

# Initial Study/Mitigated Negative Declaration

## Tropicana Shopping Center Commercial Development Project

File Number: H15-014

Prepared by the



In Consultation with



March 2019

### **MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment 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:** Tropicana Shopping Center Commercial Development Project

**PROJECT FILE NUMBER:** H15-014

**PROJECT DESCRIPTION:** The project consists of the construction of a three-story commercial office building totaling 31,744 square feet, of which 20,748 square feet would be office space and 10,996 square feet would be retail space.

**PROJECT LOCATION:** Southwestern corner of the Story Road and South King Road intersection, at 1664 Story Road in San José, California

**ASSESSORS PARCEL NO.:** 486-10-091

**APPLICANT:** Dennis Fong; 1692 Story Road San José, CA 95122

### **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 AQ-1:** The project would have a significant impact with respect to community risk caused by project construction activities since the project itself, a single source, would result in cancer risk that exceeds 10.0 chances per million.

**MM AQ-1.1:** Prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest), the project applicant shall submit a construction operations plan to the Environmental Review Division of the Department of Planning, Building and Code Enforcement, demonstrating that the off-road equipment used for construction of the project would achieve a fleet-wide average of at least 35 percent reduction in Diesel Particulate Matter (DPM) exhaust emissions.

The construction operations plan shall also demonstrate that all mobile diesel-powered off-road equipment larger than 25 horsepower and operating on the site for more than two days meets, at a minimum, U.S. EPA particulate matter emissions standards for Tier 2 engines or equivalent measures, such as the use of equipment that includes CARB-certified Level 3 Diesel Particulate Filters or alternatively-fueled equipment (i.e., non-diesel or electric), added exhaust devices, or a combination of this equipment, included in the construction operation plan, to minimize construction period DPM emission to reduce the estimated cancer risk below the thresholds, to the satisfaction of the Director of Planning, Building and Code Enforcement.

**D. BIOLOGICAL RESOURCES**—The project would not have a significant impact on biological resources, therefore no mitigation is required.

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

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

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

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



- I. HYDROLOGY AND WATER QUALITY**—The project would not have a significant impact on hydrology and water quality, therefore no mitigation is required.
- J. LAND USE AND PLANNING**—The project would not have a significant impact on land use and planning, therefore no mitigation is required.
- K. MINERAL RESOURCES**—The project would not have a significant impact on mineral resources, therefore no mitigation is required.
- L. NOISE AND VIBRATION**—The project would not have an impact on noise and vibration impact, therefore no mitigation is required.
- M. POPULATION AND HOUSING**—The project would not have a significant impact on population and housing, therefore no mitigation is required.
- N. PUBLIC SERVICES**—The project would not have a significant impact on public services, therefore no mitigation is required.
- O. RECREATION**—The project would not have a significant impact on recreation, therefore no mitigation is required.
- P. TRANSPORTATION/TRAFFIC**—The project would not have a significant impact on transportation/traffic, therefore no mitigation is required.
- Q. UTILITIES AND SERVICE SYSTEMS**—The project would not have a significant impact on utilities and service systems, therefore no mitigation is required.

**R. MANDATORY FINDINGS OF SIGNIFICANCE**

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

**PUBLIC REVIEW PERIOD**

Before 5:00 p.m. April 1, 2019 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

3/6/19  
Date

JB Walsh  
Deputy

Circulation period: March 11, 2019, and ends on April 1, 2019  
Environmental Project Manager: Adam Petersen

## TABLE OF CONTENTS

---

Section 1.0	Introduction and Purpose .....	1
Section 2.0	Project Information .....	3
Section 3.0	Project Description.....	7
Section 4.0	Environmental Checklist and Impact Discussion .....	17
4.1	Aesthetics.....	19
4.2	Agricultural and Forestry Resources .....	27
4.3	Air Quality .....	30
4.4	Biological Resources .....	40
4.5	Cultural Resources.....	46
4.6	Energy.....	52
4.7	Geology and Soils.....	59
4.8	Greenhouse Gas Emissions.....	65
4.9	Hazards and Hazardous Materials .....	72
4.10	Hydrology and Water Quality .....	78
4.11	Land Use and Planning.....	87
4.12	Mineral Resources .....	93
4.13	Noise and Vibration.....	94
4.14	Population and Housing.....	102
4.15	Public Services .....	104
4.16	Recreation.....	107
4.17	Transportation/Traffic.....	109
4.18	Utilities and Service Systems .....	115
4.19	Mandatory Findings of Significance .....	121
Section 5.0	References.....	125
Section 6.0	Lead Agency and Consultants.....	128

## TABLE OF CONTENTS

---

### Figures

Figure 2.4-1	Regional Map.....	5
Figure 2.4-2	Vicinity Map .....	6
Figure 3.1-1	Aerial photograph and Surrounding Land uses.....	8
Figure 3.1-2	Conceptual Site Plan .....	9
Figure 3.1-3	Partially Enlarged Site Plan .....	10
Figure 3.1-4	North and West Elevations for Project Building .....	11
Figure 3.1-5	South and East Elevations for Project Building.....	12
Figure 3.1-6	Conceptual Building Sections.....	13
Figure 3.1-7	Conceptual Landscape Plan .....	16
Figure 4.3-1	Project Construction Site, Sensitive Receptor Locations, and Location of Maximum Exposed Individual (MEI) and Maximum PM2.5 Concentration.....	37
Figure 4.3-2	Project Site, 1,000 feet Influence Area and Identified Sources .....	38
Figure 4.11-1	APN Map .....	91

### Tables

Table 4.3-1	Single Source Construction Risk Assessment .....	36
Table 4.3-2	Cumulative Construction Risk Assessment .....	39
Table 4.6-1	Private Sector Green Building Policy Applicable Projects.....	53
Table 4.6-2	Estimated Annual Energy Use of Proposed Development .....	57
Table 4.8-1	Annual Project GHG Emissions (MT of CO2e) .....	70
Table 4.10-1	Approximate Pervious and Impervious Surfaces On-Site .....	85
Table 4.13-1	Effects of Vibration.....	94
Table 4.13-2	Vibration Source Levels for Construction Equipment.....	99

### Photos

Photos 1 & 2.....	21
Photos 3 & 4.....	22
Photos 5 & 6.....	23

## **Appendices**

- Appendix A Community Risk Assessment
- Appendix B Geotechnical Investigation Report
- Appendix C Greenhouse Gas Emissions CalEEMod Modelling
- Appendix D Phase I Environmental Site Assessment Report



## SECTION 1.0 INTRODUCTION AND PURPOSE

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### 1.1 PURPOSE OF THE INITIAL STUDY

The City of San José as the Lead Agency, has prepared this Initial Study for the Tropicana Shopping Center Commercial Development Project (proposed 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 San José, California.

The project site is located in the Evergreen area of San José. The Evergreen area of the City is defined as land within the City's Urban Service Boundary east of Highway 101 and south of Story Road, excluding properties south of the intersection of Highway 101 and Hellyer Avenue. Development in Evergreen is guided by the City's Evergreen-East Hills Development Policy (EEHDP), as well as the General Plan.

The *Evergreen Development Policy (EDP)* was originally adopted in 1976 to address the issues of flood protection and limited traffic capacity in the Evergreen area south of Story Road and east of US Highway 101. In 1991 and 1995, the EDP was revised to identify specific transportation and flood control improvements needed for the implementation of the Evergreen Specific Plan and the greater policy area, respectively. Revisions were also made in 2008 to provide a new framework to allow a limited amount of additional development capacity. The resulting policy was renamed the Evergreen-East Hills Development Policy (EEHDP). The EEHDP specifies development pools for new residential, retail commercial, and office space uses within the EEHDP area. These pools of land uses include: 500 new residential units; 500,000 square feet of new retail space; and 75,000 square feet of new commercial office space. Of the 500,000 square feet commercial retail and 75,000 square feet office that was established in the 2008 EEHDP, only 55,260 square feet of commercial and 59,231 square feet of office are remaining from the original allocation. The proposed project proposes to develop 20,748 square feet of office space and 10,996 square feet of retail space within the Tropicana Shopping Center property, which are within the capacity as identified and analyzed in the 2008 EEHDP.

In November 2011, the City of San José certified the Envision San José 2040 General Plan Final Program Environmental Impact Report (General Plan EIR) for the *Envision San José 2040 General Plan (General Plan)* that provides capacity for the development of up to 470,000 new jobs and 120,000 new dwelling units through 2035. The growth capacity would allow a total of 839,450 jobs and 429,350 dwelling units in San José, an increase of 127 percent and 39 percent, respectively, which, if fully developed, would result in jobs to employed resident ratio (J/ER) of 1.3 to 1. In December 2015, the City of San José also approved a Supplemental Program EIR (General Plan SEIR) for the General Plan to include an updated greenhouse gas emissions analysis.

In accordance with CEQA, this Initial Study would tier from the EEHDP and the General Plan FEIR, and addenda thereto. This Initial Study and all documents referenced in it are available for public review in the Department of Planning, Building and Code Enforcement at San José City Hall, 200 East Santa Clara Street, 3<sup>rd</sup> floor, during normal business hours

## **1.2 USES OF THE INITIAL STUDY**

This Initial Study (IS) provides decision makers and the general public with relevant environmental information to use in considering the proposed project. It is intended that this IS be used for appropriate discretionary decisions and approvals necessary to implement the proposed project. These discretionary actions may include, but are not limited to, the following:

- Site Development Permit
- Conditional Use Permit / Determination of Public Convenience or Necessity
- Tentative Map
- Grading Permit
- Building Permit

## **SECTION 2.0      PROJECT INFORMATION**

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### **2.1              PROJECT TITLE**

Tropicana Shopping Center Commercial Development Project

### **2.2              LEAD AGENCY CONTACT**

City of San José  
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Department of Planning, Building and Code Enforcement  
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### **2.3              PROJECT APPLICANT**

Dennis Fong  
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San José, CA 95122  
408-770-3250

### **2.4              PROJECT LOCATION**

The project is located on the southwestern corner of the Story Road and South King Road intersection, at 1664 Story Road in San José, California. The project site is shown on the following figures:

Figure 2.4-1    Regional Map

Figure 2.4-2    Vicinity Map

### **2.5              ASSESSOR'S PARCEL NUMBER**

The Tropicana Shopping Center is comprised of the following parcels: 486-10-059, -062, -063, -064, -086, -087, -088, -091, -096, and -097. The proposed project would be situated primarily on parcel 486-10-091 (See Figure 4.11-1).

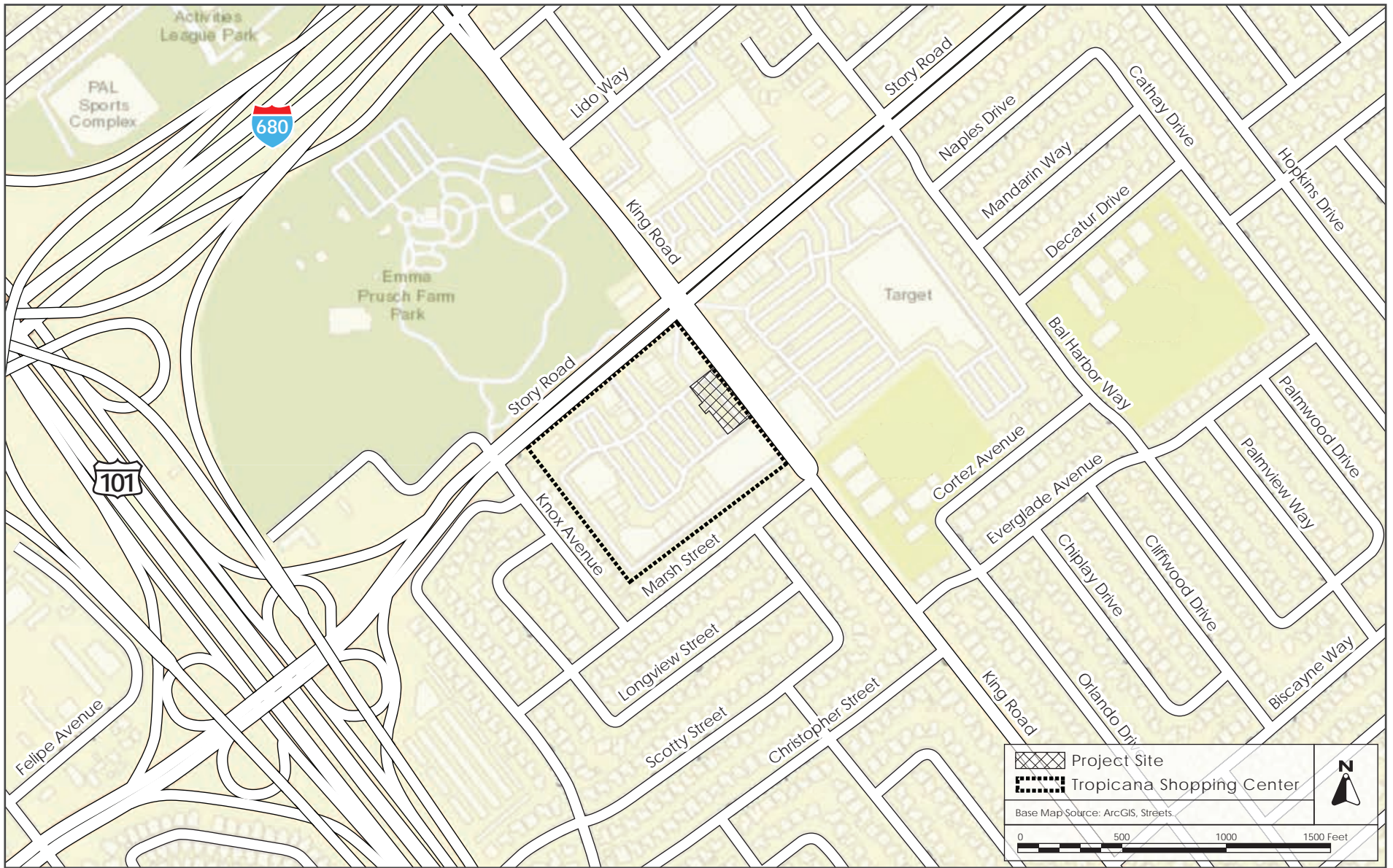
## **2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT**

General Plan Designation: *Neighborhood/Community Commercial*

Zoning Designation: *Split zone of CN Commercial Neighborhood and CP Commercial Pedestrian*

FIGURE 2.4-1





VICINITY MAP

FIGURE 2.4-2

## SECTION 3.0 PROJECT DESCRIPTION

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### 3.1.1 Overview

The Tropicana Shopping Center is a 10.92-acre (88,750 square foot) property comprised of ten parcels (APNs 486-10-059, -062, 063, -064, -086, -087, -088, -091, -096, and -097) located at the southwestern corner of the Story Road and South King Road intersection in the City of San José. The proposed project would be situated primarily on parcel 486-10-091 (See Figure 4.11-1). The shopping center is currently designated *Neighborhood/Community Commercial* under the City of San José's adopted General Plan and the zoning is split between the *CN Commercial Neighborhood* and *CP Commercial Pedestrian* zoning districts. The shopping center is located within the *Story Road Neighborhood Business District* and *Evergreen East Hills Policy Area* of the City of San José.

The shopping center is bordered by South King Road to the north, Story Road to the west, residences along Marsh Road to the east and residences along Knox Avenue to the south, and developed with a mix of retail and commercial uses within ten buildings surrounding a surface parking lot. The shopping center has approximately 147,657 square feet of retail space and 7,850 square feet of office space. The buildings are located along the southern, eastern, and western perimeters of the shopping center, with a large parking lot from the center of the site to its northern boundary along South King Road. Figure 3.1-1 shows an aerial view of the Tropicana Shopping Center and proposed commercial building site.

The immediately surrounding properties consist of commercial, residential, open space, and public land uses. The 86-acre Emma Prusch Farm Regional Park is located across Story Road to the northwest of the Tropicana Shopping Center; a gas station is situated on the southwestern corner of the Story Road and South King Road intersection. Another gas station adjoins the Tropicana Shopping Center to the west, on Story Road. Single-family residential neighborhoods on Knox Avenue and Marsh Street surround the shopping center to the south and east. The KIPP Heartwood Academy, a public charter middle school, is located east of the Tropicana Shopping Center, across South King Road. Two shopping centers are situated at the northern and eastern corners of the Story Road and South King Road intersection.

### 3.1.2 Proposed Development

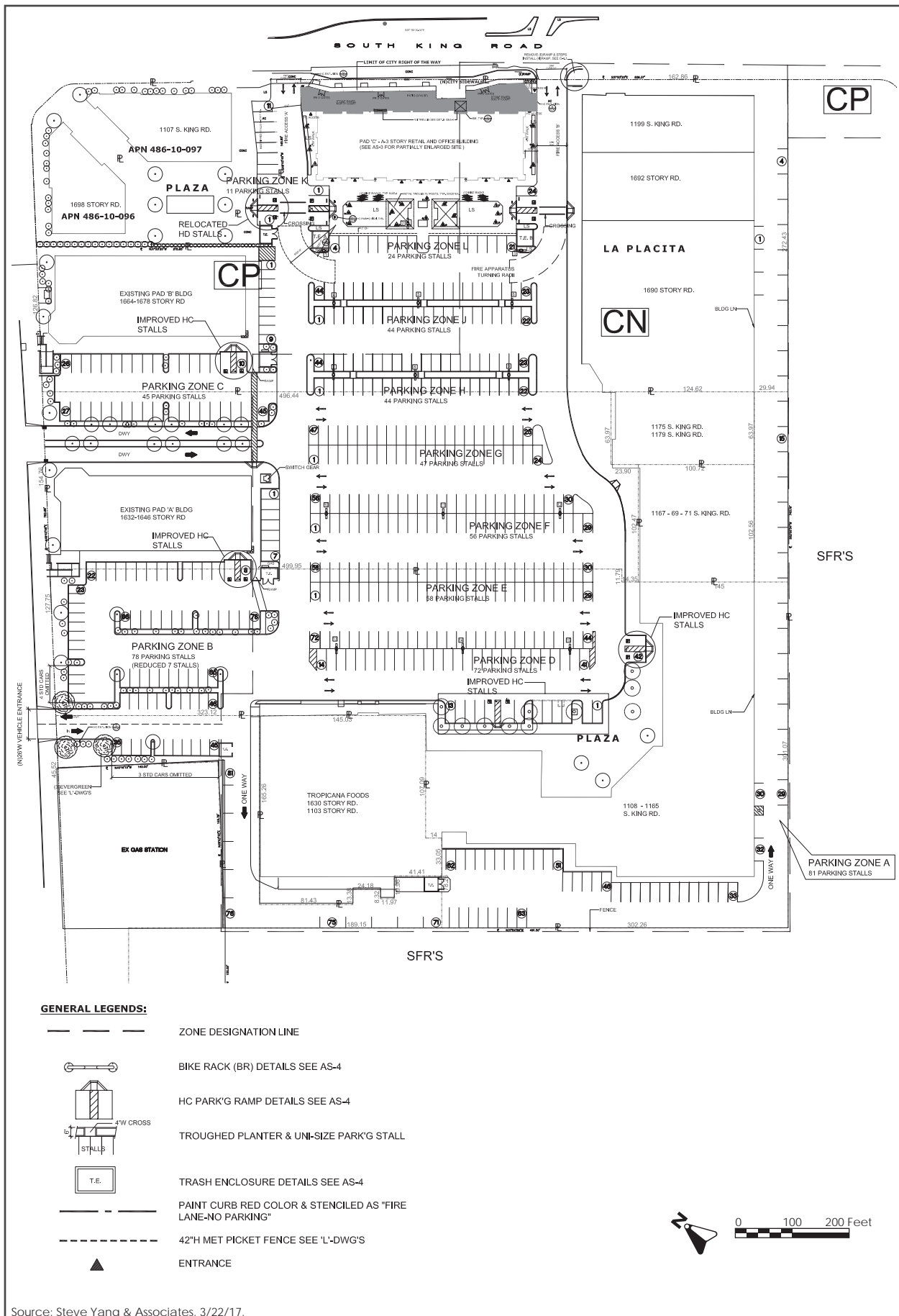
The project site is located on approximately 0.86 acres of the Tropicana Shopping Center at 1664 Story Road in San José, California (APN 486-10-091). As proposed, the project would remove four rows of parking spaces, eliminating 100 parking spaces from the site. In its place, the project consists of the construction of a three-story commercial office building totaling 31,744 square feet, of which 20,748 square feet would be office space and 10,996 square feet would be retail space (see Figures 3.1-2 – Conceptual Site Plan and 3.1-3 – Partially Enlarged Site Plan). The proposed building would not exceed 50 feet in height (refer to Figures 3.1-4, 3.1-5 and 3.1-6 – Building Elevations and Conceptual Building Sections).





