICES

4.15.1 Environmental Setting

4.15.1.1 *Regulatory Framework*

State

Quimby Act

The Quimby Act (California Government Code Sections 66477) was approved by the California legislature to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees due in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two at the discretion of the City.

School Impact Fees

California Government Code Section 65996 specifies that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to the issuance of a building permit. Sections 65995-65998 sets forth provisions for the payment of school impact fees by new development by "mitigating impacts on school facilities that occur (as a result of the planning, use, or development of real property" (Section 65996[a]). The legislation states that the payment of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA (Section 65996[b]).

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

Local

Envision San José 2040 General Plan

The General Plan includes the following public services policies applicable to the project.

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

Policy ES-3.1: Provide rapid and timely Level of Service response time to all emergencies:

a. For police protection, achieve 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.

b. For fire protection, achieve a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.
c. Enhance service delivery through the adoption and effective use of innovative, emerging techniques, technologies and operating models.
d. Measure service delivery to identify the degree to which services are meeting the needs of San José's community.
e. Ensure that development of police and fire service facilities and delivery of services keeps pace with development and growth in the city.

Policy ES-3.9: Implement urban design techniques that promote public and property safety in new development through safe, durable construction and 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 LU-9.6: Require residential developments to include adequate open spaces in either private or common areas to partially provide for residents' open space and recreational needs.

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, 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 and Police Protection Services

Fire protection services for the project site is provided by the San José Fire Department (SJFD). The SJFD responds to all fires, hazardous materials spills, and medical emergencies in the City. The closest station to the project site is Station Number 15, located at 1248 South Blaney Avenue, approximately 0.6 mile southeast of the project site.

The General Plan identifies a service goal of eight minutes and a total travel time of four minutes or less for 80 percent of emergency incidents.

Police protection services for the project site is provided by the San José Police Department (SJPD), headquartered at 201 West Mission Street and approximately 13.5 miles northeast of the project site.

The General Plan identifies a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes of less for 60 percent of all Priority 2 (nonemergency) calls.

Schools

The project site is located within the Fremont Union High School District (FUHSD) and Cupertino Union School District (CUSD). The proposed project would be served by the schools listed in Table 4.15-1 below.

Table 4.15-1: Local Schools

School	Location	Distance from Site
R. I. Meyerholz Elementary School	6990 Melvin Drive	0.3 mile northeast
Joaquin Miller Middle School	6151 Rainbow Drive	1.0 mile east
Lynbrook High School	1280 Johnson Avenue	1.3 miles east

Parks

The City's Departments of Parks, Recreation, and Neighborhood Services is responsible for the development, operation, and maintenance of all City park facilities. The City of San José operates and maintains approximately 195 neighborhood-serving parks and nine regional parks.[57] The nearest parks to the project site is Calabazas Park, located approximately 0.2 miles east of the project site.

Libraries

The San José Public Library System consists of one main library (Dr. Martin Luther King Jr. Library) and 22 branch libraries. The nearest library to the project site is the Calabazas Branch Library, located approximately 0.4 mile east of the site.

[57] City of San José. *Fast Facts*. December 20, 2018." Accessed. .

4.15.2 Impact Discussion

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

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

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

The proposed project would generate approximately 272 new residents (208 net new residents) in the City. The General Plan FEIR concluded that buildout of the General Plan would result in an increase in demand for fire services, however, the General Plan concluded that construction of new fire stations, other than those currently planned, would not be required to adequately serve the larger population. The buildout of the General Plan would also increase the demand on police services, however, construction of new police stations to serve the future population would be subject to future environmental review.

The project would intensify the use of the site and generate additional residents in the area compared to existing conditions. The proposed project represents a small fraction of the total growth identified in the General Plan. In addition, the proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies identified in the General Plan to avoid unsafe building conditions and promote public safety.

As a result, implementation of the project would result in a less than significant impact. **(Less Than Significant Impact)**

Impact PS-3:	The project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for schools. **(Less than Significant Impact)**

Build out of the General Plan would result in approximately 35,185 new students in the schools districts serving San José, including 580 new students in the FUHSD and 375 new students in the CUSD.[58] Based on the student generation rates for CUSD[59] and FUHSD[60], the proposed project is estimated to generate approximately 28 new students.[61] Of the 28 new students, 21 would be elementary and middle school students and seven would be high school students.[62] Table 4.15-2 below shows the current capacity and enrollment numbers for the schools that would serve the project site.

Table 4.15-2: School Capacity and Enrollment

School	Current Capacity	Current Enrollment
R. I. Meyerholz Elementary School[63]	774	774
Joaquin Miller Middle School[64]	1,336	1,311
Lynbrook High School[65]	1,803	1,639

The project is part of planned growth in the City and would not increase students in the City beyond what was anticipated in the General Plan. The project would be required to pay school impact fees pursuant to Government Code Section 65996, as outlined below.

Sections 65995-65998 sets forth provisions for the payment of school impact fees by new development by "mitigating impacts on school facilities that occur (as a result of) the planning, use, or development of real property" [§65996(a)]. The legislation goes on to say that the payment of

[58] City of San José. *General Plan FPEIR*. November 2011. Page 631.
[59] Enrollment Projection Consultants. "Projected Enrollments from 2016 to 2021 Cupertino Union School District." Accessed October 31, 2017. https://www.cusdk8.org/cms/lib/CA02218495/Centricity/Domain/126/2016-17_CUSD_Forecast_Update_Report.pdf.
[60] Enrollment Projection Consultants. "Projected Enrollments from 2016 to 2021 Fremont Union High School District." Accessed October 31, 2017. http://fuhsd-ca.schoolloop.com/file/1220712390804/1224957816940/7090642605383943801.pdf.
[61] Please note that the estimated student generation rate is based on all 85 residential units because it is unknown whether the existing apartment residents would remain in the area and go to local schools.
[62] Multi-family residential development generates approximately 0.25 elementary and middle school students per unit in the Cupertino Unified School District and 0.08 high school students per unit in the Fremont Union High School District.
[63] Capacity and enrollment data for R. I. Meyerholz Elementary School was provided by the school district via personal communication with Sandra Rodriguez, Manager of Student Assignment (May 3, 2017).
[64] Capacity and enrollment data for Joaquin Miller Middle School was provided by the school district via personal communication with Sandra Rodriguez, Manager of Student Assignment (May 3, 2017).
[65] Fremont Union High School District. "Enrollment, Residency & Capacity." February 2017. Accessed April 26, 2017. http://fuhsd-ca.schoolloop.com/file/1220712390804/1224957816940/7602043247330254650.pdf.

school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA [§65996(b)]. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code. In accordance with California Government Code Section 65996, developers pay a school impact fee to the school district to offset the increased demands on school facilities caused by their proposed residential development project. While the project would increase the number of school children attending public schools in the area, it would be consistent with the increases identified in the City's General Plan and comply with State law regarding school impacts. **(Less Than Significant Impact)**

Impact PS-4:	The project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for parks. **(Less than Significant Impact)**

Future residential development on-site could increase the use of existing park facilities in the project area. Residential growth from the General Plan is expected to result in a City population of over 1.3 million people by 2035, which would create an overall (citywide) need for an additional 2,187.4 acres of parkland.[66]

The General Plan has a service level goal of providing 3.5 acres of neighborhood/community serving park land per every 1,000 population (General Plan Policy PR-1.1) and 7.5 acres per 1,000 population of citywide/regional parkland (General Plan Policy PR-1-2) to help meet the demand for neighborhood and community parks generated by the development of new residential parcels. The project would be required to pay the applicable PDO/PIO fees, which would be used for neighborhood serving elements (such as playgrounds/tot-lots and basketball courts) within 0.75 mile of the project site and/or community serving elements (such as soccer fields and community gardens) within a three-mile radius of the project site, consistent with General Plan policies PR-2.4 and PR-2.5. Furthermore, the project conceptually includes communal open space and a gym, and is part of the planned residential growth under the General Plan. As a result, implementation of the project would not result in substantial adverse physical impacts to park facilities in the City. **(Less Than Significant Impact)**

Impact PS-5:	The project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for other public facilities. **(Less than Significant Impact)**

The General Plan FEIR (as amended) concluded that existing and planned library facilities in the City would provide approximately 0.68 square feet of library space for the anticipated population by

[66] City of San José. *General Plan FEIR*. November 2011. Page 633 (and see Table 3.9-5).