AERIAL PHOTOGRAPH AND SURROUNDING LAND USES

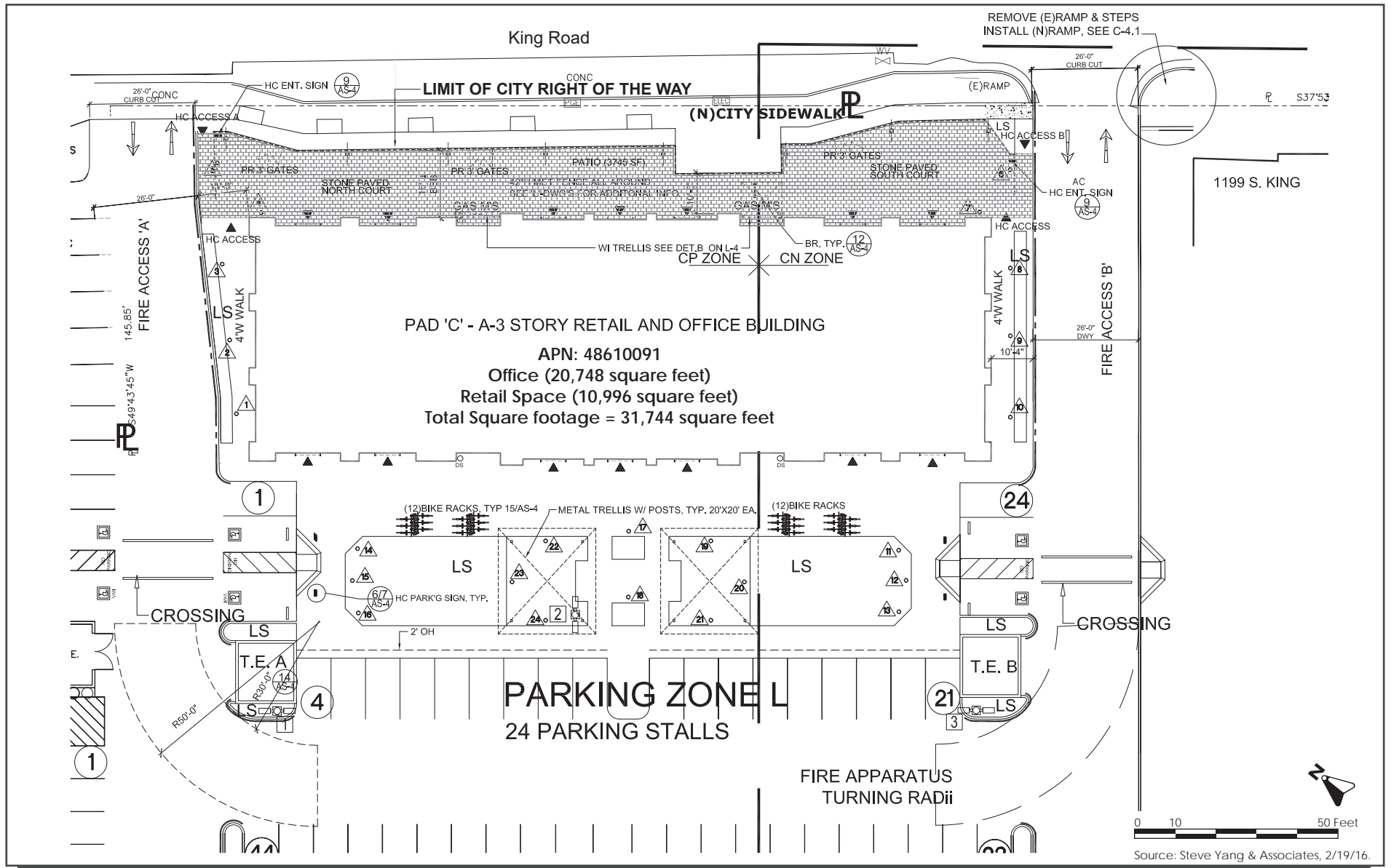
FIGURE 3.1-1



SITE PLAN

FIGURE 3.1-2

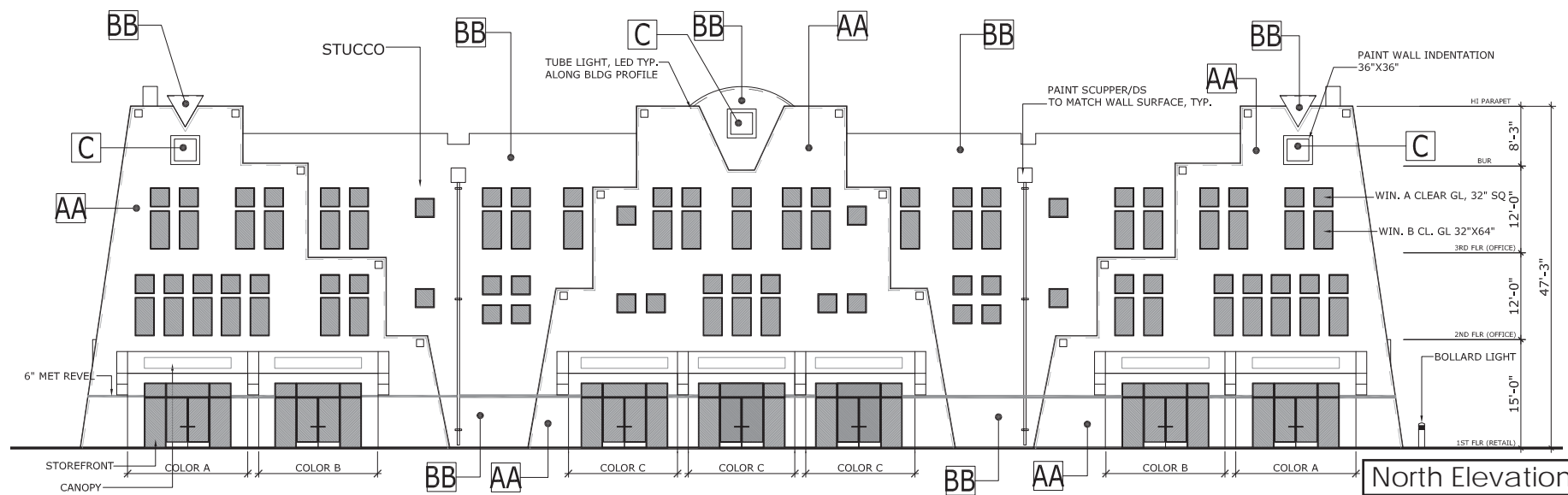
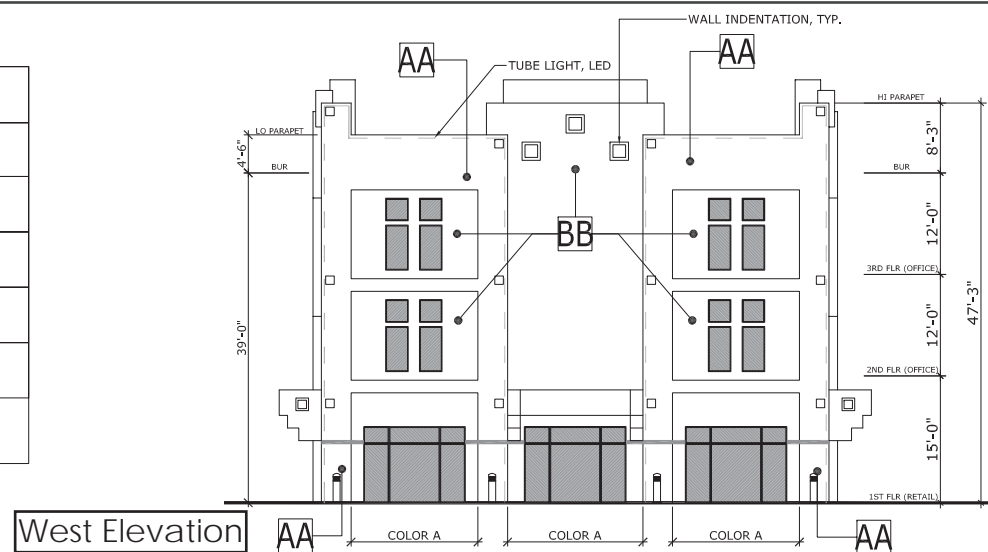




PARTIALLY ENLARGED SITE PLAN

FIGURE 3.1-3



PAINTS MFG'ED BY "DUNN-EDWARDS"

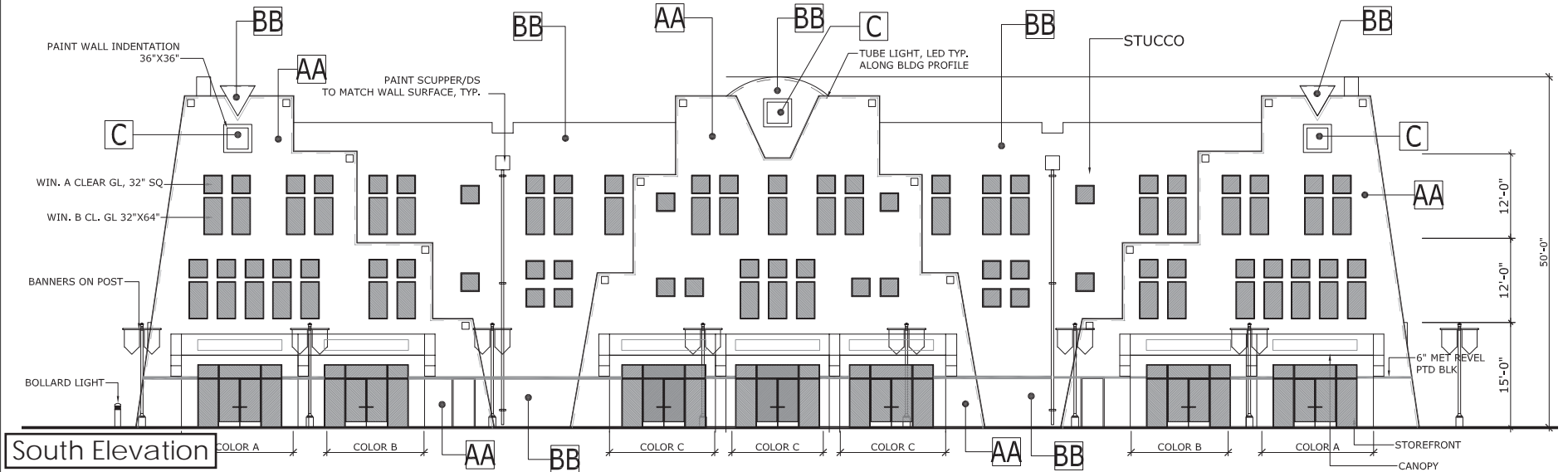
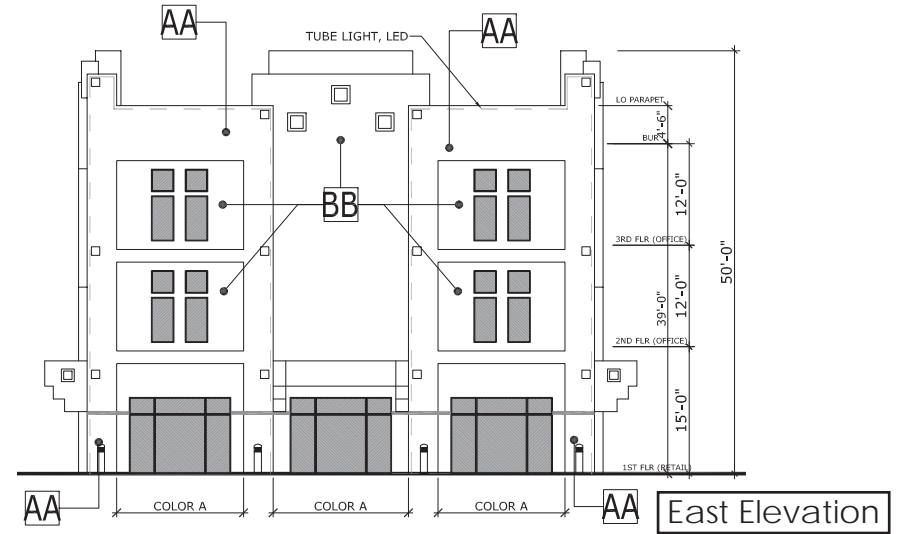
Source: Steve Yang & Associates. 2/19/16.

NORTH AND WEST ELEVATIONS

FIGURE 3.1-4

COLOR SCHEDULE			
COLOR LABEL	COLOR NAME	PAINT NO.	LRV
AA	RICH MOCA	DEA 159	10
BB	MEDALLION	DEC 720	38
A	ARABIAN RED	DEA 155	13
B	GOLDEN LOCK	DEA 121	52
C	TEAL FURY	DE 5762	12

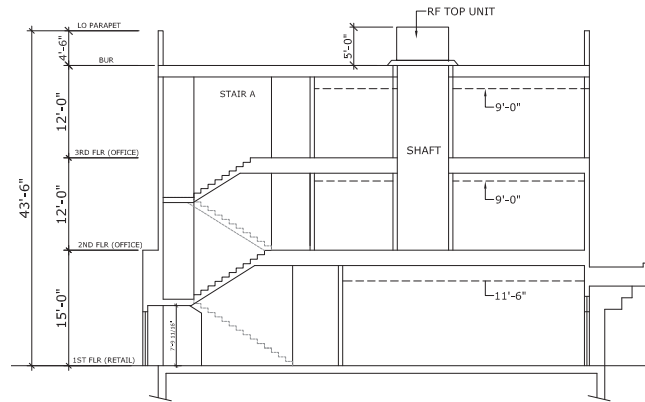
PAINTS MFG'ED BY "DUNN-EDWARDS"



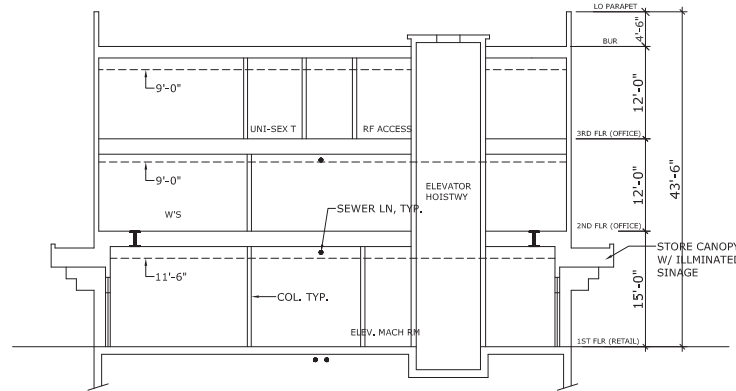
Source: Steve Yang & Associates. 2/19/16.

SOUTH AND EAST ELEVATIONS

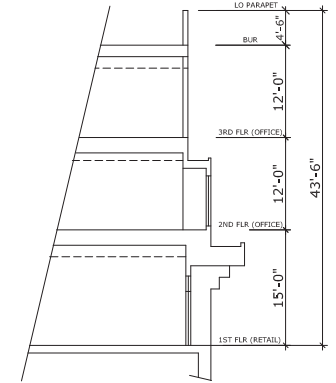
FIGURE 3.1-5



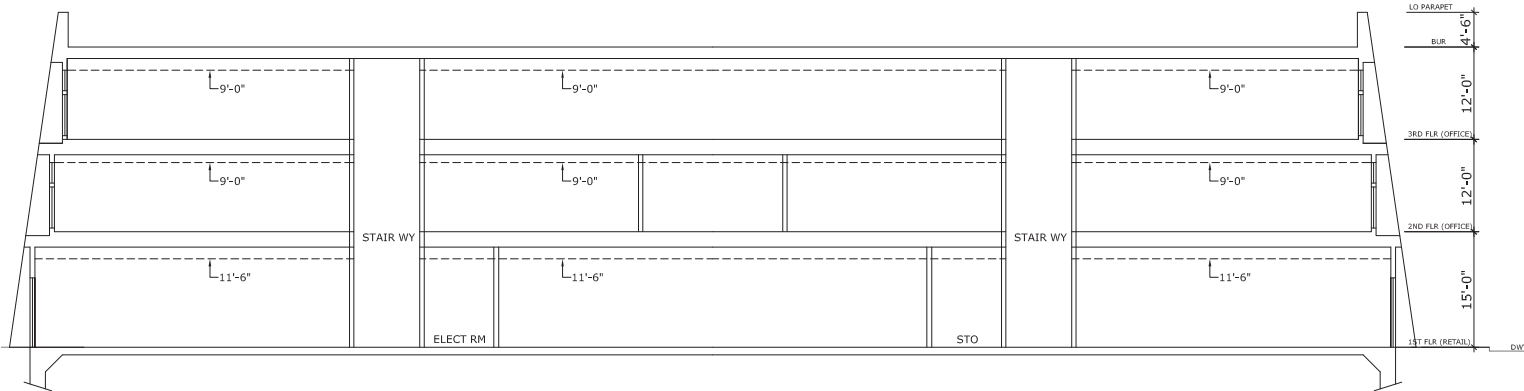
Building Section A



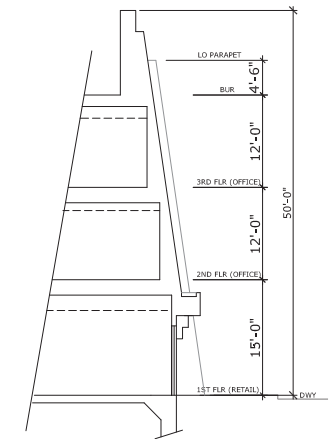
Building Section B



Building Section C



Building Section D



Building Section E

Source: Steve Yang & Associates, 2/19/16.

## CONCEPTUAL BUILDING SECTIONS

FIGURE 3.1-6

## **Site Access and Parking**

The current layout of the Tropicana Shopping Center has one driveway on Story Road and two driveways on South King Road. Access for the proposed project would be provided through reconstructed driveways, along South King Road, that would replace the existing driveways at their current locations. The project also proposes to construct a new 32-foot wide driveway on Story Road. The new driveways would be integrated into the proposed project to ensure safe operation for pedestrians, bicyclists, and vehicles using the site. Access improvements proposed by the project involve enhancement of the pedestrian environment by constructing a 12-foot wide attached sidewalk along South King Road. The use of the existing access locations would also preclude potential problems with the on-going and continued operation of the transit services at the bus stop on South King Road adjoining the project site.

There are 644 parking spaces currently in the shopping center for 155,507 gross square feet of retail commercial uses on the property. The proposed project would remove four rows of parking spaces on the north side of the shopping center and five additional spaces for a trash enclosure, for a total of 100 parking spaces removed. Per City code, with implementation of the project, the shopping center would be required to provide 447 parking spaces. The project proposes 16 new parking spaces. Upon completion of the proposed project, 560 parking spaces would be available on the project site, exceeding the requirement for 447 spaces. 14 parking spaces out of the 560 would be reserved for disabled drivers. The project does not propose to restripe the parking lot to accommodate the new parking spaces. Some strips may require some adjustments but location of parking lights would be kept intact.

## **Landscaping and Other Improvements**

The project site is a developed urban site, and vegetation is limited to a few trees and minimal landscaping. Presently, there are five street trees along South King Road adjacent to the proposed building site and these would be removed and replaced to accommodate the sidewalk widening along South King Road, as mentioned above. The project also proposes a stone paved path to be provided for pedestrians and bicyclists along the site's frontage on South King Road. This path would connect the office entrance area to the east and west sides of the building. The conceptual landscape plan is shown on Figure 3.1-7. Project plans specify the installation of new landscape areas around the proposed building. Landscaping strips would be constructed along the north and south sides of the building, with landscaped islands on the west side of the structure, adjoining the parking lot. Landscaping along the building frontage on South King Road would integrate plantings and fencing with the existing street tree plantings.

## **Public Right-Of-Way and Utility Improvements**

Utilities on the project site are available through service lines extending from South King Road onto the shopping center property. The proposed building would connect to an existing eight-inch water line and a four-inch sanitary sewer line on the project site. The project would utilize a Low Impact Development (LID) treatment method consisting of an underground detention and infiltration system (e.g. pervious pavement drain rock, large diameter pipe) to treat stormwater prior to entering the municipal storm drain system.

## **Grading and Construction**

The project would take approximately nine months to construct<sup>1</sup> and the construction is assumed to start in April 2019. The project area would be graded, with a cut of 150 cubic yards (c.y.) of soil and fill of 580 c.y. of soil. Therefore, approximately 430 c.y. of clean soil, free of contaminants, would need to be imported for the project.

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<sup>1</sup> Duration of construction would be the same regardless of the actual start date of construction.





## SECTION 4.0 ENVIRONMENTAL CHECKLIST AND IMPACT DISCUSSION

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

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

The discussion for each environmental subject includes the following subsections:

- **Environmental Checklist** – The environmental checklist, as recommended by CEQA, identifies environmental impacts that could occur if the proposed project is implemented. The right-hand column of the checklist lists the source(s) for the answer to each question. The sources are identified at the end of this section.
- **Impact Discussion** – This subsection discusses the project’s impact as it relates to the environmental checklist questions. For significant impacts, feasible mitigation measures are identified. “Mitigation measures” are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Each impact is numbered using an alphanumeric system that identifies the environmental issue. For example, **Impact HAZ-1** denotes the first potentially significant impact discussed in the Hazards and Hazardous Materials section. Mitigation measures are also numbered to correspond to the impact they address. For example, **MM NOI-2.3** refers to the third mitigation measure for the second impact in the Noise section.

### **Important Note to the Reader**

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

The City of San José currently has policies that address existing conditions (e.g., air quality, noise, and hazards) affecting a proposed project, which are also addressed in this section. This is consistent with one of the primary objectives of CEQA and this document, which is to provide

objective information to decision-makers and the public regarding a project as a whole. The CEQA Guidelines and the courts are clear that a CEQA document (e.g., EIR or Initial Study) can include information of interest even if such information is not an “environmental impact” as defined by CEQA.

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

## **4.1 AESTHETICS**

### **4.1.1 Regulatory Setting**

#### **4.1.1.1 *General Plan***

The *Envision San José 2040 General Plan* includes the following aesthetic policies applicable to the proposed project:

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

*Policy CD-1.5:* Encourage incorporation of publicly accessible spaces, such as plazas or squares, into new and existing commercial and mixed-use developments.

*Policy CD-1.7:* Require developers to provide pedestrian amenities, such as trees, lighting, recycling and refuse containers, seating, awnings, art, or other amenities, in pedestrian areas along project frontages. When funding is available, install pedestrian amenities in public rights-of-ways.

*Policy CD-1.9:* Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian-oriented areas such as Downtown, Urban Villages, or along Main Streets, place commercial and mixed-use building frontages at or near the street-facing property line with entrances directly to the public sidewalk, provide high-quality pedestrian facilities that promote pedestrian activity, including adequate sidewalk dimensions for both circulation and outdoor activities related to adjacent land uses, a continuous tree canopy, and other pedestrian amenities. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street facade and pedestrian access to buildings.

*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-2.8:* Size and configure mixed-use development to accommodate viable commercial spaces with appropriate floor-to-floor heights, tenant space configurations, window glazing, and other infrastructure for restaurants and retail uses to ensure appropriate flexibility for accommodating a variety of commercial tenants over time. Retail commercial buildings should have primary entrances at the street at sidewalk grade, particularly in pedestrian-oriented areas.

*Policy CD-4.4:* In non-growth areas, design new development and subdivisions to reflect the character of predominant existing development of the same type in the surrounding area through the regulation of lot size, street frontage, height, building scale, siting/setbacks, and building orientation.

*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).

#### **4.1.1.2      *Outdoor Lighting Policy***

The City of San José's Outdoor Lighting Policy (City Council Policy 4-3) promotes energy efficient outdoor lighting on private development to provide adequate light for nighttime activities while benefiting the continued enjoyment of the night sky and continuing operation of the Lick Observatory by reducing light pollution and sky glow.

#### **4.1.1.3      *State Scenic Highway Program***

Many state highways are in areas of outstanding natural beauty. California's Scenic Highway Program was created by the Legislature in 1963. The purpose of the program is to protect and enhance the natural scenic beauty of California highways and adjacent corridors, through special conservation treatment. Highway 9, from the Santa Cruz County line to the Los Gatos city limits, is the only officially designated state scenic highway in Santa Clara County.<sup>2</sup> Highway 280 from Santa Clara County line to the San Bruno City limit is the nearest Eligible State Scenic Highway near the project site. It is approximately 5.5 miles southwest of the project site.

#### **4.1.2      Existing Setting**

##### **4.1.2.1      *Project Site***

The project site is 0.86-acres of the 10.92-acre Tropicana Shopping Center located at the southern corner of the Story Road and South King Road intersection. The project site is part of the paved and striped parking lot, void of structures, for Tropicana Shopping Center. The entire shopping center is flat and developed with a mix of retail/commercial uses in approximately ten buildings. The buildings in the shopping center are all one-to two-story wood and stucco finished buildings. There are five street trees along the site's frontage on South King Road (See Photos 1 through 4).

##### **4.1.2.2      *Surrounding Area***

The surrounding area has an eclectic mix of commercial buildings to the north, with no predominant architectural style (see photos 5 and 6). The shopping center is surrounded by open space (86-acre Emma Prusch Farm Regional Park) to the northwest and residential development to the southeast and southwest. Buildings heights vary by land use and range from one to three stories.

Located immediately north of the parcel is King Road, a four-lane, two-way roadway. North of King Road is a shopping center with a mix of one to three story buildings surrounding a paved parking lot. East of the project parcel is Story Road, a six-lane two-way roadway. East of Story Road is the Emma Prusch Farm Regional Park. Northeast of the shopping center is the one-story Kipp Heartwood Academy school. The school is surrounded by chain-link fencing on all the sides. One-story single family homes border the shopping center on the southeast and southwest.

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<sup>2</sup> California Department of Transportation. *California Scenic Highway Mapping System*. Available at [http://www.dot.ca.gov/hq/LandArch/16\\_livability/scenic\\_highways/index.htm](http://www.dot.ca.gov/hq/LandArch/16_livability/scenic_highways/index.htm). Accessed March 30, 2018.



**Photo 1:** View of the project site parking lot planned to be demolished and commercial buildings east of the project site.



**Photo 2:** View of the project site parking lot planned to be demolished and commercial buildings west of the project site

## PHOTOS

1 and 2





**Photo 3:** View of the adjacent parking lots and commercial buildings to the south of the project site.



**Photo 4:** View of the project site from south of the shopping center. The five street trees are visible along site's frontage on South King Road.

## PHOTOS

3 and 4





**Photo 5:** View of the Smart and Final Store northeast from the project site.



**Photo 6:** View of the commercial building northwest of the project site.

## PHOTOS

5 and 6

#### 4.1.2.3 *Light and Glare*

The parking lot at the existing site has typical light fixtures for a parking lot located in a commercial area. Sources of light and glare in the surrounding area are those typical of suburban development areas, including headlights, streetlights, security lights, and reflective surfaces such as windows.

#### 4.1.2.4 *Scenic Views and Resources*

The City has many scenic resources including the hills and mountains that frame the valley floor, the baylands, and the urban skyline itself, particularly high-rise development. The project site is flat and located in East San José, surrounded by urban development. Views of the Diablo foothills east of the site and the Santa Cruz Mountains west of the site are obscured by the existing surrounding development. The project area is not designated a scenic resource in the San José 2040 General Plan. The closest designated state scenic highway is California State Route (SR) 9, which is located approximately 11 miles to the southwest from the project site. The site is not visible from SR 9.

#### 4.1.3 Environmental Checklist

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

#### 4.1.4 Impact Discussion

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

**No Impact.** Most of the City is relatively flat and prominent viewpoints, other than buildings, are limited. The project area has minimal to no scenic views due to the existing built environment and no designated scenic resources. The project site and the nearby buildings range from one to three stories in height. Therefore, construction of a three-story commercial building would not block or affect an existing scenic vista. Therefore, impacts related to scenic vistas would not occur.

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

**No Impact.** The project site is not visible from the nearest Caltrans-designated State Scenic Highway, Route 9, located approximately 11 miles to the southwest of the project site. The project site is also not visible from the nearest Eligible State Scenic Highway, a segment of I-280, located 13 miles southwest of the project site. Therefore, the construction and operation of the proposed retail/commercial building would not damage any resources within a state scenic highway.

**c) Substantially degrade the existing visual character or quality of the site and its surroundings?**

**Less than Significant Impact.** The proposed project site is located within a highly developed area of east San José. The shopping center is currently occupied by ten commercial and retail wood and stucco buildings one to two story in height, an asphalt surface parking lot and driveways, and associated landscaping. The project parcel is surrounded by a mix of retail and commercial/office development that vary in building height from one to three stories and contain no predominant architectural style. Because there is no predominant architectural style in the project and surrounding area, construction of the office building would be compatible with the visual character of the built environment. In addition, the three-story building would not reduce views from public vantage points of the hillsides or nearby riparian and natural habitats. The new building would be a stucco finished building with a painted metal storefront and entry/exit doors, which would be compatible with the existing character.

The existing on-site landscaping would be modified as part of the proposed project. Presently, there are five street trees along South King Road and these would be removed and replaced to accommodate the proposed sidewalk widening along South King Road. As shown in the conceptual landscape plan (Figure 3.1-7), new landscape areas are proposed around the new building. Landscaping strips would be located along the north and south sides of the building, with landscaped islands on the west side of the structure, adjoining the parking lot. Landscaping along the building frontage on South King Road would integrate plantings and fencing with the existing street tree plantings. As a result, the proposed project would have a less than significant impact on the visual character and quality of the site and its surrounding area.

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

**Less Than Significant Impact.** New development under the General Plan has the potential to create additional light and/or glare in the City. The project's sources of light and glare currently include security lights, vehicular lights, street lights, external building lights and internal building lights. Construction at the proposed building would not require the addition of any temporary light sources, as the construction would be limited to daylight hours. The materials used for the construction of the new building would match the non-reflective materials of the existing buildings and, thus, would not introduce a new source of glare. The General Plan FEIR concluded that while new development and redevelopment under the General Plan could be new sources of nighttime light and daytime glare, implementation of adopted plans and conformance

with adopted policies, regulations, and General Plan policies, 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. Consistent with San José City Council Policy 4-3, the project will utilize energy-efficient outdoor lighting that is fully shielded and not directed skyward. The project would go through a design review process, prior to the issuance of planning permits, and would be reviewed for consistency with the City's Design Guidelines. Lighting at the proposed development would also conform with City of San José's Interim Lighting Policy Broad Spectrum Lighting (LED) for Private Development and all the ground mounted light fixtures would comply with the height restriction per Municipal Code Section 20.50.250. As a result, the proposed project would not significantly impact adjacent land uses with increased nighttime light levels or daytime glare from building materials.

## **4.2 AGRICULTURAL AND FORESTRY RESOURCES**

### **4.2.1 Regulatory Setting**

#### **4.2.1.1 *Williamson Act***

The Williamson Act (California Land Conservation Act of 1965) enables local governments to enter into contracts with private land owners for the purpose of restricting specific parcels of land to agricultural or related open space use. In return, land owners receive property tax assessments which are lower than full market value of the property because they are based on farming and open space uses.

#### **4.2.1.2 *Farmland Mapping and Monitoring Program***

The California Resources Agency's Farmland Mapping and Monitoring Program (FMMP) provides maps and data to decisions makers to assist them in making informed decisions regarding the planning of the present and future use of California's agricultural land resources.

#### **4.2.1.3 *Forest Land and Timberland***

Public Resources Code Section 12220(g) identifies forest land as land that can support a 10 percent native tree cover of any species, including hardwoods, under natural conditions, and that allows for management of one or more forest resources, including timber, aesthetics, fish and wildlife, biodiversity, water quality, recreation, and other public benefit.

Public Resources Code Section 4526 identifies timberland as land, other than land owned by the federal government and land designated by the board as experimental forest land, which is available for, and capable of, growing a crop of trees of a commercial species used to produce lumber and other forest products, including Christmas trees. Commercial species shall be determined by the board on a district basis.

### **4.2.2 Existing Setting**

The project site is in a highly urbanized area of San José. According to the Santa Clara County Farmland Map 2014, the subject site is designated as *Urban and Built-up Land*.<sup>3</sup> Urban and Built-up Land is defined as residential land with a density of at least six units per ten-acre parcel, as well as land used for industrial and commercial purposes, golf courses, landfills, airports, sewage treatment, and water control structures. The site is not subject to a Williamson Act Contract.<sup>4</sup>

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<sup>3</sup> California Department of Conservation. *Santa Clara County Important Farmland*. 2014. [ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2014/fmmp2014\\_08\\_11.pdf](ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2014/fmmp2014_08_11.pdf). Accessed February 28, 2018.

<sup>4</sup> California Department of Conservation. *Williamson Act Program website*: <http://www.conservation.ca.gov/dlrp/lca/Pages/Index.aspx>. Accessed February 28, 2018.

### 4.2.3 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,4,5
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,4,5
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2
d) Result in a loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2

### 4.2.4 Impact Discussion

#### a) **Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) to non-agricultural use?**

**No Impact.** As discussed above in *Section 4.2.2*, the Santa Clara County Important Farmland 2014 Map designates the project site as *Urban and Built-Up Land*. Common examples include residential, industrial, institutional facilities, cemeteries, sanitary landfills, etc. The project site is surrounded by urban development. There is no designated farmland on or adjacent to the site. Therefore, the project would not cause the conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural uses.

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

**No Impact.** The project site is not zoned to allow for agricultural uses. The project site is not protected under the Williamson Act. Therefore, impacts related to conflict with existing zoning for agricultural uses or a Williamson Act contract would not occur.

c) **Conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production?**

**No Impact.** The project site is not zoned as forest land, timberland, or timberland zoned Timberland Production. Implementation of the project would allow for construction of commercial uses on a currently developed site. Therefore, impacts related to conflicts with existing zoning or rezoning of forest land, timberland, or timberland zoned Timberland Production would not occur.

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

**No Impact.** Refer to Response 4.2.4 (c) above. Impacts related to loss of forest land or conversion of forest land to non-forest use would not occur.

e) **Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?**

**No Impact.** Refer to Responses 4.2.4 (a) through (d). Impacts related to conversion of farmland to non-agricultural use or conversion of forest land to non-forest use would not occur.



### **4.3 AIR QUALITY**

The following discussion is based, in part, upon a Community Risk Assessment prepared by *Illingworth & Rodkin, Inc.* in February 2019. This report is provided in Appendix A of this Initial Study.

#### **4.3.1 Regulatory Setting**

##### **4.3.1.1 *Envision San José 2040 - General Plan***

The City of San José's General Plan (Envision San José 2040) contains several air quality policies and implementing actions that pertain to the project as listed below:

Policy MS-10.1 - Assess projected air emissions from new development in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.

Policy MS-11.2 - For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.

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

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

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 (CARB's) air toxics control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

##### **4.3.1.2 *Clean Air Plan***

On April 19, 2017, the BAAQMD Board of Directors adopted a new air quality plan, called the 2017 Clean Air Plan (CAP), *Spare the Air, Cool the Climate* (2017 CAP). This plan updates the previous Bay Area 2010 CAP and focuses on two closely-related goals: protecting public health and protecting the climate. To protect public health, the plan describes how BAAQMD will continue its progress toward attaining all state and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities. To protect the climate, the plan defines a vision for transitioning the region to a post-carbon economy needed to achieve ambitious greenhouse gas (GHG) reduction targets for 2030 and 2050, and provides a regional

climate protection strategy that will put the Bay Area on a pathway to achieve those GHG reduction targets.

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

#### **4.3.1.3      *Evergreen-East Hills Development Policy***

The EEHDP is intended to promote the long-term vitality of the Evergreen area by linking together development with supporting transportation infrastructure improvements. The EEHDP also provides project-level clearance for air quality impacts associated with the “Development Pool” specified within the policy (including 500 residential units, 500,000 square feet of commercial retail space, and 75,000 square feet of office space).

#### **4.3.2      Existing Setting**

The project is in the San Francisco Bay Area Air Basin. Ambient air quality standards have been established at both the state and federal level. The Bay Area meets all ambient air quality standards except for ground-level ozone, respirable particulate matter (PM10), and fine particulate matter (PM2.5).

##### **4.3.2.1      *Toxic Air Contaminants***

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

The Bay Area Air Quality Management District (BAAQMD) is the regional agency tasked with managing air quality in the region. At the State level, the CARB (a part of the California Environmental Protection Agency [EPA]) oversees regional air district activities and regulates air quality at the state level. BAAQMD has published CEQA Air Quality Guidelines that are used in this assessment to evaluate air quality impacts of projects.<sup>5</sup> The detailed community risk modeling methodology used in this assessment is contained in Attachment 1 of Appendix A.

##### **4.3.2.2      *Sensitive Receptors***

There are groups of people more affected by air pollution than others. CARB has identified the following persons who are most likely to be affected by air pollution: children under 16, the elderly over 65, and people with cardiovascular and chronic respiratory diseases. These groups are classified

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<sup>5</sup> BAAQMD, 2017, op. cit.

as sensitive receptors. Locations that may contain a high concentration of these sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, and elementary schools. The closest sensitive receptors to the project site are residences located adjacent to the southeast and southwest boundaries of the shopping center (along Marsh Street and Knox Avenues) and the Kipp Heartwood Academy School that is located approximately 300 feet northeast of the project site, across South King Road.

#### 4.3.3 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,6
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,6
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,6
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,6,11
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,6

#### 4.3.4 Impact Discussion

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

**Less than Significant Impact.** The 2017 CAP defines an integrated, multi-pollutant control strategy to reduce emissions of particulate matter, TACs, ozone precursors, and GHGs. The proposed control strategy is designed to complement efforts to improve air quality and protect the climate that are being implemented by partner agencies at the state, regional, and local scale. The control strategy encompasses 85 individual control measures. The control measures describe specific actions to reduce emissions of air and climate pollutants from the full range of emission sources and is based on the following four key priorities:

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

The proposed project supports the primary goals of the 2017 CAP in that it does not exceed the BAAQMD thresholds for operational air pollutant emissions (as discussed in Section 4.3.4 (b) below). In addition, the proposed project is considered an urban infill, and would be located adjacent to residences and VTA bus routes 22, 77, and 12. Because the project is located near residences and transit, the proposed commercial development would be consistent with CAP Policy TCM D-3, which promotes provision of employment development near transit to promote walking, bicycling, and transit use. The project would not preclude implementation of the 2017 CAP control measures and would not conflict with or obstruct implementation of the 2017 CAP. Future specific development on the site would also be required to comply with the requirements of the EEHDP in order to obtain project-level clearance for air quality impacts. The project, therefore, would not result in a significant impact related to consistency with the 2017 CAP.

**b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?**

**Construction Emissions**

**Less than Significant Impact.** Construction activities would temporarily affect local air quality. Construction activities such as earthmoving, construction vehicle traffic, and wind blowing over exposed earth would generate exhaust emissions and fugitive particulate matter emissions that affect local and regional air quality. Construction activities are also a source of organic gas emissions. Solvents in adhesives, non-water based paints, thinners, some insulating materials, and caulking materials would evaporate into the atmosphere and would participate in the photochemical reaction that creates urban ozone. Asphalt used in paving is also a source of organic gases for a short time after its application.

The BAAQMD CEQA Air Quality Guidelines contain screening levels for construction criteria air pollutant emissions and the BAAQMD Recommended Methods for Screening and Modeling Local Risks and Hazards provides screening distances for construction TAC emissions. The BAAQMD screening level for retail/commercial building criteria pollutant construction emissions is 277,000 square feet. The square footage of the proposed building (i.e. 31,744 square feet) is below the criteria pollutant screening level. Therefore, the project would not exceed the emissions thresholds and construction of the project would have a less than significant impact on regional air quality.

For all proposed projects, BAAQMD recommends the implementation of Basic Construction Mitigation Measures, whether or not construction related emissions would exceed applicable thresholds of significance. The proposed project includes standard permit conditions, recommended by BAAQMD, to reduce project construction dust impacts. These measures are listed below:

**Standard Permit Conditions**

Consistent with City policies, the project would be developed in conformance with the General Plan policies listed in *Section 4.3.2* above and the following standard BAAQMD dust control measures during all phases of construction on the project site to reduce dust fall emissions:

- All active construction areas shall be watered twice daily or more often if necessary. Increased watering frequency shall be required whenever wind speeds exceed 15 miles-per-hour.
- Pave, apply water three times daily, or apply non-toxic soil stabilizers on all unpaved access roads and parking and staging areas at construction sites.
- Cover stockpiles of debris, soil, sand, and any other materials that can be windblown. Trucks transporting these materials 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.
- Subsequent to clearing, grading, or excavating, exposed portions of the site shall be watered, landscaped, treated with soil stabilizers, or covered as soon as possible. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas and previously graded areas inactive for ten days or more.
- Installation of sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Replanting of vegetation in disturbed areas as soon as possible after completion of construction.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes. Clear signage shall be provided for construction workers at all access points.
- 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 BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.

### **Operational Emissions**

**Less than Significant Impact.** The BAAQMD operational criteria pollutant screening level size for commercial/office development is 346,000 square feet. The proposed 31,744-square foot commercial building is below the BAAQMD operational criteria pollutant screening level size. Therefore, operation of the proposed project would not result in significant criteria pollutant air quality impacts.

- c) **Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors?**

**Less than Significant Impact.** The Bay Area does not meet state or federal ambient air quality standards for ground level ozone or state standards for PM10 and PM2.5. The area is considered in attainment or unclassified for all other pollutants. As discussed in 4.3.4 (b) above, operation of the proposed project would not result in significant criteria pollutant air quality impacts. Construction emissions would be temporary and would not preclude the Bay Area from meeting state and federal standards. City of San José Standard Permit Conditions, identified in response to 4.3.4 (b) above, require implementation of the Best Management Practices (BMPs) during construction to control dust and exhaust emissions, which would further reduce air quality impacts associated with the proposed project. Therefore, emissions generated by the proposed project would not be cumulatively considerable.

- d) **Expose sensitive receptors to substantial pollutant concentrations?**

#### **Project Community Risk Impacts**

**Less than Significant Impact with Mitigation Incorporated.** The primary community risk impact issues associated with construction emissions are cancer risk and exposure to PM2.5. Construction activity is anticipated to include demolition, grading and site preparation, building construction, and paving. A community risk assessment of project construction activities was completed by Illingworth & Rodkin that evaluated the potential health effects on sensitive receptors at nearby residences and the school from construction emissions of DPM and PM2.5.<sup>6</sup> It is anticipated that most construction, or at least the portion involving diesel equipment, would all occur in 2019.<sup>7</sup>

#### **Single-Source Risk Impacts**

The U.S. EPA AERMOD dispersion model was used to predict DPM and PM2.5 concentrations at existing sensitive receptors (residences and school) in the vicinity of the project. Figure 4.3-1 shows the locations where the maximum-modeled DPM and PM2.5 concentrations occurred. Two locations or receptors were identified for maximum impacts: (1) a single-family residence adjacent to the southeastern boundary of the shopping center, and (2) the Kipp Heartwood Academy School (where students grade 5 through 8 attend). The results of this assessment show that the maximum increased residential cancer risks would be 14.8 in one million for an infant exposure [at the Residential Maximum Exposed Individual (MEI)] (See Table 4.3-1). This would exceed the significance threshold of 10.0 in one million. The maximum-modeled annual PM<sub>2.5</sub> concentrations, which is based on combined exhaust and fugitive dust emissions, was 0.09 µg/m<sup>3</sup>. This maximum annual PM<sub>2.5</sub> concentrations would not exceed the BAAQMD

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<sup>6</sup> DPM is identified by California as a toxic air contaminant due to the potential to cause cancer.