2035, which is above the City's General Plan goal of 0.59 square feet of library space (General Plan Policy ES-2.2).

Development and redevelopment allowed under the General Plan would be adequately served by existing and planned library facilities. Because the project is part of the planned residential growth under the General Plan, the project would have less than significant impact on library facilities in the City of San José. **(Less Than Significant Impact)**

4.16 RECREATION

4.16.1 Environmental Setting

4.16.1.1 *Regulatory Framework*

State

Quimby Act

The Quimby Act (California Government Code Sections 66477) was approved by the California legislature to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees due in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two at the discretion of the City.

Local

Parkland Dedication Ordinance and the Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25) requiring 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 over 50 units, it is the City's decision as to whether the project will dedicate land for a new public park site or accept a fee in-lieu of land dedication. Deed restricted affordable housing that meets the City's affordability criteria, are subject to the PDO and PIO and receive a 50 percent credit toward the 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 the following policies applicable to the proposed project.

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 parks and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.

Policy PR-1.2: Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.

Policy PR-1.3: Provide 500 square feet per 1,000 population of community center space.

Policy PR-2.4: To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees

for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds.

Policy PR-2.5: Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

4.16.1.2 *Existing Conditions*

The City of San José currently operates 195 neighborhood parks, 50 community centers, nine regional parks, and over 61 miles of trails.[67] The City's Departments of Parks, Recreation, and Neighborhood Services is responsible for the development, operation, and maintenance of all City park facilities. Amenities within the neighborhood parks can include basketball courts, exercise courses, picnic tables, playgrounds, restrooms, soccer fields, softball fields, swimming pools, and tennis courts.

The nearest parks to the project site is Calabazas Park, located at Rainbow Drive and Blaney Avenue. The park is located approximately 0.2 mile east of the project site. The 17.2-acre park consist of a BMX track, a basketball court, a volleyball court, a softball field, two horseshoe pits, and three tennis courts. The nearest off-site recreational facilities include Rainbow Community Center, located approximately 1.3 miles east of the project site, and Castle Glen Picnic Area, located approximately two miles east of the project site.

4.16.2 Impact Discussion

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

Impact REC-1: The project would not increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated. **(Less than Significant Impact)**

[67] City of San José. Fast Facts. December 20, 2018.

Impact REC-2:	The project would not include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment. **(Less than Significant Impact)**

Future residential development on-site could increase the demand on parks and other recreational facilities in the project area. As discussed in *Section 4.15*, the project is subject to the PDO/PIO. The General Plan FEIR concluded that the PDO would be satisfied in several ways including dedication of land, payment of in-lieu fees, credit for improvement costs to parkland, and/or credit for qualifying private recreation amenities in the project. The project would be required to pay applicable park fees and proposes a gym and communal open space which may reduce the use of recreational facilities in the area based on the conceptual site plan. For these reasons, implementation of the proposed project would not require construction of new facilities or expansion of existing recreational facilities. **(Less Than Significant Impact)**

4.17 TRANSPORTATION/TRAFFIC

The following discussion is based in part upon a Transportation Impact Analysis prepared by *Hexagon Transportation Consultants, Inc*. in March 2018. A copy of this report is attached in Appendix F.

4.17.1 Environmental Setting

4.17.1.1 *Regulatory Framework*

State

Regional Transportation Planning

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

Senate Bill 743

Senate Bill 743 (SB 743), which became effective September 2013, initiated reforms to the CEQA Guidelines to establish new criteria for determining the significance of transportation impacts that "promote the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses." Specifically, SB 743 directs the Governor's Office of Planning and Research (OPR) to update the CEQA Guidelines to replace automobile delay—as described solely by LOS or similar measures of vehicular capacity or traffic congestion—with vehicle miles traveled (VMT) as the recommended metric for determining the significance of transportation impacts. OPR has approved the CEQA Guidelines implementing SB 743. Beginning on July 1, 2020, the provisions of SB 743 will apply statewide.

SB 743 did not authorize OPR to set specific VMT impact thresholds, but it did direct OPR to develop guidelines for jurisdictions to utilize. CEQA Guidelines Section 15064.3(b)(1) describes factors that might indicate whether a development project's VMT may be significant, or not. Notably, projects that locate within one half mile of transit should be considered to have a less than significant transportation impact based on OPR guidance.

Congestion Management Program

The VTA oversees the 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 gas tax revenues. The CMP legislation requires that each CMP contain the following five mandatory elements: 1) a system definition and traffic level of service standard element; 2) a transit service and standards element; 3) a trip reduction and transportation demand management element; 4) a land use impact

analysis program element; and 5) a capital improvement element. The Santa Clara County CMP includes the five mandated elements and three additional elements, including: a county-wide transportation model and data base element, an annual monitoring and conformance element, and a deficiency plan element.

Local

Level of Service Standards and City Council Policy 5-3[68]

As established in City Council Policy 5-3 "Transportation Impact Policy" (2005), the City of San José uses the same LOS method as the CAMP, although the City's standard is LOS D rather than LOS E.[69] According to this policy and General Plan Policy TR-5.3, an intersection impact would be satisfactorily mitigated if the implementation of measures would restore level of service to existing conditions or better, unless the mitigation measures would have an unacceptable impact on the neighborhood or on other transportation facilities (such as pedestrian, bicycle, and transit facilities). The City's Transportation Impact Policy (also referred to as the Level of Service Policy) protects pedestrian and bicycle facilities from undue encroachment by automobiles.

Transportation Analysis Policy 5-1

As established in City Council Policy 5-1 "Transportation Analysis Policy" (2018), the City of San José uses vehicle miles traveled (VMT) as the metric to assess transportation impacts from new development. According to the policy, an employment (e.g., office, R&D) or residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional per capita VMT. For industrial projects (e.g., warehouse, manufacturing, distribution), the impact would be less than significant if the project VMT is equal to or less than existing average regional per capita VMT. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible. The policy also requires preparation of a Local Transportation Analysis (LTA) to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access, and to recommend needed transportation improvements.

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

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

[68] The City of San José adopted and implemented a new transportation policy (Council Policy 5-1) after initiation of the proposed project. Due to the timing of the analysis for this Initial Study, the City determined that the project would be assessed under Policy 5-3, which was the adopted policy at the time the project began.

[69] City Council Policy 5-3 is applicable to the proposed project, since the project was on file with the City prior to March 29, 2018. All applications for projects submitted to the City subsequent to March 29, 2018 are subject to the vehicle miles travelled (VMT) policy.

Envision San José 2040 General Plan

The General Plan includes transportation policies applicable to the proposed projects.

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-5.3: The minimum overall roadway performance during peak travel periods should be level of service "D" except for designated areas.

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 TDM program, or developments located near major transit hubs or within Villages and Corridors and other growth areas.

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.

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

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.

4.17.1.2 *Roadway Network*

Regional Access

Regional access to the project site is provided via State Route 85 (SR 85), which is described further below.

SR 85 is a state highway that extends from south San José to Mountain View in the north. SR 85 is six-lanes wide and provides access to the site via its interchange at South De Anza Boulevard.

Local Access

Local access to the project site is provided by South De Anza Boulevard, Bark Lane, Blue Hill Drive, and Weyburn Lane, which are described in further detail below.

De Anza Boulevard is a six-lane, north-south arterial street with a center median that extends from Homestead Road in Cupertino to Prospect Road in San José, where it becomes Saratoga-Sunnyvale Road. De Anza Boulevard provides access to the project site via Bark Lane.

Bark Lane is an east-west, two-lane local street that extends from South De Anza Boulevard to Arlington Lane. Bark Lane provides access to the project site via the existing driveways.

Blue Hill Drive is an east-west, two-lane local street that extends from South De Anza Boulevard to Chiala Lane. Blue Hill Drive provides access to the project site via Weyburn Lane and Bark Lane.

Weyburn Lane is a north-south, two-lane local street that extends from Rainbow Drive to Clarendon Street. Weyburn Lane provides access to the project site via Bark Lane.

4.17.1.3 *Existing Bicycle and Pedestrian Facilities*

Pedestrian Facilities

Crosswalks with pedestrian signal heads and push buttons are located at all signalized intersections in the vicinity of the project site. Crosswalks are present on the northern and western legs of the South De Anza Boulevard/Kentwood Avenue intersection. Crosswalks are also present on the eastern and western legs for northbound and southbound travel on De Anza Boulevard, providing access to the pedestrian facilities that extend to the project site. The sidewalks and crosswalks in the immediate vicinity provide good connectivity and provide pedestrians with safe routes to other areas within the project area.

Bicycle Facilities

Bicycle facilities are comprised of paths (Class I), lanes (Class II), and routes (Class III). Class II bicycle lanes are present on South De Anza Boulevard and Rainbow Drive, which connects to South De Anza Boulevard, south of Bark Lane.

4.17.1.4 *Existing Transit Service*

Transit services in the project area is provided by the Santa Clara Valley Transportation Authority (VTA). Local bus route (Route 53) serves the immediate project area and provides service between West Valley College and the Sunnyvale Transit Center with 60 minute headways during the AM and PM Peak commute hours.

4.17.2 Impact Discussion

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

Impact TRN-1: The project would not conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities. **(Less than Significant Impact)**

Pedestrian and Bicycle Access

As mentioned previously, the existing sidewalks and crosswalks in the immediate vicinity provide good connectivity and provide pedestrians with safe routes to other areas in the project area. Pedestrian access to the project lobby would be provided via existing sidewalks on Bark Lane. The project would retain the five-foot sidewalk and six-foot planter strip along the project frontage on Bark Lane. Pedestrians would be able to access the project site at the west end, near the gym, and at the east end of the building near the garage entrance.

Due to the project's proximity to Meyerholz Elementary School (approximately 0.26 mile) it is expected that pedestrian trips would be generated by residents walking to and from school. All streets within the neighborhood have sidewalks and crosswalks. Miller Middle School and Lynbrook High School are located more than a mile from the project site; therefore, students are less likely to walk to and from these schools.

Bike lanes are present on South De Anza Boulevard and Rainbow Drive. Implementation of the proposed project would not interfere with existing or proposed pedestrian/bicycle facilities in the project area. Therefore, implementation of the proposed project would not exceed the capacity of the existing pedestrian or bicycle facilities or preclude the construction of planned improvements. **(Less Than Significant Impact)**

Transit Operations

VTA local bus line (Route 53) serves the project area. Because there is only one bus line, the project is not expected to generate many transit related trips. The nominal increase in transit demand generated by the project would be accommodated by the current available ridership capacities of the transit services in the area and no project-sponsored transit related improvements would be needed. Implementation of the proposed project would not interfere with the construction of planned transit facilities nor would the project exceed the capacity of the existing system. **(Less Than Significant Impact)**

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

City Council Policy 5-3 is applicable to the proposed project, since the project was on file with the City prior to March 29, 2018. All applications for projects submitted to the City subsequent to March 29, 2018 are subject to the VMT policy. Refer to *Section 4.17.3 Project-Level Operational Transportation Issues Not Covered Under CEQA*. **(Less than Significant Impact)**

Impact TRN-3:	The project would not substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment). **(Less than Significant Impact)**

Based on the proposed site design, the project would not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses. The two existing driveways would be removed and replaced with a single egress/ingress driveway at the eastern end of the building. Consistent with the City's Department of Transportation Geometric Design Guidelines, the project would have a 26-footwide driveway. Below are some site design recommendations that would be reviewed and implemented as part of a formal application for development of a project at the site.

Recommendations:

- Relocate the internal security gate to provide at least 50 feet of vehicle storage between the gate and the sidewalk.
- Install convex mirrors at the ramp curves to assist drivers with blind turns within the parking garage.
- Coordinate with City Staff to determine if the proposed on-street freight loading zone is acceptable.

The proposed project would result in a less than significant site design feature impact. **(Less Than Significant Impact)**

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

SJFD requires all portions of a building be within 150 feet of a fire department access road and have a minimum of six feet of clearance from the property line along all sides of the building. Fire code requires driveways to provide 32 feet of clearance for fire access. The proposed project would be required to meet the 32-foot requirement. Because the project would meet the SJFD access requirements and would have a less than significant emergency vehicle access impact. **(Less Than Significant Impact)**

4.17.3 Project-Level Operational Transportation Issues Not Covered Under CEQA

Methodology

The impacts of the proposed development were evaluated following the methodologies established by the City of San José and the VTA. The VTA oversees the Santa Clara County Congestion Management Program (CMP).

Traffic conditions were evaluated for the weekday AM and PM Peak Hours of adjacent street traffic. The AM Peak Hour is generally between 7:00 AM and 9:00 AM, and the PM Peak Hour is generally between 4:00 PM and 6:00 PM. Traffic conditions were evaluated for the following scenarios to determine if the level of service (LOS) of the local intersections in the project area would be adversely affected by project generated traffic:

Scenario 1: Existing – Existing traffic conditions.

Scenario 2: Existing Plus Project – Scenario 1 plus traffic generated by the project.

Scenario 3: Background – Scenario 1 plus traffic from approved but not yet constructed development.

Scenario 4: Background Plus Project – Scenario 3 plus traffic generated by the project.

The project's study intersections are located in the Cities of San José and Cupertino.

Traffic conditions at the study intersections were evaluated using LOS. LOS is a qualitative description of operating conditions ranging from LOS A, or free-flowing conditions with little or no delay, to LOS F, or jammed conditions with excessive delays. Intersection LOS was evaluated using TRAFFIX software, which is based on the *2000 Highway Capacity Manual* (HCM) for signalized intersections. The correlation between average delay and LOS is shown in Table 4.17-1 below.

Table 4.17-1: Intersection Level of Service Definitions Based on Delay		
Level of Service	**Description**	**Average Control Delay per Vehicle[70]**
A	Operations with very low delay occurring with favorable progression and/or short cycle lengths.	10.0 or less
B+ B B-	Operations with low delay occurring with good progression and/or short cycle lengths.	10.1 to 12.0 12.1 to 18.0 18.1 to 20.0
C+ C C-	Operations with average delays resulting from fair progression and/or longer cycle lengths. Individual cycle failures begin to appear.	20.1 to 23.0 23.1 to 32.0 32.1 to 35.0
D+ D D-	Operations with longer delays due to a combination of unfavorable progression, long cycle lengths, or high V/C ratios. Many vehicles stop and individual cycle failures are noticeable.	35.1 to 39.0 39.1 to 51.0 51.1 to 55.0
E+ E E-	Operations with high delay indicating poor progression, long cycle lengths, and high V/C ratios. Individual cycle failures are frequent occurrences. This is considered to be the limit of acceptable delay.	55.1 to 60.0 60.1 to 75.0 75.1 to 80.0
F	Operation with delays unacceptable to most drivers occurring due to over saturation, poor progression, or very long cycle lengths.	Greater than 80.0

Source: Transportation Research Board, 2000 Highway Capacity Manual (Washington, D.C., 2000) p10-16
VTA Traffic Level of Service Analysis Guidelines (June 2003), Table 2.

City of San José Definition of Adverse Intersection Effects

Based on City of San José criteria, an adverse effect on intersection operations occurs if the additional project traffic caused one of the following for either peak hour:

- Cause the level of service at any local intersection to degrade from an acceptable LOS D or better under existing or background conditions to an unacceptable LOS E or F under existing plus project or background plus project conditions; or
- At any local intersection that is already an unacceptable LOS E or F under existing or background conditions, cause the critical-movement delay at the intersection to increase by four or more seconds and the demand-to-capacity ratio (V/C) to increase by .01 or more.

City of Cupertino Definition of Adverse Intersection Effects

Based on City of Cupertino criteria, an adverse effect on intersection operations occurs if the additional project traffic caused one of the following for either peak hour:

[70] Measured in seconds.

- Cause the level of service at an intersection to degrade from an acceptable LOS D or better for local intersections and LOS E or better for CMP intersections under no project conditions to an unacceptable level under project conditions; or
- At any intersection that is already an unacceptable LOS E or F for local intersections and LOS F for CMP intersections under no project conditions and the addition of project trips cause both the critical-movement delay at the intersection to increase by four or more seconds and the demand-to-capacity ratio (V/C) to increase by .01 or more.