<sup>7</sup> At the time this study was completed, it was assumed that project construction would begin in April 2019. Based on personal communication with Illingworth & Rodkin, Inc., if the construction for the project were to start in 2020, construction 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.

significance threshold of greater than 0.3  $\mu\text{g}/\text{m}^3$ . The project, therefore, would have a significant single-source community risk impact from project construction activities.

<b>TABLE 4.3-1: Single Source Construction Risk Assessment</b>			
<b>Source</b>	<b>Maximum Cancer Risk (per million)</b>	<b>Maximum Annual PM2.5 Concentration (<math>\mu\text{g}/\text{m}^3</math>)</b>	<b>Maximum Hazard Index</b>
Project Construction – Unmitigated Resident MEI – Unmitigated School MEI	<b>14.8</b> (infant) 0.9 (child)	0.09	0.05
<i>BAAQMD Threshold – Single Source</i>	<i>10.0</i>	<i>0.3</i>	<i>1.0</i>
<b>Significant?</b>	<b>Yes</b>	No	No
Project Construction – Mitigated Resident MEI	9.7 (infant)	0.06	0.02
<b>Level of Significance after Mitigation?</b>	No	No	No
Source: Illingworth & Rodkin, February 2019.			

The maximum modeled annual residential DPM concentration (i.e., from construction exhaust) was 0.252  $\mu\text{g}/\text{m}^3$ . The maximum computed Hazard Index (HI) based on this DPM concentration is 0.05, which is much lower than the BAAQMD significance criterion of a HI greater than 1.0.

**Impact AQ-1:** The project would have a significant impact with respect to community risk caused by project construction activities since the project itself, a single source, would result in cancer risk that exceeds 10.0 chances per million.

In addition to the BMPs listed in Section 4.3.4 (b) above, and in conformance with General Plan Policies MS-10.1 and MS-13.1, the following mitigation measures shall be implemented during all demolition and construction activities to reduce TAC emissions impacts:

**MM AQ-1.1:** Prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest), the project applicant shall submit a construction operations plan to the Environmental Review Division of the Department of Planning, Building and Code Enforcement, demonstrating that the off-road equipment used for construction of the project would achieve a fleet-wide average of at least 35 percent reduction in Diesel Particulate Matter (DPM) exhaust emissions.

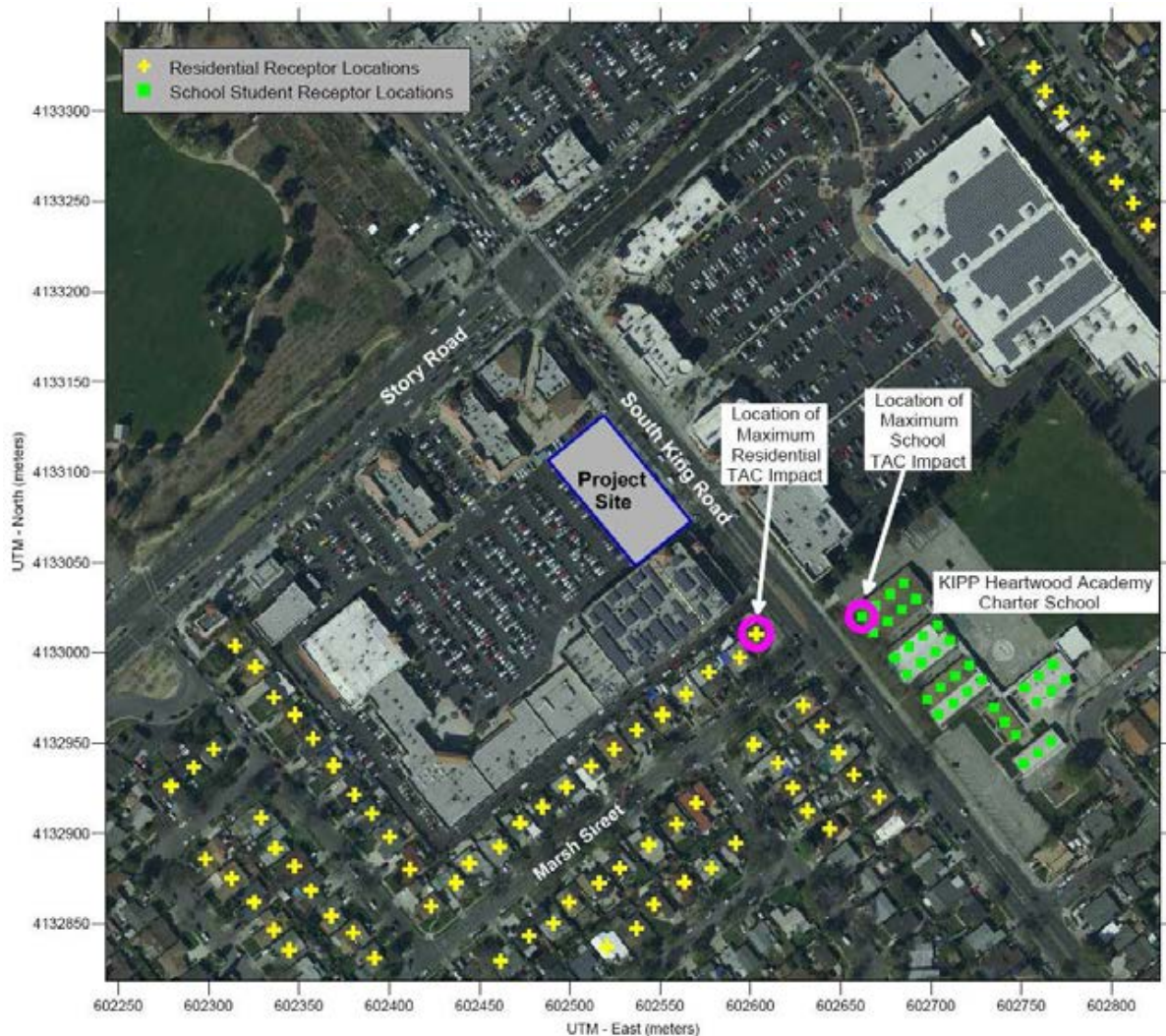
The construction operations plan shall also demonstrate that all mobile diesel-powered off-road equipment larger than 25 horsepower and operating on the site for more than two days meets, at a minimum, U.S. EPA particulate matter emissions standards for Tier 2 engines or equivalent measures, such as the use of equipment that includes CARB-certified Level 3 Diesel Particulate Filters or alternatively-fueled equipment (i.e., non-diesel or electric), added exhaust devices, or a combination of this equipment, included in the construction operation plan, to minimize construction period DPM emission



to reduce the estimated cancer risk below the thresholds, to the satisfaction of the Director of Planning, Building and Code Enforcement.

Implementation of standard permit conditions listed in 4.3.4 (b) above would reduce exhaust emissions by five percent and fugitive dust emissions by over 50 percent. Implementation of Mitigation Measure AQ-1.1 would reduce on-site diesel exhaust emissions by 35 percent. With mitigation, the computed maximum increased lifetime residential cancer risk from construction, assuming infant exposure at the Residential MEI, would be 9.7 in one million or less, as shown in Table 4.3-1. The cancer risk would, therefore, be below the BAAQMD threshold of 10 per one million for cancer risk and the project would have a less than significant impact.

**Figure 4.3-1: Project Construction Site, Sensitive Receptor Locations, and Location of Maximum Exposed Individual (MEI) and Maximum PM2.5 Concentration**



Source: Illingworth & Rodkin, February 2019.

#### Cumulative Community Risk impacts

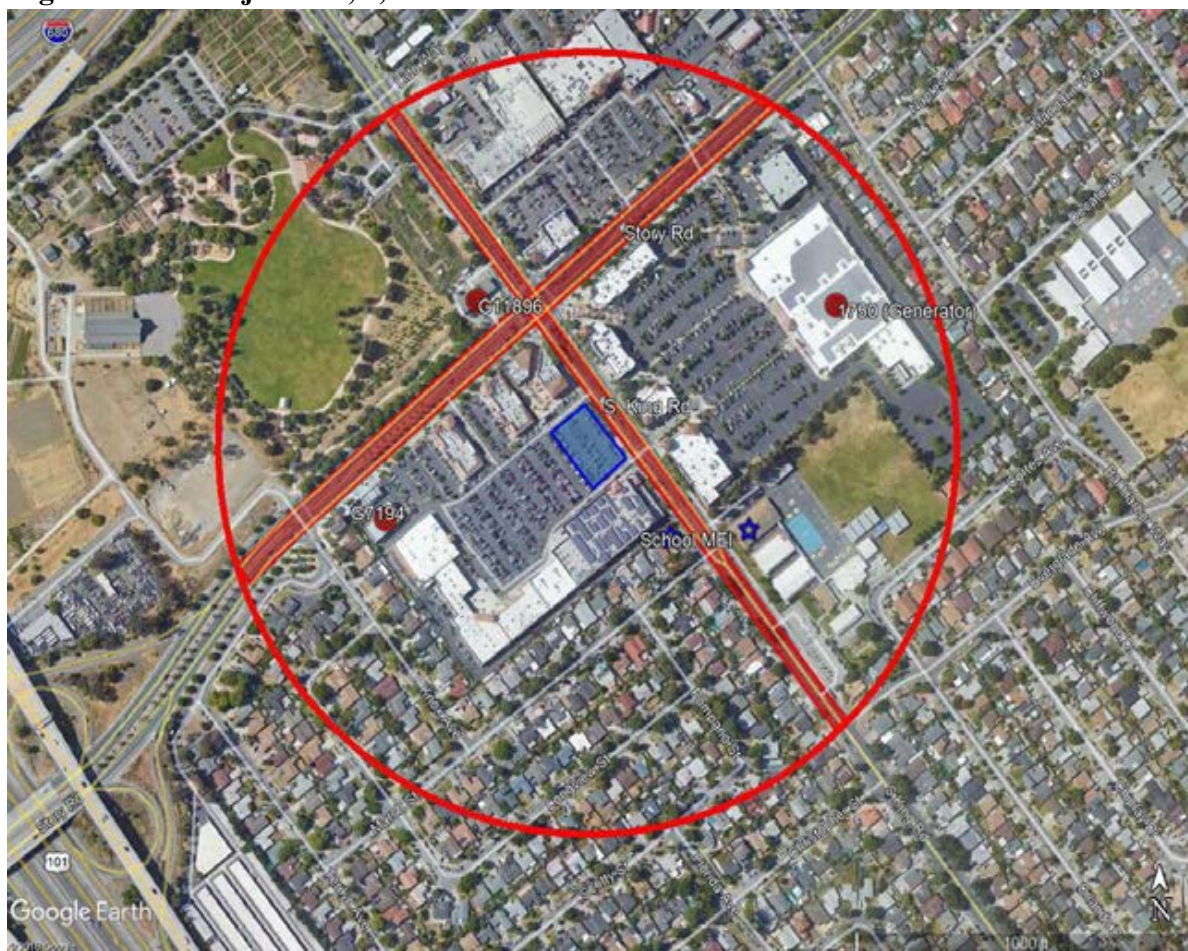
Community health risk assessments typically look at all substantial sources of TACs located within 1,000 feet of a project site (as shown in Figure 4.3-2 below). Cumulative sources include local high-volume roadways (i.e., Story Blvd. and S. King Rd.), two permitted gasoline



dispensing facilities and one permitted diesel generator. The project emissions combined with other source emissions are shown in Table 4.3-1.

Operation of the project would not cause any localized emissions that could expose sensitive receptors to unhealthy air pollutant levels. No stationary sources of TACs, such as generators, are proposed as part of the project.

**Figure 4.3-2: Project Site, 1,000 feet Influence Area and Identified Sources**



Source: Illingworth & Rodkin, February 2019.

<b>TABLE 4.3-2: Cumulative Construction Risk Assessment</b>			
<b>Source</b>	<b>Maximum Cancer Risk (per million)</b>	<b>Maximum Annual PM2.5 Concentration (µg/m³)</b>	<b>Maximum Hazard Index</b>
Local Roadway - Story Blvd (690 feet from Res. MEI) with 30,000 ADT	1.9	0.06	0.01
Stationary Source – Plant 1750 – Diesel Generator at 810 feet	0.0	0.00	0.00
Stationary Source – Plant G7194 – Gasoline Dispensing Facility at 860 feet	0.1	0.00	0.00
Stationary Source – Plant G11896 – Gasoline Dispensing Facility at 880 feet	0.7	0.00	0.00
Combined Sources at Residential MEI			
- Unmitigated Construction	26.8	0.49	0.05
- Mitigated Construction	21.7	0.46	0.05
<i>BAAQMD Threshold – Cumulative Sources</i>	<i>&gt;100</i>	<i>&gt;0.8</i>	<i>&gt;10.0</i>
<b>Significant?</b>	<i>No</i>	<i>No</i>	<i>No</i>
Source: Illingworth & Rodkin, February 2019.			

As shown in Table 4.3-2 above, the cumulative effect of the proposed project, combined with other local emission sources, would be less than significant.

**e) Create objectionable odors affecting a substantial number of people?**

**Less than Significant Impact.** Construction activities for the proposed project would generate odors associated with the application of paints and coatings. The proposed project would utilize standard construction techniques, and any odors would be comparable to other construction sites. These emissions would occur during daytime hours only, would be localized, and would be generally confined to the project site. Additionally, the odors would be temporary. During operations, the proposed project would be consistent with the existing on-site commercial uses, which are not associated with generating odors. Therefore, impacts related to objectionable odors would be less than significant.

## **4.4 BIOLOGICAL RESOURCES**

### **4.4.1 Regulatory Setting**

#### **4.4.1.1 *Migratory Bird Treaty Act***

The federal Migratory Bird Treaty Act of 1918 (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 that results in the incidental loss of fertile eggs or nestlings, or otherwise leads to nest abandonment, would violate the MBTA.<sup>8</sup>

#### **4.4.1.2 *Santa Clara Valley Habitat Plan***

The Santa Clara Valley Habitat Plan (SCVHP) was developed through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (SCVWD), Santa Clara Valley Transportation Authority (VTA), U.S. 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 proposed project is a covered activity under the SCVHP.

The project site is in the Urban Areas Land Cover Fees Zone within the SCVHP study area and supports Urban Suburban land cover. There are no land cover fees for impacts to this fee zone or land cover type. The only SCVHP fee applicable to the proposed project is the Nitrogen Deposition Fee, which was adopted by the SCVHP to mitigate the indirect impacts of airborne nitrogen deposition to covered species, in particular the Bay Checkerspot butterfly, from covered activities. The fee is applied to all zones in the same way, which is calculated for a specific project based on the number of new vehicle trips over existing conditions. The current SCVHP nitrogen deposition fee is \$4.47 per new daily vehicle trip.

#### **4.4.1.3 *City of San José Tree Ordinance***

The City of San José tree ordinance (Chapter 13.32 of the Municipal Code) regulates the removal of trees. An “ordinance-sized tree” is defined as any native or non-native tree with a circumference of 38 inches or diameter of 12.1 inches at 4.5 feet above the natural grade. A tree removal permit is required by the City prior to the removal of any trees covered under the ordinance.

In addition, any tree found by the City Council to have special significance based on factors including, but not limited to, its history, girth, height, species, or unique quality, can be designated as a heritage tree (San José Municipal Code Section 13.28.330 and 13.32.090). It is unlawful to vandalize, mutilate, remove, or destroy such heritage trees. There are no heritage trees on the project site.

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<sup>8</sup> A complete list of bird species protected by the MBTA is available on the US Fish and Wildlife Service website: <http://www.fws.gov/migratorybirds/regulationspolicies/mbta/mbtandx.html>.

#### **4.4.1.4      *General Plan***

The *Envision San José 2040 General Plan* includes the following biological resources 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-21.4:* Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.

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

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

*Policy MS-21.8:* For Capital Improvement Plan or other public development projects, or through the entitlement process for private development projects, require landscaping including the selection and planting of new trees to achieve the following goals:

1. Avoid conflicts with nearby power lines.
2. Avoid potential conflicts between tree roots and developed areas.
3. Avoid use of invasive, non-native trees.
4. Remove existing invasive, non-native trees.
5. Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species.
6. Plant native oak trees and native sycamores on sites which have adequately sized landscape areas and which historically supported these species.

#### **4.4.2      Existing setting**

The project site is fully developed with ten commercial buildings, an asphalt surface parking lot and driveways, and associated landscaping. There are five street trees along the building site's frontage on South King Road. These trees are within the City's right-of-way. Due to the extensive history of development on the project site, there is no native vegetation on-site. No rare, threatened, endangered, or special status species of flora or fauna inhabit the site.

#### 4.4.3 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

#### 4.4.4 Impact Discussion

- a) **Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS?**

**No Impact.** The shopping center is in an urbanized area east of downtown San José and is currently developed with an asphalt surface lot and ten commercial buildings. Five street trees are found along the building site's frontage on South King Road, which would be removed and



replaced to accommodate the sidewalk widening along South King Road. The proposed project would demolish four rows of parking spaces, and construct an approximately 31,744 square foot building within the footprint of the project site. These construction activities would be limited to the previously disturbed and developed area within the shopping center and would not remove any habitat or impact any species. Therefore, impacts related to substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species would not occur.

**b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?**

**No Impact.** Coyote Creek is approximately 1.24 mile west of the project site. Therefore, the new building would not infringe on the riparian corridor. No riparian habitat or other sensitive natural communities exist on or within the vicinity of the project site, and no bodies or courses of water to provide habitat for fish exist on, or adjacent to, the project site. The proposed project would not have any effect on off-site riparian habitat or sensitive communities. Therefore, impacts related to a substantial adverse effect on any riparian habitat or other sensitive natural community would not occur.

**c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?**

**No Impact.** No federally protected Section 404 wetlands are present on or adjacent to the project site. Therefore, impacts related to a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act would not occur.

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

**Less than Significant Impact.** The project site is disturbed and fully developed, and does not contain water bodies or vegetation that could provide habitat for fish or other wildlife species. Because of the history of development on-site, no natural or sensitive habitats exist that would support endangered, threatened, or special status wildlife species. The project site and surrounding area is highly urbanized, and does not function as a wildlife corridor. Therefore, impacts related to movement of fish or wildlife species would not occur.

Vegetation on the project site consists solely of street trees and shrubs. The trees could provide nesting and/or foraging habitat for raptors (such as falcons, hawks, eagles, and owls) and other migratory birds. Construction activities, including the removal of five street trees along South King Road could disrupt nesting raptors and migratory birds protected by the MBTA. Consistent with General Plan Policy ER-5.1 and Policy ER-5.2 discussed previously, and in conformance with federal law (i.e. MBTA), the project shall implement the following standard conditions:

## Standard Permit Conditions

- The project applicant shall schedule construction between September 1st and January 31st (inclusive) to avoid the nesting season for raptors and other migratory birds. If this is not possible, pre-construction surveys for nesting birds shall be conducted by a qualified biologist or ornithologist to identify active nests that may be disturbed during project implementation. Projects that commence construction between February 1st and April 30th shall conduct pre-construction surveys for nesting birds within 14 days of the onset of construction. Between May 1st and August 31<sup>st</sup> (inclusive), preconstruction surveys shall be conducted no more than 30 days prior to the initiation of construction activities. Pre-construction surveys shall be conducted by a qualified biologist or ornithologist for nesting birds within the onsite trees as well as all trees within 250 feet of the site. If the survey does not identify any nesting birds that would be affected by construction activities, no further mitigation is required.
- If an active nest is found in or close enough to the construction area to be disturbed by these activities, the qualified biologist or ornithologist, in consultation with the California Department of Fish and Wildlife (CDFW), shall determine the extent of a construction- free buffer zone around the nest, typically 250 feet for raptors and 100 feet for non-raptors around the nest, to ensure that raptor or migratory bird nests shall not be disturbed during project construction. The buffer shall remain in place until the breeding season has ended and/or a qualified biologist or ornithologist has determined that the nest is no longer active. The ornithologist/biologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Environmental Supervising Planner of the City of San José Department of Planning, Building, and Code Enforcement prior to the issuance of any grading permits.

With compliance and implementation of the conditions above identified for nesting raptors and migratory birds, the Project would have a less than significant impact on special status animals.

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

**Less than Significant Impact.** Construction of the proposed project would remove five existing street trees. The removed trees will be replaced in accordance with the City of San José tree ordinance (Chapter 13.32 of the Municipal Code), as explained in *Section 4.4.1.3* above. Landscape plantings are proposed along the proposed building's frontage on South King Road. Palm trees would be planted at the rear of the building consistent with existing palm trees within the shopping center, immediately adjoining the building site to the north. Shrubs and vines would also be planted at the front of the building, with vines to grow along proposed trellises and low iron fencing. Figures 3.1-7 present proposed landscape and planting plans.