4.17.3.1 *Trip Generation Estimates*

Traffic trips generated by the project were estimated using the rates for Apartments (Land Use Code 220) published in the Institute of Transportation Engineers' (ITE's) *Trip Generation Manual*, Ninth Edition. It is estimated that the proposed residential building would generate 355 net new daily trips, with 17 total trips during the AM Peak Hour and 37 total trips during the PM Peak Hour.

A summary of project trip generation estimates is shown in Table 4.17-2 below.

Table 4.17-2: Project Trip Generation Estimates

Land Use	Daily Trips[1]	AM Peak Hour			PM Peak Hour		
		In	Out	Total	In	Out	Total
Existing Use							
Apartments	<210>	<6>	<20>	<26>	<11>	<5>	<16>
Proposed Use							
Apartments	565	9	34	43	34	19	53
Net Project Trips:	**355**	**3**	**14**	**17**	**23**	**14**	**37**

Notes: [1] Driveway counts were conducted in June 2017 to estimate existing daily trips.

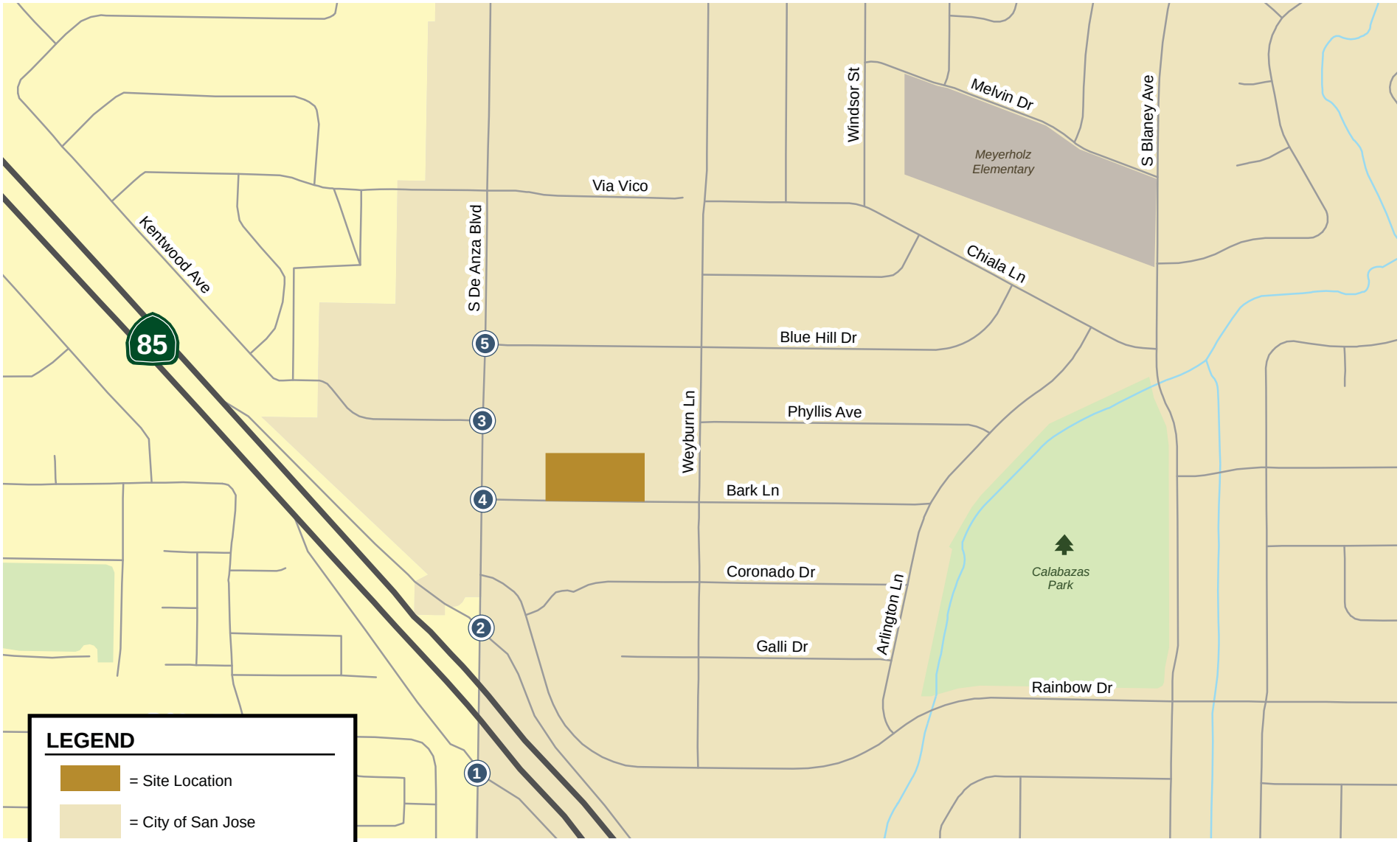
4.17.3.2 *Existing Intersection Operations*

The traffic study analyzed AM and PM Peak Hour traffic conditions for three signalized intersections and two unsignalized intersections. The locations of the study intersections (both signalized and unsignalized) are shown on Figure 4.17-1 and the signalized intersections are listed in Table 4.16-2. The two unsignalized intersections are discussed further in *Section 4.17.3.4, Existing Plus Project Intersection Operations*.

Table 4.17-3: Signalized Study Intersections Level of Service – Existing Conditions

No.	Intersection	Peak Hour	Delay	LOS
1	De Anza Boulevard and SR 85 Southbound Ramps (CMP, Cupertino)	AM PM	12.4 16.4	B B
2	De Anza Boulevard and SR 85 Northbound Ramps (CMP, Cupertino)	AM PM	20.5 14.0	C+ B
3	De Anza Boulevard and Kentwood Avenue (San José)	AM PM	14.5 22.6	B C+

Notes: (CMP) VTA Congestion Management Program



Source: Hexagon Transportation Consultants, Inc.

STUDY INTERSECTIONS FIGURE 4.17-1

Under existing conditions, all signalized study intersections currently operate at an acceptable LOS C+ or better during both the AM and PM Peak Hours of traffic.

4.17.3.3 *Background Intersection Operations*

Background conditions are based on existing traffic volumes plus the estimated traffic from approved, but not yet constructed, developments. The list of approved, but not yet constructed projects in the project area are listed below:

- 1193 South De Anza Boulevard – Construction of two commercial buildings (approximately 16,595 square feet) on an approximately 0.79-acre site.
- 1081 South De Anza Boulevard – Conditional Use Permit to allow a daycare use at an existing tutoring center and to allow construction of an approximately 570 square foot fenced playground on an approximately 2.42-acre site.
- 1115 South De Anza Boulevard – Construction of an 8,880 square foot addition to an existing furniture store on an approximately 1.41-acre site.

Analysis of the background intersection operations found that all signalized study intersections would operate at an acceptable LOS C or better during both the AM and PM Peak Hours. The results of the analysis under background conditions are summarized Table 4.17-4.

Table 4.17-4: Study Intersections Level of Service – Background Conditions

No.	Intersection	Existing			Background	
		Peak Hour	Delay	LOS	Delay	LOS
1	De Anza Boulevard and SR 85 Southbound Ramps (CMP, Cupertino)	AM PM	12.4 16.4	B B	12.4 16.4	B B
2	De Anza Boulevard and SR 85 Northbound Ramps (CMP, Cupertino)	AM PM	20.5 14.0	C+ B	20.5 16.1	C+ B
3	De Anza Boulevard and Kentwood Avenue (San José)	AM PM	14.5 22.6	B C+	14.4 22.7	B C+

Notes: (CMP) VTA Congestion Management Program

4.17.3.4 *Existing Plus Project Intersection Operations*

Signalized Study Intersections

The LOS of the signalized study intersections was calculated under project conditions by adding the net trips from the proposed development to the existing conditions. The results of the existing plus project conditions analysis are summarized in Table 4.17-5 below.

Table 4.17-5: Study Intersections Level of Service – Existing Plus Project Conditions						
No.	**Intersection**	**Existing**			**Existing Plus Project**	
		Peak Hour	**Delay**	**LOS**	**Delay**	**LOS**
1	De Anza Boulevard and SR 85 Southbound Ramps (CMP, Cupertino)	AM PM	12.4 16.4	B B	12.4 16.5	B B
2	De Anza Boulevard and SR 85 Northbound Ramps (CMP, Cupertino)	AM PM	20.5 14.0	C+ B	20.5 13.8	C B
3	De Anza Boulevard and Kentwood Avenue (San José)	AM PM	14.5 22.6	B C+	14.6 22.9	B C+
Notes: (CMP) VTA Congestion Management Program						

Analysis of the existing plus project conditions intersection operations concluded that all signalized study intersections would continue to operate at an acceptable LOS C+ or better during AM and PM Peak Hours.

Unsignalized Study Intersections

The traffic report analyzed two unsignalized intersections, South De Anza Boulevard/Blue Hill Drive and South De Anza Boulevard/Bark Lane. Due to the raised center median on De Anza Boulevard, outbound traffic from Blue Hill Drive and Bark Lane is restricted to right turns. The southbound left-turn pocket on De Anza Boulevard provides left-turn access to Blue Hill Drive, but access to Bark Lane is restricted to right-turns only from De Anza Boulevard (northbound). The right-turn vehicle queue on Bark Lane under existing conditions is two vehicles. Implementation of the project would result in the addition of nine outbound trips on Bark Lane during both AM and PM Peak Hours and is not expected to cause a substantial increase in delay.

There is a short delay for the southbound left-turn movements at the De Anza Boulevard/Blue Hill Drive intersection. The maximum vehicle queue under existing conditions is three vehicles during the AM Peak Hour and five vehicles during the PM Peak Hour. Implementation of the project would result in the addition of one left-turn trip during the AM Peak Hour and five left-turn trips during the PM Peak Hour. The addition of traffic trips are not expected to cause a substantial increase in delay for the southbound left-turn movement.

Implementation of the proposed project would not result in an adverse effect on intersection operations at this location based on Cities of San José and Cupertino standards.

4.17.3.5 *Background Plus Project Intersection Operations*

Signalized Study Intersections

The LOS of the signalized study intersections was calculated under background plus project conditions by adding new trips from the proposed development to the background conditions traffic volumes. The results of the background plus project analysis are summarized in Table 4.17-6 below.

Table 4.17-6: Study Intersections Level of Service – Background Plus Project Conditions								
No.	**Intersection**	**Background**			**Background Plus Project**			
		Peak Hour	**Delay**	**LOS**	**Delay**	**LOS**	**Increase Critical Delay**	**Increase V/C**
1	De Anza Boulevard and SR 85 Southbound Ramps (CMP, Cupertino)	AM PM	12.4 16.4	B B	12.4 16.5	B B	0.0 0.1	0.001 0.003
2	De Anza Boulevard and SR 85 Northbound Ramps (CMP, Cupertino)	AM PM	20.5 16.1	C+ B	20.4 16.1	C+ B	0.0 0.1	0.002 0.002
3	De Anza Boulevard and Kentwood Avenue (San José)	AM PM	14.4 22.7	B C+	14.6 23.0	B C+	0.0 0.4	0.000 0.004
Notes: (CMP) VTA Congestion Management Program								

Analysis of the background plus project intersection operations concluded that all signalized study intersections would continue to operate at an acceptable LOS C+ or better during the AM and PM Peak Hours. Implementation of the proposed project would not result in an adverse effect on intersection operations at this location based on City of San José and Cupertino standards.

Parking

Vehicle Parking

Based on the City of San José's parking standards (San José Municipal Code Chapter 20.90), the parking requirements for multi-family dwellings is two spaces per three-bedroom units. The project would be required to provide 170 parking spaces. The project proposes a total of 192 parking spaces which would meet the City's parking requirements.[71]

Bicycle Parking

The City of San José bicycle parking requirement for multi-family residential development is one space per four units. The project would be required to provide 22 bicycle parking spaces. The project proposes 22 bicycle parking spaces which is consistent with the City's parking requirements.

[71] Please note that the number of parking spaces has decreased by seven since the traffic report was completed. The decrease in parking spaces would not result in substantive changes to the analysis.

4.18 TRIBAL CULTURAL RESOURCES

4.18.1 Environmental Setting

4.18.1.1 *Regulatory Framework*

State

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

Under AB 52, TCRs are defined as follows:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are also either:
    - Included or determined to be eligible for inclusion in the California Register of Historic Resources[72]
    - Included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)
- A resource determined by the lead agency to be a TCR.

4.18.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
1. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?	☐	☐	☒	☐

[72] 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)).

2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☐	☒	☐

Impact TCR-1:	The project would not cause a substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k). **(Less than Significant Impact)**

Impact TCR-2:	The project would not cause a substantial adverse change in the significance of a tribal cultural resource that is determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. **(Less than Significant Impact)**

In 2017, the City had sent a letter to tribal representatives in the area to welcome participation in consultation process for all ongoing, proposed, or future projects within the City's Sphere of Influence or specific areas of the City. No tribes have sent written requests for notification of projects to the City of San José. Furthermore, at the time of preparation of this Initial Study, the City of San José had yet to receive any requests for consultation from tribes. While there is the potential for unknown Native American resources or human remains to be present in the project area, impacts would be less than significant with implementation of the City's standard permit conditions related to discovery of archaeological resources or human remains (described in detail in *Section 4.5 Cultural Resources*). **(Less than Significant Impact)**

4.19 UTILITIES AND SERVICE SYSTEMS

4.19.1 Environmental Setting

4.19.1.1 *Regulatory Framework*

State and Regional

Urban Water Management Plan

Pursuant to The State Water Code, water suppliers providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet (approximately 980 million gallons) of water annually must prepare and adopt an urban water management plan (UWMP) and update it every five years. As part of a UWMP, water agencies are required to evaluate and describe their water resource supplies and projected needs over a 20-year planning horizon, water conservation, water service reliability, water recycling, opportunities for water transfers, and contingency plans for drought events. The City of Santa Clara adopted its most recent UWMP in November 2016.

Wastewater

The San Francisco Bay RWQCB includes regulatory requirements that each wastewater collection system agency shall, at a minimum, develop goals for the City's Sewer System Management Plan to provide adequate capacity to convey peak flows.

Assembly Bill 939 and Senate Bill 1016

The California Integrated Waste Management Act of 1989, or Assembly Bill 939 (AB 939), established the Integrated Waste Management Board, required the implementation of integrated waste management plans, and mandated that local jurisdictions divert at least 50 percent of solid waste generated (from 1990 levels), beginning January 1, 2000, and divert at least 75 percent by 2010. Projects that would have an adverse effect on waste diversion goals are required to include waste diversion mitigation measures.

Assembly Bill 341

Assembly Bill (AB) 341 sets forth the requirements of the statewide mandatory commercial recycling program in the Public Resources Code. All businesses that generate four or more cubic yards of garbage per week and multi-family dwellings with five or more units in California are required to recycle. AB 341 sets a statewide goal for 75 percent disposal reduction by the year 2020.

Senate Bill 1383

Senate Bill (SB) 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. The bill grants CalRecycle the regulatory authority required to achieve the organic waste disposal reduction targets and establishes an additional target that not less than 20 percent of currently disposed edible food is recovered for human consumption by 2025.

California Green Building Standards Code

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

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

Local

San José Zero Waste Strategic Plan/Green Vision

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

San José Construction & Demolition Diversion Program

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

Private Sector Green Building Policy

The City of San José's Green Building Policy for private sector new construction encourages building owners, architects, developers, and contractors to incorporate meaningful sustainable building goals early in building design process. This policy establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. It is also intended to enhance the public health, safety and welfare of San José residents, workers, and visitors by fostering practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water and other resources in the City of San José.

Envision San José 2040 General Plan

The General Plan includes the following utilities and service systems policies applicable to the proposed project.

Policy MS-1.4: Foster awareness in San José's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.

Policy MS-3.2: Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.

Policy MS-3.3: Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.

Policy IN-3.10: 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).