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

**Less than Significant Impact.** The project site is mapped Urban-Suburban land cover type. 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

one or more structures per 2.5 acres. Vegetation found in the Urban-Suburban land cover type is usually in the form of landscaped residences, planted street trees, and parklands. No land cover fee is associated with the urban areas. The project site is less than two acres, and no covered species are known or expected to occur within the project site; therefore, this project is not considered a covered project under SCVHP.

### **Nitrogen Deposition**

Nitrogen deposition is known to have damaging effects on many of the serpentine plants in the SCVHP study area, as well as the host plants that support the Bay checkerspot butterfly. All major remaining populations of the butterfly and many of the sensitive serpentine plant populations occur in areas subject to air pollution from vehicle exhaust and other sources throughout the Bay Area, including the project area. Because serpentine soils tend to be nutrient poor, and nitrogen deposition artificially fertilizes serpentine soils, nitrogen deposition facilitates the spread of invasive plant species. The displacement of the native species, and subsequent decline of the several federally-listed species, including the butterfly and its larval host plants, has been documented on Coyote Ridge in central Santa Clara County. Nitrogen tends to be efficiently recycled by the plants and microbes in infertile soils such as those derived from serpentine, so that fertilization impacts could persist for years and result in cumulative habitat degradation. Mitigation for the impacts of nitrogen deposition upon serpentine habitat and the Bay checkerspot butterfly can be correlated to the amount of new vehicle trips that a project is expected to generate. Fees collected under the SCVHP for new daily vehicle trips will be used to purchase and manage conservation land for the Bay checkerspot butterfly.

The project would contribute to cumulative off-site impacts from nitrogen deposition to serpentine habitat in southern Santa Clara County. To offset the increased nitrogen deposition that would result from net new trips, the project will be required to pay all applicable fees, as determined by the City, prior to issuance of grading permits.

#### **Standard Permit Conditions**

- The project applicant is required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit.

With implementation of these measures described above, the proposed project would not conflict with the SCVHP and the impact would be reduced to a less than significant level.

## **4.5 CULTURAL RESOURCES**

### **4.5.1 Regulatory Setting**

#### **4.5.1.1 *Assembly Bill 52***

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

#### **4.5.1.2 *General Plan***

The *Envision San José 2040 General Plan* includes the following cultural resources policies applicable to the proposed project:

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

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

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

### **4.5.2 Existing Setting**

#### **4.5.2.1 *Historic and Archaeological Resources***

The current property buildings at the shopping center were constructed in 1957-1960 and in 2000. Prior to the construction of the buildings, the property was used for agricultural purposes from at least 1939 until at least 1956.<sup>9</sup>

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<sup>9</sup> AEI Consultants. *Phase 1 Environmental Site Assessment for 1644 Story Road, San José, California, 95122*. March 8, 2018.

The project site is not located within an area of archaeological sensitivity, as mapped for the *Envision San José 2040 General Plan*.

#### 4.5.2.2 *Palaeontological Resources*

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. Most of the City is situated on alluvial fan deposits of Holocene age that have a low potential to contain significant nonrenewable paleontological resources; however, 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.

Based on the underlying geologic formation of the project site, the General Plan FEIR found the project site to have a high sensitivity (at depth) for paleontological resources.

#### 4.5.3 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Cause a substantial adverse change in the significance of an historical resource as defined in CEQA Guidelines Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
b) Cause a substantial adverse change in the significance of an archaeological resource as defined in CEQA Guidelines Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
c) Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
d) Disturb any human remains, including those interred outside of dedicated cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
e) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:					1,2

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k); or	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying this criteria, the significance of the resource to a California Native American tribe shall be considered.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

#### 4.5.4 Impact Discussion

##### a) Cause a substantial adverse change in the significance of an historical resource?

**Less than Significant Impact.** The project site is part of the parking lot within the Tropicana Shopping Center. The current buildings on-site were constructed in 1957-1960, and in 2000. A review of the City of San José Historic Resources Inventory (2/8/2016) indicates that the project site does not contain any historic structures or sites. Furthermore, while some of the buildings on-site are more than 50 years old, no buildings will be demolished or modified as part of the proposed project. Therefore, impacts to historical resources would be less than significant.

##### b) Cause a substantial adverse change in the significance of an archaeological resource?

**Less than Significant Impact.** The project site has been historically disturbed and has been developed for approximately 60 years. The project site is not within an archaeological sensitive area, as mapped in the *Envision San José 2040 General Plan*. Currently, the project site contains an asphalt surface lot, minimal landscaping and ten commercial buildings. The project does not propose any underground structures (such as parking), and trenching for new utilities would not exceed 10 feet in depth. Due to the extensive ground disturbance that has occurred on the project site since 1957, the potential for discovery of significant prehistoric or historic archaeological materials within the project site is low.

Although it is extremely unlikely that cultural resources, including human remains, would be uncovered during construction of the proposed building, the following Standard Permit Conditions will be incorporated to ensure potential impacts to cultural resources are avoided:



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

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

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

- The Native American Heritage Commission is unable to identify a most likely descendant or the most likely descendant failed to make a recommendation within 48 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 NAHC 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.

c) **Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?**

**Less than Significant Impact.** Although the General Plan FEIR found the site to have high potential at depth for paleontological resources, the proposed project would not include any substantial excavations except trenching for utilities, which could reach a depth of approximately 10 feet below grade. Although it is improbable that paleontological resources would be discovered on-site due to the limited subsurface disturbance, the following Standard Permit Condition would reduce and avoid impacts to as yet unidentified paleontological resources consistent with General Plan Policy ER-10.3.

**Standard Permit Condition**

- 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 area; 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-site shall stop immediately until a qualified professional paleontologist can access the nature and importance of the find and recommend appropriate treatment. Treatment may include preparation and recovery of fossil materials so they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project proponent shall be responsible for implementing the recommendations of the paleontological monitor.

With implementation of the Standard Permit Conditions, the proposed project would have a less than significant impact on unique paleontological resources.

d) **Disturb any human remains, including those interred outside of dedicated cemeteries?**

**Less than Significant Impact.** Refer to response to 4.5.4 (b) above. As the project site is in a highly urbanized and disturbed area, the potential for discovery of human remains is low. The project site is not part of a formal cemetery. Although it is extremely unlikely that cultural resources, including human remains, would be uncovered during construction of the proposed project, the above listed Standard Permit Conditions (in 4.5.4 (b)) will be incorporated to ensure potential impacts to human remains are avoided.

e) **Cause a substantial adverse change in the significance of a tribal cultural resource that is: 1) listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources, 2) determined to be a significant resource to a California Native American tribe.**

**Less than Significant Impact.** The project site is located approximately 1.24 miles east of Coyote Creek, which is not considered a sensitive area for prehistoric and archaeological deposits, including tribal cultural objects. No other tribal cultural features, including sites, features, places, cultural landscapes or sacred place have been identified based on available

information. In addition, any prehistoric surface features or landscapes have been modified due to development of the project site and area. The project site would require trenching for utilities which could reach a depth of approximately 10 feet below grade.

The project site is located within an area of low sensitivity for prehistoric and historic resources, and construction throughout the project area has failed to yield any evidence of archaeological deposits. Furthermore, standard permit conditions have been identified to reduce impacts on subsurface resources, should they be discovered. For these reasons, implementation of the proposed project would result in a less than significant impact on tribal cultural resources.

Assembly Bill (AB) 52 requires lead agencies to complete formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the lead agency. 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. The Ohlone tribe has sent a written request for notification of projects citywide to the City of San José.

At the time this project was submitted to the City and the CEQA process was initiated, no tribes had requested to be consulted. For these reasons, there would be no impact to tribal cultural resources identified as having cultural value to a Native American tribe.

## **4.6 ENERGY**

The following discussion is based in part on a Community Risk Assessment report prepared by *Illingworth & Rodkin, Inc.* in February 2019. A copy of this report is attached in Appendix A.

### **4.6.1 Regulatory Setting**

#### **4.6.1.1 *Renewables Portfolio Standard Program***

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

#### **4.6.1.2 *Building Codes***

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6, of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years, and the 2016 Title 24 updates went into effect on January 1, 2017.<sup>10</sup>

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

At the local level, the City of San José sets green building standards for municipal development. All projects are required to submit a Leadership in Energy and Environmental Design (LEED)<sup>11</sup>, GreenPoint<sup>12</sup>, or Build It Green checklist with the development proposal. Private developments are required to implement green building practices if they meet the Applicable Projects criteria defined by Council Policy 6-32 and shown in 4.6-1 below.

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<sup>10</sup> California Building Standards Commission. *Welcome to the California Building Standards Commission*. Accessed February 4, 2019. Available at: <http://www.bsc.ca.gov/>.

<sup>11</sup> Created by the non-profit organization United States Green Building Council, LEED is a certification system that assigns points for green building measures based on a 110-point rating scale.

<sup>12</sup> Created by the California based non-profit organization Build It Green, GreenPoint is a certification system for residential development that assigns points for green building measures based on a 381-point rating scale for multi-family development and 341-point rating scale for single-family developments.

<b>Table 4.6-1: Private Sector Green Building Policy Applicable Projects</b>	
<b>Applicable Project</b>	<b>Minimum Green Building Rating</b>
Commercial/Industrial – Tier 1 (Less than 25,000 Square Feet)	LEED Applicable New Construction Checklist
Commercial/Industrial – Tier 2 (25,000 Square Feet or greater)	LEED Silver
<b>Source:</b> City of San José. <i>Private Sector Green Building</i> . Accessed February 5, 2019. Available at: <a href="http://www.sanjoseca.gov/index.aspx?NID=3284">http://www.sanjoseca.gov/index.aspx?NID=3284</a> .	

#### **4.6.1.3**      *Climate Smart San José*

Climate Smart San José, which was adopted in 2018, is a comprehensive plan to reduce greenhouse gas emissions while creating jobs, preserving the environment, and improving the quality of life for our community. The plan includes several strategies to reduce GHG emissions related to transportation, including creating local jobs to reduce VMT, developing integrated, accessible public transport infrastructure, and creating clean and personalized mobility choices.

#### **4.6.1.4**      *Sustainable City Strategy*

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

#### **4.6.1.5**      *Envision San José 2040 General Plan*

The General Plan includes the following energy 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-3.1:* Require water-efficient landscaping, which conforms to the State’s Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation or other area functions.

*Policy MS-14.3:* Consistent with the California Public Utilities Commission’s California Long Term Energy Efficiency Strategic Plan, as revised and when technological advances make it feasible, require all new residential and commercial construction to be designed for zero net energy use.

*Policy MS-14.4:* Implement the City’s Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site

selection, and passive solar building design and planting of trees and other landscape materials to reduce energy consumption.

*Policy MS-14.5:* Consistent with State and Federal policies and best practices, require energy efficiency audits and retrofits prior to or at the same time as consideration of solar electric improvements.

*Policy MS-19.1:* Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a fiscally and environmentally sustainable local water supply.

*Policy MS-19.4:* Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.

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

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

## **4.6.2            Environmental Setting**

### **4.6.2.1        *Electricity***

Total energy usage in California was approximately 7,830 trillion Btu (British Thermal Unit) in the year 2016, the most recent year for which data is available. Out of the 50 states, California is ranked second in total energy consumption and 48<sup>th</sup> in energy consumption per capita. The breakdown by sector was approximately 18 percent (1,384 trillion Btu) for residential uses, 19 percent (1,477 trillion Btu) for commercial uses, 24 percent (1,854 trillion Btu) for industrial uses, and 40 percent (3,114 trillion Btu) for transportation.<sup>13</sup> This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

Electricity in Santa Clara County in 2017 was consumed primarily by the commercial sector (76 percent), followed by the residential sector consuming 24 percent. In 2017, a total of approximately 17,190 GWh (Gigawatt hours) of electricity was consumed in Santa Clara County.<sup>14</sup>

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<sup>13</sup> U.S. Energy Information Administration (EIA). *State Profile and Energy Estimates, 2016*. Accessed: February 4, 2019. Available at: <https://www.eia.gov/state/?sid=CA#tabs-2>.

<sup>14</sup> CEC. Energy Consumption Data Management System. *Electricity Consumption by County*. Accessed: February 4, 2019. Available at: <http://ecdms.energy.ca.gov/elecbycounty.aspx>.



San José Clean Energy is the electricity generation service provider for residents and businesses in the City of San José. Beginning February 2019, it will provide over 300,000 residential and commercial electricity customers with carbon-free electricity options at competitive prices, from sources like solar, wind, and hydropower.

#### **4.6.2.2      *Natural Gas***

PG&E provides natural gas services within the City of San José. In 2017, approximately 10 percent of California's natural gas supply came from in-state production, while 90 percent was imported from other western states and Canada.<sup>15</sup> In 2017, residential and commercial customers in California used 32 percent, power plants used 28 percent, and the industrial sector used 36 percent. Transportation accounted for one percent of natural gas use in California.<sup>16</sup> Transportation accounted for one percent of natural gas use in California. In 2017, Santa Clara County used approximately three percent of the state's total consumption of natural gas.<sup>17</sup>

#### **4.6.2.3      *Fuel for Motor Vehicles***

In 2017, 15 billion gallons of gasoline were sold in California.<sup>18</sup> The average fuel economy for light-duty vehicles (autos, pickups, vans, and SUVs) in the United States has steadily increased from about 13.1 miles-per-gallon (mpg) in the mid-1970's to 22 mpg in 2016.<sup>19</sup> 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.<sup>20,21</sup> In 2012, the federal government raised the fuel economy standard to 54.5 miles per gallon for cars and light-duty trucks by Model Year 2025.<sup>22</sup>

#### **4.6.2.4      *Energy Use of Existing Development***

Since the existing use of the project site is a parking lot, there is no electricity and natural gas consumption at the project site.

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<sup>15</sup> CEC. *2017 Natural Gas Market Trends and Outlook*. Accessed February 4, 2019. Available at: <https://efiling.energy.ca.gov/getdocument.aspx?tn=222400>.

<sup>16</sup> U.S. EIA. *Natural Gas*. Accessed: February 5, 2019. Available at: [https://www.eia.gov/dnav/ng/ng\\_sum\\_lsum\\_dcua\\_sca\\_a.htm](https://www.eia.gov/dnav/ng/ng_sum_lsum_dcua_sca_a.htm).

<sup>17</sup> CEC. *Natural Gas Consumption by County*. Accessed: February 4, 2019. Available at: <http://ecdms.energy.ca.gov/gasbycounty.aspx>.

<sup>18</sup> California Department of Tax and Fee Administration. *Net Taxable Gasoline Gallons*. Accessed: February 4, 2019. Available at: [http://www.cdtfa.ca.gov/taxes-and-fees/MVF\\_10\\_Year\\_Report.pdf](http://www.cdtfa.ca.gov/taxes-and-fees/MVF_10_Year_Report.pdf).

<sup>19</sup> U.S. EPA. *Table 4-23: Average Fuel Efficiency of U.S. Light Duty Vehicles*. Accessed: February 4, 2019. Available at: <https://www.bts.gov/content/average-fuel-efficiency-us-light-duty-vehicles>.

<sup>20</sup> U.S. Department of Energy. *Energy Independence & Security Act of 2007*. Accessed: February 4, 2019. Available at: <http://www.afdc.energy.gov/laws/eisa>.

<sup>21</sup> Public Law 110–140—December 19, 2007. *Energy Independence & Security Act of 2007*. Accessed: February 4, 2019. Available at: <http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf>.

<sup>22</sup> The White House. *Obama Administration Finalizes Historic 54.5 mpg Fuel Efficiency Standards*. August 28, 2012. Accessed February 4, 2019. <https://obamawhitehouse.archives.gov/the-press-office/2012/08/28/obama-administration-finalizes-historic-545-mpg-fuel-efficiency-standard>.

### 4.6.3 Environmental Checklist

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy, or wasteful use of energy resources, during project construction or operation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,6,12
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,6

### 4.6.4 Impact Discussion

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

**Less than Significant Impact.** As proposed, the project would remove four rows of parking spaces, eliminating 100 parking spaces from the site. In its place, the project would construct a three-story commercial office building totaling 31,744 square feet, of which 20,748 square feet would be office space and 10,996 square feet would be retail space.

#### **Estimated Energy Use of the Proposed Project**

Energy would be consumed during the construction and operational phases of the proposed project. The construction phase would require energy for the manufacture and transportation of building materials, preparation of the site for grading, and the actual construction of the buildings. Petroleum-based fuels such as diesel fuel and gasoline would be the primary sources of energy for these tasks. Implementation of the proposed development would consume energy (in the form of electricity and natural gas) primarily from building heating and cooling, lighting, and water heating. Table 4.6-2 below summarizes the estimated energy use of the proposed project.

<b>Table 4.6-2: Estimated Annual Energy Use of Proposed Development</b>		
<b>Development</b>	<b>Electricity Use (kWh)</b>	<b>Natural Gas Use (kBtu)</b>
20,748 square feet of general office building	369,937	339,645
11,000 square feet of strip mall <sup>1</sup>	117,547	26,060
<b>Total:</b>	<b>487,484</b>	<b>365,705</b>
<b>Source:</b> Illingworth & Rodkin, Inc. <i>Tropicana Shopping Center Expansion Project Air Quality Community Risk Assessment</i> . February 11, 2019.		
<b>Note:</b> <sup>1</sup> CalEEMod does not have “commercial/retail” land use, so the energy demand factors for “strip mall” was used.		

Based on the air quality assessment prepared by Illingworth & Rodkin, Inc., the total annual VMT for the project would be approximately 1,102,716.<sup>23</sup> Using the U.S. EPA fuel economy estimates (22.0 mpg), the proposed project would result in consumption of approximately 24,259,752 gallons of gasoline per year.<sup>24</sup>

Since the existing development is a parking lot and does not consume electricity or natural gas, implementation of the proposed project would increase electricity use by approximately 487,484 kWh per year, and natural gas usage by approximately 365,705 kBtu per year. 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 2016 CALGreen requirements and Title 24 energy efficiency standards, which would improve the efficiency of the overall project.

Implementation of the project would increase annual gasoline demand by approximately 24,259,752 gallons. New automobiles purchased by future occupants of the proposed project would be subject to fuel economy and efficiency standards applied throughout the State of California, which means that over time the fuel efficiency of vehicles associated with the project site would improve. The nearest bus stop is located at S. King Road (VTA Lines 12, 22, and 77). As discussed in *Section 4.17.3*, existing bus services would be able to accommodate the increase in new riders generated by the proposed project. As a result, implementation of the proposed project would not result in a substantial increase on transportation-related energy uses.

### **Energy Efficiency During Construction**

The anticipated construction schedule assumes that the project would be built over a period of approximately nine months (approximately 198 construction workdays). The project would require site preparation, grading, trenching, building construction, paving, and building interior. 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 the site because of the added expense associated with renting the equipment, maintaining it, and fueling it. Therefore, the opportunities for future efficiency gains during construction are limited. Similarly, energy would not be wasted or used inefficiently by construction equipment as the proposed project would include several measures that would improve the efficiency of the construction process. Implementation of the City’s Standard Permit Conditions detailed in

<sup>23</sup> Illingworth & Rodkin, Inc. *Tropicana Shopping Center Expansion Project Air Quality Community Risk Assessment*. February 11, 2019. Attachment 2, Table 4.2.

<sup>24</sup>  $1,102,716 \text{ VMT} / 22.0 \text{ mpg} = 24,259,752 \text{ gallons of gasoline}$

*Section 4.3, Air Quality*, would restrict equipment idling times to five minutes or less and would require the applicant to post signs on the project site reminding workers to shut off idle equipment. Further, compliance with MM AQ-1.1 would reduce energy consumption for the same reasons.

### **Energy Efficiency During Operation**

Operation of the project would consume energy for multiple purposes including, but not limited to, building heating and cooling, lighting, appliances, and electronics. Operational energy would also be consumed during each vehicle trip generated by future employees and customers.

The proposed project would provide a total of 29 bicycle parking spaces, exceeding the City's bicycle parking requirement of nine parking spaces. The inclusion of bicycle parking and proximity to transit would incentivize the use of alternative methods of transportation to and from the site. The project would not use energy or fuel in a wasteful manner, given the project features that reduce energy use, including the following:

- Developing an infill site;
- Proposing office uses near existing bus transit and residential development; and
- Constructing in conformance with the Title 24, CALGreen and Council Policy 6-32 to promote energy and water efficiency.

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

**Less than Significant Impact.** Electricity on-site is provided by PG&E. As stated in *Section 4.6.2.1*, beginning February 2019, San Jose Clean Energy will provide over 300,000 residential and commercial electricity customers with carbon-free electricity options at competitive prices, from sources like solar, wind, and hydropower.

Electricity would be provided by San Jose Clean Energy under the proposed project. In addition, future development under the proposed project would be completed in compliance with the current energy efficiency standards set forth in Title 24, CALGreen, and City's Municipal Code. For these reasons, the project would not conflict with or obstruct state or local plans for renewable energy or energy efficiency.

## **4.7 GEOLOGY AND SOILS**

The following discussion is based on a geotechnical investigation report prepared by *Silicon Valley Soil Engineering*, in June 2014. The report can be found in Appendix B of this document.

### **4.7.1 Regulatory Setting**

#### **4.7.1.1 *General plan***

The *Envision San José 2040 General Plan* includes the following geology and soil 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-3.2:* Within seismic hazard zones identified under the Alquist-Priolo Fault Zoning Act, California Seismic Hazards Mapping Act, and/or the City of San José, complete geotechnical and geological investigations and approve development proposals only when the severity of seismic hazards have been evaluated and appropriate mitigation measures are provided and reviewed by the City of San José Geologist. State guidelines for evaluating and mitigating seismic hazards and the City-adopted California Building Code will be followed.

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

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

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

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

*Policy EC-4.7:* Consistent with the San José Geologic Hazard Ordinance, prepare geotechnical and geological investigation reports for projects in areas of known concern to address the implications of irrigated landscaping to slope stability and to determine if hazards can be adequately mitigated.

*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.

## **4.7.2            Existing Setting**

### **4.7.2.1        *Geology and Soils***

San José is located within the Santa Clara Valley, a broad alluvial plain with alluvial soils extending several hundred feet below the 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.

Soils at the project site and vicinity are part of the Urbanland – Newpark complex. The soils on-site have moderate to high 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.

### **4.7.2.2        *Seismicity and Seismic Hazards***

The project site is located within the San Francisco Bay Area, the most seismically active region in the United States. Faults in the region can generate 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. The project site is not located within a designated Alquist-Priolo Earthquake Zone<sup>25</sup> or in a Santa Clara County Fault Hazard Zone<sup>26</sup>. No active faults have been mapped on-site, therefore, the risk of fault rupture at the site is low.

### **4.7.2.3        *Liquefaction, Lateral Spreading, and Landslides***

#### **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. The project site is located within a State of California Hazard Zone for liquefaction and Santa Clara County Geologic Hazard Zones Map. Therefore, the project area is located in a potential liquefaction zone.<sup>27</sup>

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<sup>25</sup> Department of Conservation. “CGS Information Warehouse: Regulatory Maps.” Accessed: March 3, 2018. Available at: <http://maps.conservation.ca.gov/cgs/informationwarehouse/index.html?map=regulatorymaps>.

<sup>26</sup> County of Santa Clara, *Santa Clara County Geologic Hazard Zones*, Map 20. Accessed March 6, 2018. Available at: [https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO\\_GeohazardATLAS.pdf](https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf).

<sup>27</sup> State of California. *Seismic Hazard Zones, San José West Quadrangle, Official Map*. Released: February 7, 2002.



## 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 Coyote Creek, located approximately 1.24 mile west of the project site. At this distance, the potential for lateral spreading on-site is low.

## Landslides

The site is not located within a Santa Clara County Landslide Hazard Zone.<sup>28</sup> The project area is flat and, therefore, the probability of landslides occurring at the site during a seismic event is low.

### 4.7.3 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:					
1. Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,12
2. Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,12
3. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,12
4. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
c) Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,12
d) Be located on expansive soil, as defined in Section 1803.5.3 of the California Building Code (2016), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,12

<sup>28</sup> Ibid.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2

#### 4.7.4 Impact Discussion

- a) **Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: 1) rupture of a known earthquake fault, 2) strong seismic ground shaking, 3) seismic-related ground failure, or 4) landslides?**

**No Impact (1 and 4).** As discussed in *Section 4.7.2.2* above, the site is not located within an Alquist Priolo Earthquake Fault Zone as designated by the State of California. In addition, according to Santa Clara County Hazard Zone Map No. 20, the site is not located in a fault rupture hazard zone.<sup>29</sup> The site is also not located within a City of San José designated fault hazard zone (1983). The project site is not located within a landslide hazard zone. Therefore, impacts related to rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map, and exposure of people or structures to landslides would not occur.

**Less than Significant Impact (2 and 3).** The project site is located in the San Francisco Bay Area that is considered one of the most seismically active regions in the United States. The project site would experience intense ground shaking in the event of a large earthquake. According to the *Seismic Hazard Zones Map of the San José West Quadrangle*, the site is in a seismic hazard zone because of its liquefaction potential. Additionally, Santa Clara County Hazard Zone Map No. 20 designates the site as being in a liquefaction hazard zone. According to the site-specific geotechnical report for the proposed project, there is one liquefiable solid layer underlying the project site. This layer is the medium dense silty clayey layer from the depth of 13 feet to 18 feet (five feet in thickness).

To avoid or minimize potential damage from seismic shaking and liquefaction, the project shall be designed and constructed in accordance with the 2016 California Building Code. Adherence to the 2016 California Building Code will ensure the proposed improvements resist minor earthquakes without damage and major earthquakes without collapse. The geotechnical report for the project, makes specific recommendations regarding the design of building foundations and supports based on soil conditions, depth to groundwater, and potential seismic conditions. The report also makes recommendations regarding site preparation and pavement. The proposed project would be constructed in conformance with the recommendations of the site-specific geotechnical analysis as well as the most current California Building Code. Per City requirements, the site-specific geotechnical report will be submitted to the City Geologist

<sup>29</sup> County of Santa Clara. *Santa Clara County Geologic Hazard Zones, Map 20*. Accessed March 6, 2018. Available at: [https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO\\_GeohazardATLAS.pdf](https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf).

for review and approval prior to the issuance of a grading permit or Public Works Clearance. This investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation. Therefore, the impacts related to seismic ground shaking and seismic-related ground failure would be less than significant.

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

**Less than Significant Impact.** The majority of the site is flat and developed and very little soil is currently exposed on the site. Ground disturbance would be required for demolition of the existing surface parking lot, grading, and construction of the proposed project. Ground disturbance would expose soils and increase the potential for wind or water related erosion and sedimentation at the site until construction is complete.

The City's NPDES Municipal Permit, urban runoff policies, and the Municipal Code are the primary means of enforcing erosion control measures through the grading and building permit process. The project would be required to comply with all applicable City regulatory programs pertaining to construction related erosion including the following measures identified in the General Plan FEIR for avoiding and reducing construction related erosion impacts.

Standard Permit Conditions

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

Because the project would comply with the regulations identified in the General Plan FEIR, implementation of the proposed project would have a less than significant soil erosion impact.

**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?**

**Less than Significant Impact.** The project site is located in an alluvial plain that surrounds San Francisco Bay. The area is relatively level and generally trends toward the Bay. The project site subsurface is comprised of Holocene alluvial fan deposits made up of lean and clay soils with thin interbedded layers of clayey sand and sandy silts.

Based on site-specific soil borings, the subsurface soil material consists of very stiff silty clay to very stiff sandy clay to medium dense silty clay to dense silty sands and gravels. These were encountered to the maximum depth explored of about 51.5 feet. Soils most susceptible to liquefaction are loose to moderately dense, saturated, non-cohesive soils with poor drainage. The analyses in the site-specific geotechnical report indicate that the medium dense silty clayey soils encountered at depths from 13 feet to 18 feet is liquefiable soil. Therefore, site soils are vulnerable to potential failure or collapse under seismic loading. The liquefaction-induced

total maximum and differential settlement at the site is 1.0 and 0.75 inches respectively. In addition to liquefaction-induced ground damage, liquefaction may also cause lateral movement of the ground surface. The liquefaction-induced lateral spreading may damage the building foundation and underground utility lines. Since Coyote Creek is located 1.24 miles west of the site, a lateral spreading study was performed for the site, according to which, the lateral movement of the ground surface soil was calculated to be approximately 0.1 meters with respect to the San Andreas Fault. Based on the insignificant magnitude of the lateral movement, it was concluded that the liquefaction-induced lateral spreading is very minimal.

The geotechnical report provides recommendations to reduce the impacts from liquefaction and differential settlement. Because the project would be required to comply with these recommendations, implementation of the proposed project would have a less than significant impact resulting from being on unstable soil.

The project site is not located in a landslide zone, and would not be susceptible to subsidence because it is not located on landfill.

**d) Be located on expansive soil, as defined in Section 1803.5.3 of the California Building Code (2016), creating substantial risks to life or property?**

**Less than Significant Impact.** On-site soils are moderately to highly expansive. Soils on the project site and in the vicinity are part of the Urbanland – Newpark complex (USDA, 2015). The Geotechnical Investigation (Silicon Valley Soil Engineering, 2014) prepared for the project site identifies native soils on the property to have a high expansion potential when subjected to fluctuations in moisture. The proposed project would be designed and constructed in accordance with the standard engineering safety techniques in the California Building Code, as adopted by the City of San José, and in conformance with the site-specific geotechnical report prepared for the project. These standard practices will ensure that the proposed project is designed and constructed to avoid expansive soil impacts.

**e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?**

**No Impact.** The project site is located within an urbanized area of San José where sanitary sewer lines are available to dispose wastewater from the project site. No septic tanks would be utilized on the project site. As a result, the soil on-site would not need to support septic tanks or alternative wastewater disposal systems.

## **4.8 GREENHOUSE GAS EMISSIONS**

The following discussion is based upon a Greenhouse Gas Emissions CalEEMod Modelling prepared by *David J. Powers and Associates* in February 2019. A copy of the modeling outputs is provided in Appendix C of this document.

### **4.8.1 Regulatory Setting**

#### **4.8.1.1 *California Global Warming Solutions Act***

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

In 2016, Senate Bill (SB) 32 was signed into law, amending the California Global Warming Solution Act. SB 32 requires CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its *Climate Change Scoping Plan* in December of 2017 to express the 2030 statewide target in terms of million metric tons of carbon dioxide equivalent (MMTCO<sub>2</sub>e). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 MMTCO<sub>2</sub>e.

#### **4.8.1.2 *Senate Bill 375***

SB 375, known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. SB 375 builds upon AB 32 by requiring CARB to develop regional GHG reduction targets for automobile and light truck sectors for 2020 and 2035, as compared to 2005 emissions levels. The per-capita GHG emissions reduction targets for passenger vehicles in the San Francisco Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.<sup>30</sup>

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

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

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<sup>30</sup> 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.

#### **4.8.1.3      *BAAQMD CEQA Guidelines and 2017 Bay Area Clean Air Plan***

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

Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how the CAAQS will 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-GHGs that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion. 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.

#### **4.8.1.4      *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 FEIR as supplemented. Beyond 2020, the emission reductions in the GHG Reduction Strategy are not sufficient to meet the City's identified 3.04 metric tons (MT) CO<sub>2</sub>e/SP efficiency metric for 2035. An additional reduction of 5,392,000 MT CO<sub>2</sub>e per year would be required for the projected service population to meet the City's target for 2035.<sup>31</sup>

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.

#### **4.8.1.5      *Applicable Greenhouse Gas Regulations and Policies***

The General Plan includes the following GHG policies applicable to the proposed project:

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

*Policy MS-1.2:* Continually increase the number and proportion of buildings within San José that make use of green building practices by incorporating those practices into both new construction and retrofit of existing structures.

*Policy MS-2.3:* Encourage consideration of solar orientation, including building placement, landscaping, design, and construction techniques for new construction to minimize energy consumption.

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

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<sup>31</sup> As described in General Plan FEIR, the 2035 efficiency target above, reflects a straight line 40 percent emissions reduction compared to the projected citywide emissions (10.90 MT CO<sub>2</sub>e) 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.

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-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-3.3:* Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

*Policy 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.

#### **4.8.1.6            *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)

#### **4.8.2            Existing Setting**

The proposed project site is currently developed with ten commercial buildings, an asphalt parking lot and driveways, and associated landscaping. The existing commercial buildings generate GHG

emissions from electricity use, water use, and heating/cooling as well as from motor vehicles traveling to and from the site.

#### 4.8.3 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,10
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,10

#### 4.8.4 Impact Discussion

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

##### Construction Emissions

**Less than Significant Impact.** The proposed project would result in minor increases in GHGs associated with construction activities including operation of construction equipment and emissions from construction workers' personal vehicles traveling to and from the construction site. Construction-related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and the number of personnel. Neither the City of San José nor BAAQMD have established a quantitative threshold or standard for determining whether a project's construction related GHG emissions are significant. Because project construction would be a temporary condition and would not individually result in a permanent increase in emissions, the increase in emissions during construction would be less than significant.

##### Operational Emissions

**Less than Significant Impact.** In order to conform to the GHG Reduction Strategy, projects must be consistent with the Land Use/Transportation Diagram and incorporate features into the project that meet the mandatory implementation policies. The proposed project would replace four rows of parking spaces with a new 31,744 square foot building consistent with the City's General Plan Land Use/Transportation Diagram. Furthermore, development of project would be subject to the City's Green Building Ordinance which would ensure operational emissions reductions are consistent with the GHG Strategy. Therefore, the proposed project would be consistent with the City's GHG Reduction Strategy and General Plan and would have a less than significant GHG emissions impact.

BAAQMD has identified two significance thresholds for determining if a project will have a significant GHG emissions impact under 2020 conditions set by AB 32. These thresholds are:

- the “bright-line” threshold of 1,100 metric tons of CO<sub>2</sub>e per year; and
- the “efficiency” threshold of 4.6 metric tons of CO<sub>2</sub>e per service population (e.g., residents and employees) per year.

The numeric CEQA thresholds set by BAAQMD were calculated to achieve the state’s 2020 target for GHG emissions level (and not the SB 32 2030 target of 40 percent below the 1990 GHG emissions level). The project may not be fully constructed and occupied until after December 31, 2020. Because the project could be completed in the post-2020 timeframe, the 2020 BAAQMD thresholds do not apply. Rather, a Substantial Progress bright-line threshold of 2.6 MT CO<sub>2</sub>e/year/service population has been calculated for 2030 based on the GHG reduction goals of SB 32 and Executive Order B-30-15, taking into account the 1990 inventory and the projected 2030 statewide population and employment levels.<sup>32</sup> For the purposes of this analysis, a Substantial Progress efficiency metric of 660 MTCO<sub>2</sub>e/year has been calculated for 2030.<sup>33</sup>

Operational GHG emissions for the proposed project were estimated using the CalEEMod model, along with the project vehicle trip generation rates. The model provided long-term operational emissions estimates associated with vehicular traffic within the project vicinity, energy and water usage, and solid waste disposal. The proposed project’s land uses were input into CalEEMod, including 20,748 square feet of office space and 10,996 square feet of retail space. Annual emissions resulting from project operations are shown in Table 4.8-1.

<b>Table 4.8-1: Annual Project GHG Emissions (MT of CO<sub>2</sub>e)</b>	
<b>Source Category</b>	<b>Project in 2030</b>
Area	0.01
Energy Consumption	84.3
Mobile	275.8
Solid Waste Generation	15.5
Water Usage	10.6
Total	386
<b>2030 Brightline Threshold</b>	<b>660</b>
<b>Significant?</b>	<b>No</b>

Assuming no additional GHG reduction measures would be included in the project, the proposed project would not exceed the 660 MT CO<sub>2</sub>e/year bright-line threshold in 2030. Therefore, implementation of the proposed project would not result in a GHG emissions impact.

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

**Less than Significant Impact.** While the construction and operation of this project would not be completed prior to 2021, the project would comply with the mandatory measures and voluntary measures in accordance with the City’s GHG Reduction Strategy. Compliance with the

<sup>32</sup> Association of Environmental Professionals. *Beyond 2020 and Newhall: A Field Guide to New CEQA Greenhouse Gas Thresholds and Climate Action Plan Targets for California*. 2016.

<sup>33</sup> 40 percent below the 1,100 MT for 2020 = 660 MTCO<sub>2</sub>e/year

mandatory measures and any voluntary measures required by the City would ensure an individual project's consistency with the GHG Reduction Strategy.

Mandatory GHG reduction criteria and its applicability to the project is detailed below.

1. Consistency with the Land Use/Transportation Diagram (General Plan Goals/Policies ip-1, LU-10)
2. Implementation of Green Building Measures (GP Goals: MS-1, MS-2, MS-14)
  - Solar Site Orientation
  - Site Design
  - Architectural Design
  - Construction Techniques
  - Consistency with City Green Building Ordinance and Policies
  - Consistency with GHG Reduction Strategy Policies: MS-2.3, MS-2.11, and MS-14.4
3. Pedestrian/Bicycle Site Design Measures
  - Consistency with Zoning Ordinance
  - Consistency with GHG Reduction Strategy Policies: CD-2.1, CD-3.2, CD-3.3, CD-3.4, CD-3.6, CD-3.8, CD-3.10, CD-5.1, LU-5.4, LU-5.5, LU-9.1, TR-2.8, TR-2.11, 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 Program at large employers (General Plan Policy TR-7.1), if applicable;
7. Limit 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).

Per Criteria 1, the proposed project is consistent with the Land Use/Transportation Diagram designation of *Neighborhood/Community Commercial*.

Per Criteria 2 and 3, new structures would be constructed in compliance with Municipal Code Chapter 17.84 (Green Building Regulations for Private Development) and California Green Building Standards. Nine bicycle parking spaces are required for the proposed project<sup>34</sup> and 29 bicycle parking spaces would be provided, exceeding San José requirements.

Criteria 4, 5, 6 and 7 are not applicable to the proposed project because the site does not contain historic structures, the project is not an energy-intensive use, is not a large employer, and does not propose to serve the occupants of vehicles.

The proposed project is consistent with the existing General Plan land use designation and would comply with the applicable mandatory measures of the GHG Reduction Strategy (Criteria 1, 2 and 3). Therefore, the proposed project is consistent with local policies and programs designed to reduce GHG emissions and impacts would be less than significant.

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<sup>34</sup> Number of bike parking requires = new building area/3,000 = 31,744/3,000 = 9

## **4.9 HAZARDS AND HAZARDOUS MATERIALS**

The following discussion is based in part on a Phase I Environmental Site Assessment prepared for the site by *AEI Consultants* in March 2018. A copy of this report is provided in Appendix D of this document.

### **4.9.1 Regulatory Setting**

#### **4.9.1.1 *Applicable Hazards and Hazardous Materials Regulations and Policies***

The Envision San José 2040 General Plan includes policies applicable to all development projects in San José.

*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-7.5:* 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-7.10:* 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.

### **4.9.2 Existing Setting**

The 10.92-acre shopping center is currently developed with ten existing commercial buildings, asphalt parking lots and driveways, and associated landscaping.

The Phase I report estimates that the direction of groundwater flow beneath the project site is to the northwest. Groundwater occurs at a depth of approximately 14 feet below ground surface (bgs).



#### **4.9.2.1      *Site History***

The Phase I report describes the land use history of the site based on aerial photographs, Sanborn fire insurance maps, agency records, and City directories. Based on these sources, the project site was identified as agricultural land developed with a dwelling and barn from the 1930s to 1950s. The property was initially developed in 1957-1960 as the Tropicana Shopping Center, and named for the housing tract behind the shopping center. The proposed project parcel (486-10-91) contained the JJ Newberry, a "junior department store" that opened in 1960. This building now is currently referred to as the La Placita and encompasses the addresses 1690-1692 Story Road (section facing the parking lot) and 1199 South King Road (section facing South King Road). Renovations to this building were completed in 2003 and later in 2008-2009. No structural defects or seismic defects were noted through all renovations. No dry cleaner or user of toxic chemical was ever in the actual shopping center. Various tenant improvements and sign permits were on file for the project site from 1990s to present.

#### **4.9.2.2      *Recognized Environmental Conditions***

A Recognized Environmental Condition (REC) is defined by the American Society for Testing and Materials (ASTM) Standard Practice E1527-13 as the presence or likely presence of any hazardous substances or petroleum products in, on, or at a property: (1) due to release to the environment; (2) under conditions indicative of a release to the environment; or (3) under conditions that pose a material threat of a future release to the environment.

A Controlled Recognized Environmental Condition (CREC) is defined by the ASTM Standard Practice E1527-13 as *a past release of hazardous substances or petroleum products that has been addressed to the satisfaction of the applicable regulatory authority, with hazardous substances or petroleum products allowed to remain in place subject to the implementation of required controls.* A Historical Recognized Environmental Condition (HREC) is defined by the ASTM Standard Practice E1527-13 as *a past release of any hazardous substances or petroleum products that has occurred in connection with the property and has been addressed to the satisfaction of the applicable regulatory authority or meeting unrestricted use criteria established by a regulatory authority, without subjecting the property to any required controls.*

Based on the research completed for the Phase I report, no RECs, CRECs, HRECs or non-ASTM considerations were found

#### **4.9.2.3      *Analysis of Soil Samples***

In a soil report completed in 1999 by Cleary Consultants, no toxic soil sample was found in multiple soil samples taken. In 2010, the entire parking lot was replaced and repaved, and the top six inches of the soil was lime treated. There was no evidence of contamination.

### 4.9.3

### Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,14
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,14
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
f) For a project within the vicinity of a private airstrip, will the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
g) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1

#### 4.9.4 Impact Discussion

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

**Less than Significant Impact.** Construction of the proposed project would involve the use of potentially hazardous materials, including vehicle fuels, oils, and fluids. All hazardous materials would, however, be transported, contained, stored, used, and disposed of in accordance with manufacturers' instructions and would be handled in compliance with all applicable standards and regulations. Construction-related hazardous materials use would be temporary, which does not constitute routine transport, use, or disposal. The project would be required to comply with the following condition of approval to ensure that the soil imported for the project is free of contaminants.

Condition of Project Approval

- Prior to issuance of grading permit, the applicant shall provide independent third party verification to the Supervising Environmental Planner that imported soil is free of any and all contaminants.