4.19.1.2 *Existing Conditions*

Water Services

Water service is provided to the City of San José by three water retailers, San José Water Company, the City of San José Municipal Water System, and the Great Oaks Water Company. Water services to the project site is provided by the San José Water Company (SJWC). It is estimated that the existing buildings on-site uses approximately 3,660 gallons per day (gpd) of water.[73,74]

Sanitary Sewer/Wastewater Treatment

Wastewater from the City of San José is treated at the San José/Santa Clara Regional Wastewater Facility (the Facility) which is administered and operated by the City Department of Environmental Services. The Facility provides primary, secondary, and tertiary treatment of wastewater and has the capacity to treat 167 million gallons of wastewater a day. The Facility treats an average of 110 million gallons of wastewater per day and serves 1.4 million residents.[75] The Facility is currently operating under a 120 million gallon per day dry weather effluent flow constraint. This requirement is based upon the SWRCB and the RWQCB concerns over the effects of additional freshwater discharges on the saltwater marsh habitat and pollutant loading to the Bay from the Facility. Approximately ten percent of the plant's effluent is recycled for non-potable uses. The remainder is discharged into the Bay after treatment which removes 99 percent of impurities to comply with state regulations. It is estimated that the existing buildings on-site generates approximately 3,111 gallons of wastewater per day.[76]

[73] City of San José. Water Supply Assessment for Envision San José 2040 General Plan Update. September 2010. Accessed April 13, 2017. https://www.sanjoseca.gov/DocumentCenter/Home/View/494.
[74] The total daily water usage was conservatively based on the water demand of 183 gallons per day per dwelling unit for multi-family homes in the Envision San José 2040 WSA (page 5).
[75] City of San José. "San José-Santa Clara Regional Wastewater Facility." Accessed April 13, 2017. http://www.sanjoseca.gov/?nid=1663.
[76] The projected wastewater demand was conservatively estimated to be 85 percent of the projected water demand to account for landscaping irrigation.

Stormwater Drainage

The City of San José owns and maintains the municipal stormwater drainage system which serves the project site. The lines that serve the project site drain into Calabazas Creek and carry stormwater from the storm drain into San Francisco Bay. Calabazas Creek is located approximately 0.20 miles east of the site. There is no overland release of stormwater directly into any water body from the project site.

Currently, 70 percent (approximately 27,486 square feet) of the project site is impervious. There is an existing storm drain line along Weyburn Lane.

4.19.1.3 *Solid Waste*

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California Integrated Waste Management Board (CIWMB) in 1996 and was reviewed in 2004 and 2007. Each jurisdiction in the county has a diversion requirement of 50 percent for 2000 and each year thereafter. According to the IWMP, the County has adequate disposal capacity beyond 2022. The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year. It is estimated that the existing buildings generate approximately 106 pounds of solid waste per day.[77]

4.19.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☒	☐
2) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☒	☐
3) Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☒	☐

[77] CalRecycle. "Estimated Solid Waste Generation Rates." Accessed May 2, 2017. https://www2.calrecycle.ca.gov/WasteCharacterization/General/Rates.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
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?	☐	☐	☒	☐
5) Be noncompliant with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☒	☐

Impact UTL-1:	The project would not require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects. **(Less than Significant Impact)**

The project would utilize existing utility connections to connect to the City's water, stormwater, electric, telecommunications, waste, and wastewater systems. The analysis in the following sections discusses the potential impacts of the project on existing facilities. Although the project would increase the demand on existing facilities in the City of San José, the proposed project would be consistent with the General Plan FEIR (as amended) and relocation of existing or construction of new facilities would not be needed to serve the proposed project. As a result, the proposed project would have a less than significant impact on these facilities. **(Less than Significant Impact)**

Impact UTL-2:	The project would not have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years. **(Less than Significant Impact)**

Impact UTL-3:	The project would not result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments. **(Less than Significant Impact)**

Water Supply

As mentioned in previously, the existing buildings use approximately 3,660 gpd of water. Based on the conceptual site plan, the project proposes development standards that would facilitate the construction of a seven-story residential building with 85 units. The proposed project would have a water demand of up to 15,555 gpd, a net increase of 11,895 gpd, compared to the existing demand.

The General Plan FEIR (as amended) determined that the three water suppliers for the City could serve planned growth under the City's General Plan until 2025. Water demand could exceed water supply with implementation of the General Plan during dry and multiple dry years after 2025. The General Plan has specific policies to reduce water consumption including expansion of the recycled

water system and implementation of water conservation measures. The General Plan FEIR concluded that with implementation of existing regulations and adopted General Plan policies, full build out under the General Plan would not exceed the available water supply.

The proposed project would be consistent with planned growth in the General Plan and would comply with the policies and regulations identified in the General Plan FEIR to reduce water consumption. Therefore, implementation of the proposed project would not require or result in the relocation or construction of new or expanded facilities. **(Less Than Significant Impact)**

Sanitary Sewer Capacity

Due to the reduction in landscaping that would occur with the project, it is assumed that waste water generation would increase to 90 percent of total water usage with implementation of the proposed project. Implementation of the project would generate approximately 14,000 gpd of wastewater, a net increase of 10,889 gpd compared to existing conditions.

As stated previously, the City currently has approximately 38.8 mgd of excess wastewater treatment capacity. Based on a sanitary sewer hydraulic analysis prepared for the City's General Plan FEIR, full build out under the General Plan would increase average dry weather flows by approximately 30.8 mgd. The proposed project is consistent with the development assumptions in the General Plan. Since development allowed under the General Plan would not exceed the City's allocated capacity at the City's wastewater treatment facility, implementation of the proposed project would have a less than significant impact on wastewater treatment capacity and would not result in the relocation or construction of facilities. **(Less Than Significant Impact)**

Storm Drainage System

Under existing conditions, the storm drainage system has sufficient capacity to convey runoff from the site. Construction of the project would result in the replacement of more than 10,000 square feet of impervious surface area. Therefore, the project would be required to comply with the City's Post-Construction Urban Runoff Management Policy 6-29 and the RWQCB NPDES Permit/C.3 requirements for the treatment of stormwater. In order to meet these requirements, the proposed development would include flow-through planters and a bioretention area. Therefore, runoff from the project site would not exceed the capacity of local drainage system and impacts related to increases in surface runoff would be less than significant. Implementation of the proposed project would have a less than significant impact on the City's storm drainage system such that relocation or construction of new or expanded facilities would be required. **(Less Than Significant Impact)**

Impact UTL-4:	The project would not generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals. **(Less than Significant Impact)**

Impact UTL-5:	The project would not be noncompliant with federal, state, and local management and reduction statutes and regulations related to solid waste. **(Less than Significant Impact)**

The new development on-site would generate approximately 451 pounds of solid waste per day, a net increase of 345 pounds of solid waste per day over existing conditions.

The increase in waste generated by full build out under the General Plan, including the proposed project, would not cause the City to exceed the capacity of existing landfills that serve the City. Significant increases in solid waste generation would be avoided with ongoing implementation of the City's Zero Waste Strategic Plan. The Zero Waste Strategic Plan in combination with existing regulations and programs, would ensure that full build out of the General Plan would not result in significant impacts on solid waste disposal capacity. Additionally, the total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year with disposal capacity through 2022. As a result, the project would have a less than significant impact on solid waste disposal capacity. **(Less Than Significant Impact)**

4.20 WILDFIRE

4.20.1 Environmental Setting

Based on the Fire Hazard Severity Zone (FHSZ) Map, the project site is not located within a FHSZ area.[78]

4.20.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
1) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
2) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☐	☒
3) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☐	☒
4) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☐	☒

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones; therefore, the project would not result in wildfire impacts. **(No Impact)**

[78] CALFIRE. "Fire Hazard Severity Zones Maps". Accessed September 24, 2019. https://osfm.fire.ca.gov/media/5935/san_jose.pdf.

4.21 MANDATORY FINDINGS OF SIGNIFICANCE

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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?	☐	☒	☐	☐
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.)	☐	☐	☒	☐
3) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☒	☐

Impact MFS-1: The project does not have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory. **(Less than Significant Impact with Mitigation Incorporated)**

As discussed in the individual sections, the proposed project would not degrade the quality of the environment with implementation of the identified Standard Permit Conditions and mitigation measures.

As discussed in *Section 4.3 Air Quality,* construction activities on-site would include building demolition, excavation, grading and site preparation, trenching, building construction, and paving which may generate dust and other particulate matter. The project would be required to implement the identified Standard Permit Conditions during all phases of construction to reduce dust and other particulate matter emissions. Implementation of Mitigation Measure AIR-3.1 would reduce community risk impacts from construction of the project to less than significant.

As discussed in *Section 4.4 Biological Resources*, the project would not impact sensitive habitats or species. With implementation of MM BIO-1.1, the project would not impact nesting raptors or migratory birds. As discussed under Impact BIO-6, the project would require discretionary approval by the City and is consistent with the activity described in *Section 2.3.2* of the SCVHP; however, the project site is 0.9 acres in size (below the two-acre threshold) and is not subject to the requirements of the SCVHP. In addition, all projects in the City, including the proposed project, would be required to pay the cumulative nitrogen deposition fees.

Construction activities may disturb and uncover subsurface cultural resources on-site. Implementation of the identified Standard Permit Conditions (refer to Impact CUL-2) would avoid or reduce impacts to cultural resources to a less than significant level. The project would implement the Standard Permit Conditions listed in *Section 4.7 Geology and Soils* to reduce construction related erosion impacts. The existing development on-site was built circa 1970 and is likely to contain harmful levels of ACMs or lead. The project would be required to implement the Standard Permit Conditions as mentioned in *Section 4.9 Hazards and Hazardous Materials* to reduce ACM and/or lead-based paint impacts. As discussed in *Section 4.10 Hydrology and Water Quality*, the project would be required to implement Standard Permit Conditions to reduce potential construction-related water quality impacts.

As discussed in *Section 4.13 Noise and Vibration*, the project would be required to implement Standard Permit Conditions and Mitigation Measure NOI-2.1 to reduce temporary construction noise and vibration impacts from construction activities near sensitive land uses. In addition, the project would be required to implement Mitigation Measures NOI-1.1 and NOI-1.2 to reduce operational and construction noise impacts. The proposed project would not result in new or more significant impacts than identified in the General Plan FEIR.

Impact MFS-2:	The project does not have impacts that are individually limited, but cumulatively considerable. **(Less than Significant Impact)**

Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects "that are individually limited, but cumulatively considerable." As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means "that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." 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.

Because a project's criteria air pollutant and GHG emissions would contribute to regional and global emissions of such pollutants, the identified project-level thresholds were developed such that a project-level impact would also be a cumulatively considerable impact. The project would not result in significant criteria air pollutant or GHG emissions; therefore, it would not make a substantial contribution to cumulative air quality impacts.

With the implementation of the identified mitigation measures, Best Management Practices, and Standard Permit Conditions, the project would not significantly impact biological resources, cultural resources, geology and soils, hazards and hazardous materials, and hydrology and water quality. The project would not impact agricultural resources, and mineral resources; therefore, the project would not contribute to a significant cumulative impact on these resources.

Cumulative Noise Impacts

Construction of the proposed project could occur concurrently or sequentially with the hotel proposed to the west of the site. The cumulative noise exposure from construction of the two projects (concurrently) would be approximately three dBA higher than individual project construction noise levels. The cumulative noise exposure from both projects constructed either concurrently or sequentially would be considered less than significant with implementation of Mitigation Measure NOI-1.2. **(Less Than Significant Cumulative Impact)**

Cumulative Air Quality Impacts

Stationary sources of air pollution near the project site were identified using the BAAQMD *Stationary Source Risk & Hazard Analysis Tool*. Table 4.21-1 summarizes the cumulative impacts from nearby sources at the location of the maximally exposed individual (MEI). Under the cumulative scenario, the 7285 Bark Lane Hotel project (File No. H16-040) and the proposed project are constructed simultaneously.

Table 4.21-1: Mobile and Stationary Sources at Construction MEI

Source	Location from Project Site	Maximum Cancer Risk (per million)	Maximum Annual $PM_{2.5}$ Concentration ($\mu g/m^3$)	Maximum Hazard Index
Project Construction (unmitigated)	--	**109.8**	**0.86**	0.12
State Route 85	680 feet southwest	0.3	0.05	<0.01
South De Anza Boulevard	550 feet east	3.4	0.12	<0.03
Plant 111612	1,000 feet northwest	<0.1	--	<0.01
Plant 111341	415 feet west	0.7	--	<0.01
Plant 112512	670 feet northwest	0.3	--	<0.01
Construction of 7285 Bark Lane Hotel Project (unmitigated)	6 feet west	2.1	0.03	<0.01
Cumulative Total	--	**<116.7**	**1.06**	<0.20
BAAQMD Threshold – Cumulative Sources	--	>100	>0.8	<10.0

Table 4.21-1: Mobile and Stationary Sources at Construction MEI				
Source	**Location from Project Site**	**Maximum Cancer Risk (per million)**	**Maximum Annual $PM_{2.5}$ Concentration ($\mu g/m^3$)**	**Maximum Hazard Index**
Threshold Exceeded?	**--**	**Yes**	**Yes**	No

The maximum cancer risk and $PM_{2,5}$ would exceed the BAAQMD significance threshold for cumulative combined sources of 100 cases per million and 0.8 $\mu g/m^3$ for annual $PM_{2,5}$ concentration, respectively. With implementation of Mitigation Measure AIR-3.1, the cumulative total for cancer risk and annual $PM_{2.5}$ would be reduced to 7.8 cases per million and 0.1 $\mu g/m^3$, respectively. The cumulative effects of nearby sources would not be cumulatively considerable and would not result in a health risk to nearby sensitive receptors. **(Less Than Significant Cumulative Impact)**

Cumulative Traffic Impacts

Traffic volumes under cumulative conditions were estimated by adding the trips from proposed but not yet approved (pending) development projects within the Cities of San José and Cupertino to background condition traffic volumes. Cumulative plus project conditions are the cumulative no project condition plus project generated traffic.

As with existing plus project and background plus project, the proposed project would have a significant cumulative impact at a signalized intersection in San José if it would:

- Cause the level of service at any local intersection to degrade from an acceptable LOS D or better under existing or background conditions to an unacceptable LOS E or F under existing plus project or background plus project conditions; or
- At any local intersection that is already an unacceptable LOS E or F under existing or background conditions, cause the critical-movement delay at the intersection to increase by four or more seconds and the demand-to-capacity ratio (V/C) to increase by .01 or more.

A single project's contribution to a cumulative intersection impact is deemed considerable in the City of San José if the proportion of the project traffic represents a 25 percent or more increase in the total traffic volume from background traffic conditions to cumulative traffic conditions.

In addition, the proposed project would have a significant cumulative impact at a signalized intersection in Cupertino if it would:

- Cause the level of service at an intersection to degrade from an acceptable LOS D or better for local intersections and LOS E or better for CMP intersections under no project conditions to an unacceptable level under project conditions; or
- At any intersection that is already an unacceptable LOS E or F for local intersections and LOS F for CMP intersections under no project conditions and the addition of project trips cause both the critical-movement delay at the intersection to increase by four or more seconds and the demand-to-capacity ratio (V/C) to increase by .01 or more.

Traffic volumes under cumulative conditions were estimated by adding the trips from approved developments, estimated project trips, and trips from proposed but not yet approved (pending) development projects. The pending developments include:

- 1090 South De Anza Boulevard – Construction of a four-story, 90-room hotel with one-level of below-grade parking on a 0.61-acre site.
- 7285 Bark Lane – Construction of an approximately 68,876 square foot, five-story, 126-room hotel building with one level of below-grade parking on a 0.59-acre site.

Under the cumulative condition, all three signalized study intersections would continue to operate at an acceptable LOS during both the AM and PM Peak Hours. The results of the cumulative plus project conditions are summarized in Table 4.21-2.

Table 4.21-2: Study Intersections Level of Service – Cumulative Conditions

No.	Intersection	Cumulative No Project			Cumulative with Project	
		Peak Hour	Delay	LOS	Delay	LOS
1	De Anza Boulevard and SR 85 Southbound Ramps (CMP, Cupertino)	AM PM	12.5 16.5	B B	12.5 16.6	B B
2	De Anza Boulevard and SR 85 Northbound Ramps (CMP, Cupertino)	AM PM	20.5 16.1	C+ B	20.4 16.2	C+ B
3	De Anza Boulevard and Kentwood Avenue (San José)	AM PM	14.4 22.7	B C+	15.0 23.5	B C

Notes: (CMP) VTA Congestion Management Program

Under cumulative plus project conditions, the proposed project would not contribute to a significant cumulative traffic impact. **(Less Than Significant Cumulative Impact)**

Impact MFS-3: The project does not have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly. **(Less than Significant Impact)**

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. Implementation of mitigation measures and General Plan policies would, however, reduce these impacts to a less than significant level. No other direct or indirect adverse effects on human beings have been identified.