The proposed operation of the development is not anticipated to routinely transport and use hazardous materials. For general office uses, as proposed by the project, the extent of hazardous materials used in the building would generally be limited to those needed for cleaning and maintenance. Compliance with applicable federal, state, and local laws and regulations pertaining to the handling, storage, and disposal of hazardous materials would ensure that no significant hazards to the public or the environment result, if such routine activities were to occur. Therefore, impacts related to the creation of a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials would be less than significant.

b) **Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?**

**Less than Significant Impact.** All known hazardous materials that would be utilized during construction or operations are typical of such activities for a commercial building. The quantities of these materials are not substantial and they would be stored, used, and disposed of in accordance with manufacturers' instructions and in compliance with all applicable standards and regulations. Therefore, impacts related to the creation of a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials typical of commercial construction and operations into the environment would be less than significant.

c) **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 KIPP Heartwood Academy, a public charter middle school, is located approximately 300 feet northeast of the project site, across South King Road. The proposed project includes the expansion of the existing use on-site. The General Plan

FEIR allows new development and redevelopment to place sensitive uses in proximity to industrial, commercial or institutional hazardous materials users; however, implementation of existing regulations and adopted plans substantially reduce hazards to people. As discussed above in 4.8.9 a) the proposed project is not anticipated to routinely transport and use hazardous materials. Therefore, impacts to schools would be less than significant.

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

**No Impact.** The project site is not listed as an EnviroStor Clean-up site with the California Department of Toxic Substances Control (DTSC) or is identified in the Cortese List (Government Code Section 65962.5).<sup>35</sup> Therefore, impacts related to creation of a significant hazard to the public or the environment would not occur.

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

**Less than Significant Impact.** The closest public airport to the project site is Reid-Hillview airport located approximately 0.9 mile to the east of the site. The project site is located within the Airport Influence Area (AIA) for this airport. In addition, Mineta San José International Airport is located approximately four miles to the west of the project site; however, the site is not located in the AIA for this airport. The Santa Clara County Airport Land Use Commission adopted the Reid Hillview Airport Comprehensive Land Use Plan (CLUP) on October 24, 2007. The proposed project is outside of the Traffic Pattern Safety Zone for Reid-Hillview Airport. The proposed development on the project site is planned to be a low-rise, three story building similar to the height of existing buildings in the vicinity. Construction of the project would not require use of tall equipment and the construction is going to take place during daytime. Therefore, the project would not result in a significant safety hazard for the people residing or working in the project area.

- f) **For a project within the vicinity of a private airstrip, will the project result in a safety hazard for people residing or working in the project area?**

**No Impact.** There are no private airstrips in the vicinity of the project site. Therefore, impacts related to private airstrip safety hazards for people residing or working in the project area would not occur.

- g) **Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?**

**No Impact.** The proposed project would not remove or add any emergency access points to or from the project site. Access for emergency vehicles is currently provided via Story Road and South King Road and would remain as such during the construction and operation phases.

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<sup>35</sup> California Department of Toxic Substances Control website. Available at [http://www.dtsc.ca.gov/SiteCleanup/Cortese\\_List.cfm](http://www.dtsc.ca.gov/SiteCleanup/Cortese_List.cfm). Accessed March 7, 2018.

Therefore, impacts related to physical interference with an adopted emergency response plan or emergency evacuation plan would not occur.

- h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?**

**No Impact.** The project site is located in a highly urbanized area that is not subject to wildland fires. Therefore, impacts related to exposure of people or structures to a significant risk of loss, injury, or death involving wildland fires would not occur.

## **4.10 HYDROLOGY AND WATER QUALITY**

### **4.10.1 Regulatory Setting**

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. Environmental Protection Agency (EPA) and the State Water Resources Control Board (SWRCB) have been developed to fulfill the requirements of this legislation. EPA's regulations include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge pollutants into the waters of the United States (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by the water quality control boards, which for the San José area is the San Francisco Bay Regional Water Quality Control Board (RWQCB).

#### **4.10.1.1 *Statewide Construction General Permit***

The SWRCB has implemented a NPDES Construction General Permit (CGP) for the state. Projects disturbing one acre or more of soil must obtain permit coverage under the CGP by filing a Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) with the SWRCB prior to commencement of construction. The CGP, which became effective July 1, 2010, includes requirements for training, inspections, record keeping, and for projects of certain risk levels, monitoring. The proposed project would disturb less than one acre of soil (0.86 acres) and, therefore, would not require permit coverage under the CGP.

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

The RWQCB has issued a Municipal Regional Stormwater NPDES Permit (MRP) [Permit Number CAS612008] to standardize stormwater management requirements throughout the region. This permit replaces the formerly separate countywide stormwater permits with a regional permit for 77 Bay Area municipalities including the City of San José. Under the provisions of the MRP, redevelopment projects that create or replace 10,000 square feet or more of impervious surfaces are required to design and install Low Impact Development (LID) controls to treat post-construction stormwater runoff from the site. Examples of LID controls include rainwater harvesting/re-use, infiltration, and biotreatment. The MRP also requires that stormwater treatment measures are properly installed, operated and maintained.

#### **4.10.1.3 *City of San José Grading Ordinance***

All development projects, whether subject to the CGP 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 a site is under construction.

#### **4.10.1.4 *City of San José Post-Construction Urban Runoff Management (Policy 6-29) and Hydromodification Management (Policy 8-14)***

The MRP mandates the City of San José use its planning and development review authority to require that stormwater management measures such as Site Design, Pollutant Source Control, and Treatment measures are included in new and redevelopment projects to minimize and properly treat stormwater runoff. The City of San José's Post-Construction Urban Runoff Management Policy (Policy 6-29) implements the stormwater treatment requirements of Provision C.3 of the MRP. Policy 6-29 requires all new development and redevelopment project to implement post-construction

BMPs and Treatment Control Measures (TCMs) to the maximum extent practicable. This policy also establishes specific design standards for post-construction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

The City's Post-Construction Hydromodification Management Policy (Policy 8-14) establishes an implementation framework for incorporating measures to control hydromodification impacts from development projects. Development projects that create and/or replace one acre or more of impervious surface and are in a sub-watershed or catchment that is less than 65 percent impervious, must manage increases in runoff flow and volume so that post-project runoff shall not exceed estimated pre-project rates and durations. 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 in a subwatershed greater than or equal to 65 percent impervious.<sup>36</sup>

#### **4.10.1.5      *General Plan***

The *Envision San José 2040 General Plan* includes the following water quality 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 on-site.

*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.

*Policy IN-3.9:* Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.

#### **4.10.2      Existing Setting**

The proposed building site is located within the Tropicana Shopping Center parking lot adjoining South King Road. The shopping center encompasses 10.92 acres at the intersection of Story Road and South King Road. Impervious surfaces cover the project site. The proposed project would construct a 31,744 square foot building on an approximately 0.86-acre site.

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<sup>36</sup> Santa Clara Valley Urban Runoff Pollution Prevention Program. *Hydromodification Management Applicability Maps*. Accessed: March 7, 2018. Available at: [http://www.scvurppp-w2k.com/hmp\\_maps.htm](http://www.scvurppp-w2k.com/hmp_maps.htm).



The existing impervious areas on the site include 36,700 square feet of impervious asphalt parking lot and 955 square feet of public streets. In all, approximately 37,655 square feet of the existing project site is covered with impervious surfaces. No pervious surfaces exist on the site.

#### **4.10.2.1      *Flooding and Dam Failure***

Based on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (Map 06085C0234H), the project site is located in Flood Zone D.<sup>37</sup> 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.

Based on the SCVWD dam failure inundation hazard maps, the project site is located within the Anderson dam failure inundation zone.<sup>38</sup>

#### **4.10.2.2      *Storm Drainage System and Water Quality***

The City of San José owns and maintains the municipal storm drainage system which serves the project site. The lines that serve the project site drain into Coyote Creek. Coyote Creek is located approximately 1.24 miles west of the project site. Coyote 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 Coyote 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 Resources Control Board lists Coyote Creek as contaminated with diazinon and trash on its 303(d)<sup>39</sup> list.<sup>40</sup>

#### **4.10.2.3      *Groundwater***

Groundwater levels fluctuate seasonally depending on variations in rainfall, tidal influences, and other factors. Groundwater in the vicinity of the site is present at an estimated depth of 14 feet bgs.<sup>41</sup>

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<sup>37</sup> Federal Emergency Management Agency. *Flood Insurance Rate Map. Map Number 06085C0254H*. May 18, 2009. Accessed April 4, 2018. <https://msc.fema.gov/portal>.

<sup>38</sup> Santa Clara Valley Water District. *Anderson Dam and Reservoir Flood Inundation Maps-Sheet 6*. 2016. Accessed April 4, 2018. Available at: <https://www.valleywater.org/sites/default/files/Anderson%20Dam%20Inundation%20Maps%202016.pdf>

<sup>39</sup> 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.

<sup>40</sup> State Water Resources Control Board. "Final 2012 California Integrated Report (Clean Water Act Section 303(d) List/305(b) Report)." Accessed: April 4, 2018. Available at: [http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/integrated2012.shtml?wbid=CAR2064001219990218114210](http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2012.shtml?wbid=CAR2064001219990218114210).

<sup>41</sup> AEI Consultants. *Phase 1 Environmental Site Assessment 1644 Story Road, San José, California, 95122*. March 8, 2018.

#### 4.10.3 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there will be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells will drop to a level which will not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which will result in substantial erosion or siltation on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which will result in flooding on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
e) Create or contribute runoff water which will exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
g) Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,8
h) Place within a 100-year flood hazard area structures which will impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,8
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,8,9
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,8,10

#### 4.10.4 Impact Discussion

##### a) **Violate any water quality standards or waste discharge requirements?**

##### Construction Impacts

**Less than Significant Impact.** The proposed development would disturb approximately 0.86 acres of land area, which is below the one-acre threshold. Therefore, construction of the proposed project would not be required to comply with the CGP. Demolition and construction activities would temporarily increase the amount of debris on-site and grading activities would increase the potential for erosion and sedimentation that could be carried by runoff into the San Francisco Bay. As a result, construction activities on-site could result in a temporary increase in pollutants in stormwater runoff.

As discussed in *Section 4.9.1* above, all development projects in San José must comply with the City's Grading Ordinance. The City of San José Grading Ordinance requires the use of erosion and sediment controls to protect water quality while a site is under construction. As a condition of project approval, the applicant would be required to submit an Erosion Control Plan to the Director of Public Works for review and approval prior to issuance of a permit for grading activity occurring during the rainy season (October 1st to April 30th). The plan must detail the BMPs that would be implemented to prevent the discharge of stormwater pollutants. Pursuant to the City's grading requirements, the following standard permit conditions, based on RWQCB recommendations, have been included in the project to reduce potential construction-related water quality impacts:

##### Standard Permit Conditions

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

Because construction of the proposed project includes the specific measures and actions identified above, and would be required by the City to comply with applicable regulatory programs, the project would have a less than significant construction-related water quality impact.

### **Post-Construction Impacts**

**Less than Significant Impact.** Under existing conditions, the project parcel is approximately 100 percent impervious (37,655 square feet). Upon completion of the proposed project, impervious surfaces on-site would be decreased by approximately 32 percent (25,680 square feet) compared to existing conditions (See Table 4.9-1). Because the project would disturb and replace more than 10,000 square feet of impervious surface area, the project would be required to comply with the City's Post-Construction Urban Runoff Policy 6-29 and the NPDES MRP/C.3 requirements.

The MRP requires all post-construction runoff to be treated by numerically sized LID treatment controls, such as biotreatment facilities, unless the project is granted Special Project LID Reduction Credits, which would allow the project to implement non-LID measures for all or a portion of the site depending on project characteristics. Details of specific site design, pollutant source control, and stormwater treatment control measures demonstrating compliance with the MRP shall be included in the project design, to the satisfaction of the Director of Planning, Building and Code Enforcement prior to the issuance of a development permit. With implementation of a Stormwater Control Plan consistent with NPDES MRP requirements and City regulatory policies pertaining to stormwater runoff, operation of the proposed project would have a less than significant water quality impact.

- b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there will be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells will drop to a level which will not support existing land uses or planned uses for which permits have been granted)?**

**Less than Significant Impact.** Groundwater in the vicinity of the site is present at an estimated depth of 14 feet bgs.<sup>42</sup> The project site is currently paved and does not contribute to groundwater recharge. Excavation during construction of the proposed building would require relatively shallow cuts (i.e., less than 10 feet) and, therefore, would not expose the groundwater aquifer. The project would result in a 32 percent reduction of impervious surfaces through the construction of new landscape areas on the site. Due to increase in pervious area, the groundwater recharge would moderately increase. For these reasons, the project would not deplete groundwater supplies, interfere with groundwater recharge, or otherwise affect groundwater.

- c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which will result in substantial erosion or siltation on-or off-site?**

**Less than Significant Impact.** The project site is located in a fully developed area of San José and no surface water bodies are present on or adjacent to the project site. The nearest surface water is Coyote Creek, approximately 1.24 miles to the west. The City of San José owns and

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<sup>42</sup> AEI Consultants. *Phase 1 Environmental Site Assessment 1644 Story Road, San José, California, 95122. March 8, 2018.*

maintains the municipal storm drainage system which serves the project site. The lines that serve the project site drain into Coyote Creek.

The project would not substantially alter the existing drainage pattern of the site. Currently, surface water runoff on-site is conveyed to the existing storm drain system. Under existing conditions, the entire project site is covered with impervious surfaces (approximately 37,655 square feet). Under project conditions, the impervious surfaces would decrease by approximately 32 percent, which would result in a slight decrease in stormwater runoff. Although the project would slightly increase pervious surfaces on-site due to landscaping, implementation of 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 siltation or exceed the capacity of the existing stormwater system.

- d) **Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which will result in flooding on-or off-site?**

**Less than Significant Impact.** Refer to Response to 4.10.4 (c). Because the proposed project would not substantially alter the existing drainage pattern and impermeability of the shopping center, potential for flooding under the proposed project would be the same as under existing conditions. Therefore, impacts related to flooding on- or off-site due to substantial alteration of the existing drainage pattern or substantial increase in the rate or amount of surface run-off would be less than significant.

- e) **Create or contribute runoff water which will exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?**

**Less than Significant Impact.** The City of San José owns and maintains the municipal storm drainage system which serves the project site. The proposed project would replace an existing impervious asphalt parking lot with a commercial building. Under existing conditions, the project site (37,655 square feet) is covered with impervious surfaces. With the proposed project, the site would be covered with approximately 25,680 square feet of impervious surfaces for roof area, parking, sidewalks, driveways, streets and patios. The proposed project would add 11,975 square feet of new pervious surface area which would include landscaping and pervious paving. Consequently, the proposed project would result in a 32 percent net decrease of impervious surfaces on the project site.

<b>Table 4.10-1: Approximate Pervious and Impervious Surfaces On-Site</b>						
<b>Site Surface</b>	<b>Existing/Pre-Construction (sf)</b>	<b>%</b>	<b>Project/Post Construction (sf)</b>	<b>%</b>	<b>Difference (sf)</b>	<b>%</b>
<b>Impervious</b>						
Roof Area(s)	0	0	10,494	28	+10,494	+28
Parking	36,700	98	5,526	15	-31,174	-83
Sidewalks, Patios, Driveways, etc.	0	0	8,785	23	+8,785	+23
Streets	955	2	875	2	-80	0
<i>Subtotal</i>	<i>37,655</i>	<i>100</i>	<i>25,680</i>	<i>68</i>	<i>-11,975</i>	<i>-32</i>
<b>Pervious</b>						
Landscaped Areas	0	0	6,918	19	+6,918	+19
Pervious Paving	0	0	5,057	13	+5,057	+13
<i>Subtotal</i>	<i>0</i>	<i>0</i>	<i>11,975</i>	<i>32</i>	<i>+11,975</i>	<i>+32</i>
<b>Total</b>	<b>37,655</b>	<b>100</b>	<b>37,655</b>	<b>100</b>		

Moreover, the project would comply with the stormwater regulations by directing stormwater runoff to biotreatment cells. Stormwater pollutant source control measures proposed by the project would include connecting the covered recycling/trash enclosures to sanitary sewer system and implementing maintenance controls such as pavement sweeping, catch basin cleaning, and drain pipe maintenance, along with storm drain labeling. Details of specific Site Design, Pollutant Source Control, and Stormwater Treatment Control Measures demonstrating compliance with the MRP, shall be included in the project design, to the satisfaction of the Director of Planning, Building and Code Enforcement.

As discussed in 4.10.4 (a) above, construction activities could result in a temporary increase in stormwater pollutants during ground disturbing activities. The project applicant shall comply with the City of San José Grading Ordinance, including implementation of erosion and dust control measures during site preparation, and with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which includes site design measures, source controls and numerically-sized LID stormwater treatment measures to minimize stormwater pollutant discharges. In addition, the project would implement the RWQCB standard construction BMPs listed above on 4.9.4 (a) as Standard Permit Conditions to reduce stormwater pollutants during construction.

**f) Otherwise substantially degrade water quality?**

**Less than Significant Impact.** Refer to Responses to 4.10.4 (a) through 4.10.4 (e). Impacts related to substantial degradation of water quality would be less than significant.

**g) Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?**

**No Impact.** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Furthermore, the proposed project would not include any housing. Therefore, impacts related to placement of housing within a 100-year flood hazard area would not occur.

**h) Place within a 100-year flood hazard area structures which will impede or redirect flood flows?**

**No Impact.** As discussed above in 4.9.4 (g), the new proposed building would not be placed in a 100-year flood hazard area. Therefore, impacts related to placement of structures in a 100-year flood hazard area would not occur.

**i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?**

**Less than Significant Impact.** Based on ABAG's dam failure inundation hazard maps, large portions of the Santa Clara Valley are located in the Lexington and Anderson Reservoir dam failure inundation hazard zone.<sup>43,44</sup> The Tropicana Shopping Center is within the Anderson Dam failure inundation hazard zone but not within the Lexington Dam failure inundation zone. Existing regulations and adopted plans and policies reduce the risks to people and property in San José from dam failure. In particular, the California Department of Water Resources, Division of Safety of Dams (DSOD) is responsible for regular inspection of dams in California. DSOD inspects each dam on an annual basis to ensure the dams are safe, performing as intended, and not developing problems. In addition, the SCVWD routinely monitors and studies the condition of each of its 10 dams, including Anderson. The General Plan FEIR concluded that with the regulatory programs currently in place, the possible effects of dam failure would not expose people or structures to a significant risk of loss, injury or death. As a result, future occupants of the site would not be exposed to flooding hazards.

**j) Result in inundation by seiche, tsunami, or mudflow?**

**No Impact.** There are no landlocked bodies of water near the project site that will affect the site in the event of a seiche. The project site does not lie within a tsunami inundation hazard area.<sup>45</sup> The project area is flat and there are no mountains near the site that will affect the site in the event of a mudflow. Therefore, development of the project site would not result in inundation by seiche, tsunami or mudflow.

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<sup>43</sup> Santa Clara Valley Water District. *Anderson Dam and Reservoir Flood Inundation Maps-Sheet 6*. 2016. Accessed April 4, 2018. Available at:

<https://www.valleywater.org/sites/default/files/Anderson%20Dam%20Inundation%20Maps%202016.pdf>.

<sup>44</sup> Santa Clara Valley Water District. *Lexington Reservoir Flood Inundation Maps*. 2016. Accessed April 4, 2018. Available at:

<https://www.valleywater.org/sites/default/files/Lexington%20Dam%20Inundation%20Map%202016.pdf>.

<sup>45</sup> Association of Bay Area Governments. *Tsunami Inundation Emergency Planning Map for the San Francisco Bay Region*. Available at <http://quake.abag.ca.gov/tsunamis>. Accessed March 5, 2018.



## **4.11 LAND USE AND PLANNING**

### **4.11.1 Regulatory Setting**

#### **4.11.1.1 *General Plan***

The *Envision San José 2040 General Plan* includes the following land use policies applicable to the proposed project:

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

*Policy CD-4.4:* In non-growth areas, design new development and subdivisions to reflect the character of predominant existing development of the same type in the surrounding area through the regulation of lot size, street frontage, height, building scale, siting/setbacks, and building orientation.

*Policy CD-4.9:* For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).

*Policy LU 1.6:* Locate employee-intensive commercial and industrial uses within walking distance of transit stops. Encourage public transit providers to provide or increase services to areas with high concentrations of residents, workers, or visitors.

*Policy LU-4.1:* Retain existing commercial lands to provide jobs, goods, services, entertainment, and other amenities for San José's workers, residents, and visitors.

*Policy LU-4.3:* Concentrate new commercial development in identified growth areas and other sites designated for commercial uses on the Land Use/Transportation Diagram. Allow new and expansion of existing commercial development within established neighborhoods when such development is appropriately located and designed, and is primarily neighborhood serving.

*Policy LU-5.1:* In order to create complete communities, promote new commercial uses and revitalize existing commercial areas in locations that provide safe and convenient multi-modal access to a full range of goods and services.

*Policy LU-5.2:* To facilitate pedestrian access to a variety of commercial establishments and services that meet the daily needs of residents and employees, locate neighborhood-serving commercial uses throughout the city, including identified growth areas and areas where there is existing or future demand for such uses.

*Policy LU-5.3:* Encourage new and intensification of existing commercial development, including stand-alone, vertical mixed-use, or integrated horizontal mixed-use projects, consistent with the Land Use / Transportation Diagram.