SECTION 5.0 REFERENCES

AEI Consultants. *Phase I Environmental Site Assessment*. June 6, 2017.

ArcGis. ”California Scenic Highways”. Accessed August 28, 2019. https://www.arcgis.com/home/webmap/viewer.html?layers=f0259b1ad0fe4093a5604c9b838a486a.

Archives & Architecture, LLC. *Historical Evaluation*. April 3, 2017.

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

Bay Area Air Quality Management District. “Annual Bay Area Air Quality Summaries.” Accessed June 17, 2019. http://www.baaqmd.gov/about-air-quality/air-quality-summaries.

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

CalEPA. “Cortese List Data Resources”. Accessed September 24, 2019. https://calepa.ca.gov/sitecleanup/corteselist.

CALFIRE. “Fire Hazard Severity Zones Maps”. Accessed September 24, 2019. https://osfm.fire.ca.gov/media/5935/san_jose.pdf.

CalRecycle. “Estimated Solid Waste Generation Rates.” Accessed May 2, 2017. https://www2.calrecycle.ca.gov/WasteCharacterization/General/Rates.

California Air Resources Board. “Advanced Clean Cars Program.” Accessed September 5, 2019. https://ww2.arb.ca.gov/our-work/programs/advanced-clean-cars-program/about.

California Building Standards Commission. “California Building Standards Code.” Accessed September 5, 2019. https://www.dgs.ca.gov/BSC/Codes.

California Department of Conservation. *Santa Clara County Important Farmland 2016 Map*. Accessed August 28, 2019. ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2016/scl16.pdf..

California Department of Tax and Fee Administration. “Net Taxable Gasoline Gallons.” Accessed September 5, 2019. https://www.cdtfa.ca.gov/taxes-and-fees/spftrpts.htm.

California Energy Commission. Energy Consumption Data Management System. “Electricity Consumption by County.” Accessed September 5, 2019. http://ecdms.energy.ca.gov/elecbycounty.aspx.

California Gas and Electric Utilities. 2019 *California Gas Report.* Accessed September 5, 2019. https://www.socalgas.com/regulatory/documents/cgr/2019_CGR_Supplement_7-1-19.pdf.

California Supreme Court published opinion in *California Building Industry Association v. Bay Area Air Quality Management District, 62 Cal. 4th 369* (No. S 213478), filed December 17, 2015.

CalRecycle. "Estimated Solid Waste Generation Rates." Accessed May 2, 2017. https://www2.calrecycle.ca.gov/WasteCharacterization/General/Rates.

CARB. "Clean Car Standards - Pavley, Assembly Bill 1493." Accessed June 22, 2017 http://www.arb.ca.gov/cc/ccms/ccms.htm.

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

Center for the Continuing Study of the California Economy, *Projections of Jobs, Populations, and Households for the City of San José*, August 2008. Accessed April 6, 2017. http://www.sanjoseca.gov/DocumentCenter/View/3326.

City of San José. *Bark Lane Townhomes Initial Study*. July 2007.

City of San José. *Fast Facts*. December 20, 2018.

City of San José. *General Plan FPEIR*. November 2011.

City of San José. *Greenprint 2009 Update for Parks, Recreation Facilities and Trails*. 2009

City of San José. "San José-Santa Clara Regional Wastewater Facility." Accessed April 13, 2017. http://www.sanjoseca.gov/?nid=1663.

City of San José. Water Supply Assessment for Envision San José 2040 General Plan Update. September 2010. Accessed April 13, 2017. https://www.sanjoseca.gov/DocumentCenter/Home/View/494.

Enrollment Projection Consultants. "Projected Enrollments from 2016 to 2021." Accessed October 31, 2017. https://www.cusdk8.org/cms/lib/CA02218495/Centricity/Domain/126/2016-17_CUSD_Forecast_Update_Report.pdf.

Enrollment Projection Consultants. "Projected Enrollments from 2016 to 2021 Fremont Union High School District." Accessed October 31, 2017. http://fuhsd-ca.schoolloop.com/file/1220712390804/1224957816940/7090642605383943801.pdf.

Federal Emergency Management Agency. *Flood Insurance Rate Map. Map Number 0608C0217H.* May 18, 2009.

Fremont Union High School District. "Enrollment, Residency & Capacity." February 2017. Accessed April 26, 2017. http://fuhsd-ca.schoolloop.com/file/1220712390804/1224957816940/7602043247330254650.pdf.

Hexagon Transportation Consultants, Inc. *Bark Lane Residential Transportation Impact Analysis*. March 8, 2018.

Illingworth & Rodkin, Inc. *Bark Lane Residential Project Air Quality and Greenhouse Gas Assessment*. July 30, 2019.

Illingworth & Rodkin, Inc. *Bark Lane Residential Project Environmental Noise and Vibration Assessment*. July 30, 2019.

Public Law 110–140—December 19, 2007. *Energy Independence & Security Act of 2007.* Accessed September 5, 2019. http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf.

Santa Clara County. *Leroy Anderson Dam Flood Inundation Maps.* April 2016.

Santa Clara County. *Santa Clara County Geologic Hazard Zones, Map 26.* Accessed April 6, 2017. https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf.

Santa Clara Valley Habitat Agency. "GIS Data & Key Maps." Accessed August 28, 2019. http://scv-habitatagency.org/193/GIS-Data-Key-Maps.

Santa Clara Valley Urban Runoff Pollution Prevention Program. Accessed August 29, 2017. http://www.scvurppp-w2k.com/hmp_maps.htm.

Soil Survey Staff. *Custom Soil Resource Report for Santa Clara Area, California, Western Part*. 2016. Accessed April 4, 2017. http://websoilsurvey.nrcs.usda.gov/.

State of California, Department of Finance. "E-5 Population and Housing Estimates for Cities, Counties, and the State, 2011-2019." Accessed September 18, 2019. http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/.

State of California. "2018 California Multi-Hazard Mitigation Plan." Accessed August 13, 2019. https://www.caloes.ca.gov/cal-oes-divisions/hazard-mitigation/hazard-mitigation-planning/state-hazard-mitigation-plan.

State Water Resources Control Board. "Final 2012 California Integrated Report (Clean Water Act Section 303(d) List/305(b) Report)." Accessed April 6, 2017. http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2012.shtml?wbid=CAR20640012199902181142 10.

U.S. Geological Survey. "UCERF3: A New Earthquake Forecast for California's Complex Fault System. Fact Sheet 2015-3009." March 2015. Accessed April 6, 2017. http://pubs.usgs.gov/fs/2015/3009/pdf/fs2015-3009.pdf.

United States Department of Energy. *Energy Independence & Security Act of 2007.* Accessed September 5, 2019. http://www.afdc.energy.gov/laws/eisa.

United States Energy Information Administration. “State Profile and Energy Estimates, 2017.” Accessed September 5, 2019. https://www.eia.gov/state/?sid=CA#tabs-2.

United States Environmental Protection Agency. “The 2018 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975.” March 2019. https://nepis.epa.gov/Exe/ZyPDF.cgi/P100W5C2.PDF?Dockey=P100W5C2.PDF https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf.

Personal Communication:

Sandra Rodriguez, Manager of Student Assignment. Cupertino Union School District. Personal Communication. May 3, 2017.

SECTION 6.0 LEAD AGENCY AND CONSULTANTS

6.1 LEAD AGENCY

City of San José
Department of Planning, Building and Code Enforcement

Rosalynn Hughey, *Director*
David Keyon, *Principal Planner*
Adam Petersen, *Planner*

6.2 CONSULTANTS

David J. Powers & Associates, Inc.
Environmental Consultants and Planners

Shannon George, *Principal Project Manager*
Fiona Phung, *Project Manager*
Zach Dill, *Graphic Artist*

AEI Consultants
Walnut Creek, CA
Hazardous Materials

Archives & Architecture, LLC
San José, CA
Cultural Resources

Hexagon Transportation Consultants, Inc.
San José, CA
Transportation

Illingworth & Rodkin, Inc.
Petaluma, CA
Air Quality/Noise