*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 LU-5.5:* Encourage pedestrian and vehicular connections between adjacent commercial properties with reciprocal-access easements to encourage safe, convenient, and direct pedestrian access and “one-stop” shopping. Encourage and facilitate shared parking arrangements through parking easements and cross-access between commercial properties to minimize parking areas and curb-cuts.

*Policy LU-5.6:* Encourage and facilitate the upgrading, beautifying, and revitalization of existing strip commercial areas and shopping centers. Minimize the visual impact of large parking lots by locating them away from public streets.

#### **4.11.1.2      *Evergreen-East Hills Development Policy***

The EDP was originally adopted in 1976 to address the issues of flood protection and limited traffic capacity in the Evergreen area south of Story Road and east of US Highway 101. In 1991 and 1995, the EDP was revised to identify specific transportation and flood control improvements needed for the implementation of the Evergreen Specific Plan and the greater policy area, respectively. Revisions were also made in 2008 to provide a new framework to allow a limited amount of additional development capacity. The resulting policy was renamed the Evergreen-East Hills Development Policy (EEHDP). The project site is subject to the EEHDP.

The EEHDP specifies development pools for new residential, retail commercial, and office space uses within the EEHDP area. These pools of land uses include: 500 new residential units; 500,000 square feet of new retail space; and 75,000 square feet of new commercial office space. Of the 500,000 square feet commercial retail and 75,000 square feet office that was established in the 2008 EEHDP, only 55,260 square feet of commercial and 59,231 square feet of office are remaining from the original allocation. The proposed project proposes to develop 20,748 square feet of office space and 10,996 square feet of retail space within the Tropicana Shopping Center property, which are within the capacity as identified and analyzed in the 2008 EEHDP.

#### **4.11.1.3      *Santa Clara Valley Habitat Plan***

SCVHP was developed through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, SCVWD, VTA, USFWS, and 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.

#### **4.11.2      Existing Setting**

The 10.92-acre shopping center is currently developed with ten commercial/retail buildings, surrounding an asphalt parking lot and driveways, and associated landscaping (see Figure 3.1-1 - Aerial). The shopping center is located at the southwest corner of the Story Road and South King Road intersection in the City of San José. The site is comprised of ten parcels (APNs 486-10-059, -062, -063, -064, -086, -087, -088, -091, -096, and -097). The proposed project would be located on

0.86 acres of the shopping center site, on parcel 486-10-091 (See Figure 4.11-1). The project site is currently part of the parking lot, located along the King Road frontage. The project site does not contain landscaping, but there are five street trees on King Road adjacent to the site.

Development in the project area is a mix of retail/commercial, open space, and residential land uses. The site is bounded by South King Road to the north, Story Road on the west, and existing residential development on the south and east. The site is currently designated *Neighborhood/Community Commercial* under the City of San José's adopted General Plan and its zoning is *CP Commercial Pedestrian* zoning districts.

#### 4.11.3 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2

#### 4.11.4 Impact Discussion

##### a) **Physically divide an established community?**

**Less than Significant Impact.** The project area consists of a variety of land uses including commercial, retail, open space, and residential. The project site is located within a shopping center. The project proposes to build a new three story building which would be like the existing retail/commercial buildings within the shopping center. Because the project would be constructed in an existing commercial development, the project would not divide the existing community and would be compatible with the existing neighborhood and community.

##### b) **Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect?**

**Less than Significant Impact.** At the local level, various plans regulate land use and design standards at the project site including the General Plan, the EEHDP, the City's Municipal Code, and the City's Commercial and Industrial Design guidelines.

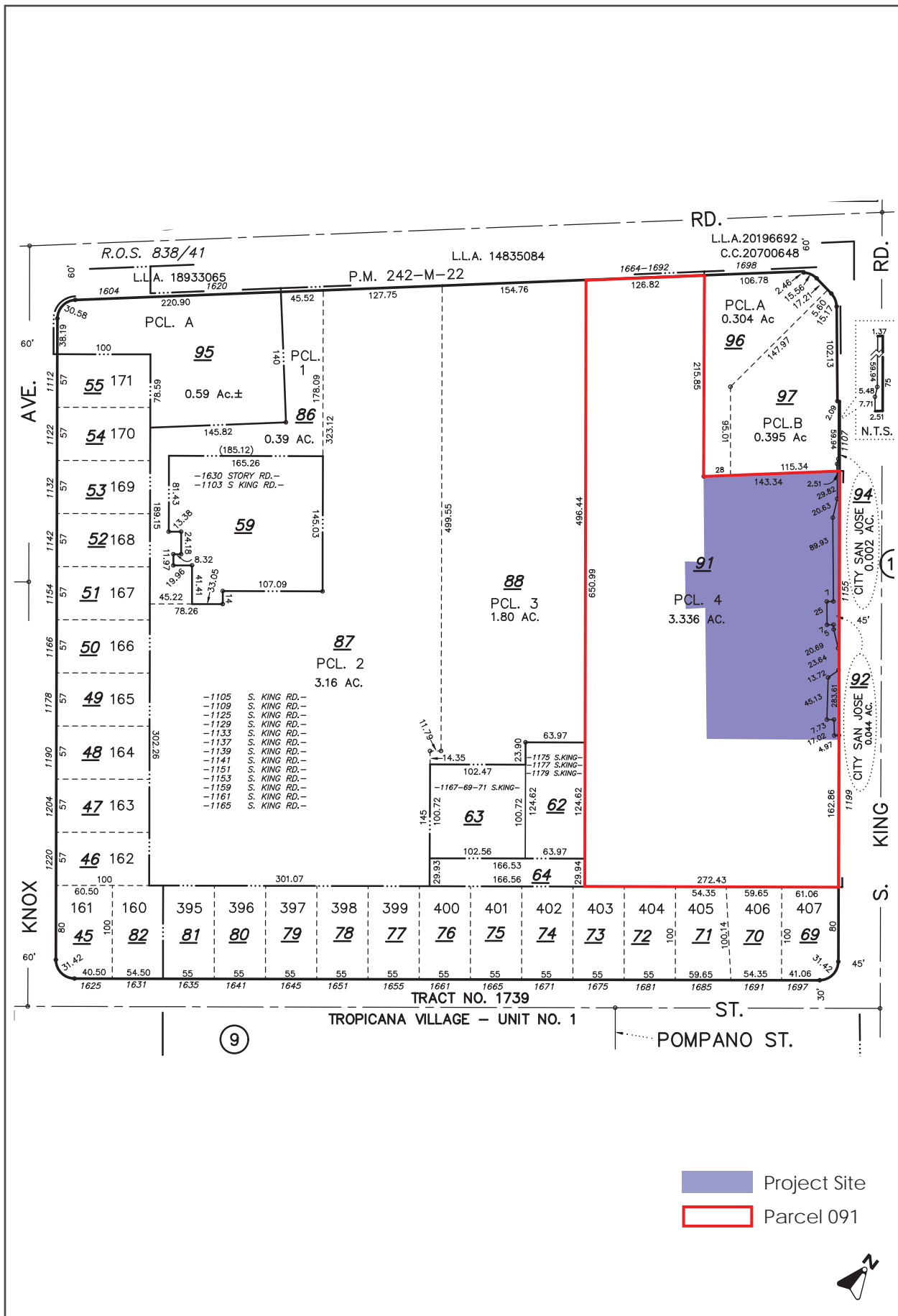
## Envision San José 2040 General Plan

The project site is currently designated *Neighborhood/Community Commercial* in the City of San José General Plan. The *Neighborhood/Community Commercial* [Density: FAR Up to 2.0 (one to four stories)] land use designation supports a broad range of commercial activity, including commercial uses that serve the communities in neighboring areas (i.e., neighborhood serving retail and services and commercial/professional office development).

*Neighborhood/Community Commercial* uses typically have a strong connection to and provide services and amenities for the nearby community and should be designed to promote that connection with an appropriate urban form that supports walking, transit use and public interaction. General office uses, hospitals and private community gathering facilities are also allowed in this designation. The project would not change the existing land use designation on the site and the proposed retail/commercial building would be consistent with the General Plan land use designation.

### City of San José Zoning District

The site's zoning (APN -091) is split between the *CP Commercial Pedestrian and CN Commercial Neighborhood Zoning* districts. The *CP* district is intended to support pedestrian-oriented retail activity at a scale compatible with surrounding residential neighborhoods. This district is designed to support the goals and policies of the general plan related to Neighborhood Business Districts. Neighborhood Business Districts (NBDs) contain a variety of commercial and non-commercial uses which contribute to neighborhood identity by serving as a focus for neighborhood activity. The NBD Program seeks to preserve, enhance, and revitalize San José's neighborhood-serving commercial areas through the coordination of public and private improvements, such as streetscape beautification, facade upgrading, business organization activities, business development, and promotional events. The *CP* district also encourages mixed residential/commercial development where appropriate, and is designed to support the commercial goals and policies of the General Plan in relation to Urban Villages. The project site is not part of an urban village. This district is also intended to support intensive pedestrian-oriented commercial activity and development consistent with General Plan urban design policies. The *CN* District is a district intended to provide for neighborhood serving commercial uses without an emphasis on pedestrian orientation except within the context of a single development. This district differs from the *CP* District in that there is no limit on the size of the stores. The type of development supported by this district includes neighborhood centers, multi-tenant commercial development along city connector and main streets, and small corner commercial establishments. The proposed commercial office building would facilitate a variety of permitted commercial and office uses. Future uses conditionally permitted would be reviewed under separate entitlement requests at the time of their proposal.



## Evergreen-East Hills Development Policy

The EEHDP specifies development pools for new residential, retail commercial, and office space uses within the EEHDP area. These pools of land uses include: 500 new residential units; 500,000 square feet of new retail space; and 75,000 square feet of new commercial office space. The proposed project would provide 10,996 square feet of new retail and 20,748 square feet of new commercial office space, representing approximately two percent of the planned retail space and 28 percent of the planned commercial office space envisioned for the EEHDP area. The project is within the allowable development capacity of the EEHDP. Therefore, the proposed project is consistent with the EEHDP.

In addition to the policies of the San José General Plan, the proposed project would be required to comply with the San José Commercial and Industrial Design Guidelines, which includes parameters for setbacks, building design, landscaping, screening, and lighting, all of which are factors in ensuring land use compatibility. Therefore, impacts related to conflict with an applicable land use plan, policy, or regulation of an agency with jurisdiction over the project site would be less than significant.

c) **Conflict with any applicable habitat conservation plan or natural community conservation plan?**

**Less than Significant Impact.** As discussed in *Section 4.4 Biological Resources*, the project would contribute to the cumulative off-site impacts from nitrogen deposition to serpentine habitat in southern Santa Clara County. To offset the increased nitrogen deposition that would result from the net new trips generated by the project, the project would be required to pay all applicable SCVHP fees, as determined by the City, prior to issuance of grading permits. Payment of these fees would reduce the project's contribution to cumulative nitrogen deposition impacts to a less than significant level.

With implementation of General Plan policies, existing regulations, and measures included in the project, the proposed project would not conflict with the provisions of an adopted or pending habitat conservation plan.

## 4.12 MINERAL RESOURCES

### 4.12.1 Existing 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 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2

### 4.12.3 Impact Discussion

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

**No Impact.** The proposed project is within a developed urban area and it does not contain any known or designated mineral resources. Implementation of the project would not result in the loss of availability of any known resources.

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

**No Impact.** Refer to 4.12.2 a) above.



## 4.13 NOISE AND VIBRATION

Noise is typically defined as unwanted sound. Acceptable levels of noise vary from land use to land use. State and federal standards have been established as guidelines for determining the compatibility of a particular land use with its noise environment.

### Construction Noise

Construction is a temporary source of noise for residences and other uses located near construction sites. Construction noise can be significant for short periods of time at any particular location and generates the highest noise levels during grading and excavation, with lower noise levels occurring during building construction. Typical hourly average construction-generated noise levels are approximately 80 to 85 dBA measured 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.

### Background Information – Vibration

Ground vibration consists of rapidly fluctuating motions or waves with an average motion of zero. Several different methods are typically used to quantify vibration amplitude. One is the Peak Particle Velocity (PPV) and another is the Root Mean Square (RMS) velocity. The PPV is defined as the maximum instantaneous positive or negative peak of the vibration wave. The RMS velocity is defined as the average of the squared amplitude of the signal. The PPV and RMS vibration velocity amplitudes are used to evaluate human response to vibration. In this section, a PPV descriptor with units of inches per second (in/sec) is used to evaluate construction generated vibration for building damage and human complaints. Table 4.13-1 shows the general reactions of people and the effects on building that continuous vibration levels produce. As with noise, the effects of vibration on individuals is subjective due to varying tolerances.

Table 4.13-1: Effects of Vibration		
PPV (in/sec)	Human Reaction	Effect on Buildings
0.01	Barely perceptible	No effect
0.04	Distinctly perceptible	Vibration unlikely to cause damage of any type to any structure
0.08	Distinctly perceptible to strongly perceptible	Recommended upper level of vibration to which ruins and ancient monuments should be subjected
0.1	Strongly perceptible	Virtually no risk of damage to normal buildings
0.3	Strongly perceptible to severe	Threshold at which there is a risk of damage to older residential dwellings such as plastered walls or ceilings.
0.5	Severe – vibration considered unpleasant	Threshold at which there is a risk of damage to newer residential structures.
Source: Caltrans. <i>Transportation and Construction-Induced Vibration Guidance Manual</i> . June 2004.		

#### **4.13.1      Regulatory Setting - Noise**

The State of California, Santa Clara County, and the City of San José have established regulatory criteria that are applicable to this project. The State CEQA Guidelines, Appendix G, are used to assess the potential significance of impacts pursuant to local General Plan policies, Municipal Code standards, or the applicable standards of other agencies. A summary of the applicable regulatory criteria is provided below.

##### **4.13.1.1      *City of San José General Plan***

The *Envision San José 2040 General Plan* includes the following noise policies applicable to the proposed project:

*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:

##### **Exterior Noise Levels**

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

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

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

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

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

#### **4.13.1.2      *City of San José Municipal Code***

The City's Municipal Code contains a Zoning Ordinance that limits noise levels at adjacent properties. Chapter 20.30.700 states that sound pressure levels generated by any use or combination of uses on a property shall not exceed 55 dBA at any property line shared with land zoned for residential use, except upon issuance and in compliance with a Conditional Use Permit. Chapter 20.40.600 states the sound pressure level generated by any use or combination of uses shall not exceed 60 dBA at any property line shared with land zoned for commercial/industrial uses, except upon issuance and in compliance with a Conditional Use Permit.

Chapter 20.100.450 of the Municipal Code establishes allowable hours of construction within 500 feet of a residential unit between 7:00 am and 7:00 pm Monday through Friday unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence unless authorized in a development permit.

#### **4.13.2      Regulatory Setting – Vibration**

##### **4.13.2.1      *City of San José General Plan***

The *Envision San José 2040 General Plan* includes the following vibration policies applicable to the proposed project:

*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 the potential for cosmetic damage at buildings of normal conventional construction.

#### **4.13.3      Existing Setting**

Noise levels in the project area are primarily influenced by vehicular noise on the surrounding roadways. Based on the General Plan FEIR, the existing ambient noise levels at the project site are 65 to 70 dBA DNL. According to the City's projected 2022 noise contours for Reid-Hillview Airport, the project site is located outside the 60 dBA CNEL noise contour.

##### **4.13.3.1      *Sensitive Receptors***

The closest sensitive receptors to the project site are residences located adjacent to the southeast and southwest boundaries of the shopping center (along Marsh Street and Knox Avenues) and the Kipp Heartwood Academy School that is located approximately 300 feet northeast of the project site, across South King Road.

#### 4.13.4 Environmental Checklist

Would the project result in:						
a)	Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
b)	Exposure of persons to, or generation of, excessive ground-borne vibration or ground-borne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
c)	A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
d)	A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
e)	For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
f)	For a project within the vicinity of a private airstrip, will the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2

#### 4.13.5 Impact Discussion

- a) **Result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?**

##### Construction Noise

**Less than Significant Impact.** Chapter 20.100.450 of the City's Municipal Code establishes allowable hours of construction within 500 feet of a residential unit between 7:00 am and 7:00 pm Monday through Friday unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence unless authorized in a development permit. The closest noise-sensitive receptors are residences located approximately 200 feet from the project site. Construction activities associated with the project would temporarily increase noise levels in the project area for approximately nine months. Construction activities will occur between 7:00 am and 7:00 pm Monday through Friday and not on weekends consistent with Standard Permit Conditions identified in checklist question d) below. Compliance with these Standard Permit Conditions would reduce construction noise and the project would not result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan and noise ordinance. Therefore, impacts would be less than significant.

### **Operational Noise**

**Less than Significant Impact.** The proposed commercial building would include retail and commercial office space. These proposed uses are consistent with surrounding retail commercial uses established within the Tropicana Shopping Center and in the nearby shopping center across South King Road from the project site. Primary source of noise affecting the site's noise environment is traffic on South King Road and Story Road. The project site is located approximately 250 feet from Story Road and is immediately adjacent to South King Road. Traffic noise levels along South King Road in the project vicinity are mapped as ranging between 65 and 70 DNL. When compared to the City's noise compatibility guidelines (Policy EC-1.1), such noise levels are considered acceptable for office and commercial uses. Therefore, noise compatibility impacts would be less than significant.

**b) Result in exposure of persons to, or generation of, excessive ground-borne vibration or ground-borne noise levels?**

**Less than Significant Impact.** The construction of the project may generate perceptible vibration when heavy equipment or impact tools (e.g. jackhammers, hoe rams) are used. Construction activities would include demolition of the existing paved parking lot, site preparation work, excavation and grading, foundation work, paving, and new building framing and finishing. Pile driving is not proposed for this project. Construction of the building is not anticipated to be a source of substantial vibration and construction vibration would not be substantial for the majority of the construction schedule

According to Policy EC-2.3 of the City of San José General Plan, a vibration limit of 0.08 in/sec PPV shall be used to minimize the potential for cosmetic damage to sensitive historical structures, and a vibration limit of 0.20 in/sec PPV shall be used to minimize damage at buildings of normal conventional construction. With no known historical buildings in the vicinity of the project site, a significant impact would occur if nearby buildings were exposed to vibration levels in excess of 0.20 in/sec PPV.

Table 4.13-2 presents typical vibration levels that could be expected from construction equipment 25 feet from their source. Project construction activities, such as drilling, the use of jackhammers, rock drills and other high-power or vibratory tools, and rolling stock equipment (tracked vehicles, compactors, etc.), may, if uncontrolled, generate substantial vibration in the immediate vicinity. Jackhammers typically generate vibration levels of 0.035 in/sec PPV, and drilling typically generates vibration levels of 0.09 in/sec PPV at a distance of 25 feet. Vibration levels would vary depending on soil conditions, construction methods, and equipment used.

Sensitive land uses near the project site include the single-family residences approximately 212 feet southeast of the site and 520 feet southwest of the site, and Kipp Heartwood School approximately 300 feet northeast of the site opposite King Road. At these distances, vibration levels at the residential land uses would be below the 0.2 in/sec PPV threshold. The closest commercial land use is the adjacent commercial building located along S. King Road, approximately 110 feet to the north of the site. At this distance, vibration levels at the adjacent

commercial building would be below the 0.2 in/sec PPV threshold.

At affected locations, and in other surrounding areas where vibration would not be expected to cause structural damage, vibration levels may still be perceptible. As with any type of construction, this would be anticipated and would not be considered significant, given the intermittent and short duration of the phases that have the highest potential of producing vibration (use of jackhammers and other high power tools). By use of administrative controls, such as notifying neighbors of scheduled construction activities and scheduling construction activities with the highest potential to produce perceptible vibration during hours with the least potential to affect nearby businesses, perceptible vibration can be kept to a minimum.

<b>TABLE 4.13-2: Vibration Source Levels for Construction Equipment</b>			
<b>Equipment</b>		<b>PPV at 25 ft. (in/sec)</b>	<b>Approximate L<sub>v</sub> at 25 ft. (VdB)</b>
Clam shovel drop		0.202	94
Hydromill (slurry wall)	in soil	0.008	66
	in rock	0.017	75
Vibratory Roller		0.210	94
Hoe Ram		0.089	87
Large bulldozer		0.089	87
Caisson drilling		0.089	87
Loaded trucks		0.076	86
Jackhammer		0.035	79
Small bulldozer		0.003	58
Source: Transit Noise and Vibration Impact Assessment, United States Department of Transportation, Office of Planning and Environment, Federal Transit Administration, May 2006.			
*Pile driving not proposed by project			

The following standard measures are included in the project to reduce vibration impacts from construction activities:

#### Standard Permit Conditions

- Prohibit the use of heavy vibration-generating construction equipment, such as vibratory rollers or excavation using clam shell or chisel drops, within 30 feet of any adjacent building.
- Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.

The implementation of these standard permit conditions would reduce the impact to a less than significant level.

#### c) **Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?**

**Less than Significant Impact.** 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). Although the project-generated traffic would result in an increase in traffic noise, the increase would not be sufficient to result in an increase in ambient noise levels by three dBA or more. Therefore, the project would have a less than significant long-term noise impact

**d) Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?**

**Less than Significant Impact.** Noise impacts resulting from construction depend upon the noise generated by various pieces of construction equipment, the timing and duration of noise-generating activities, and the distance between construction noise sources and noise-sensitive areas. Construction noise impacts primarily result when construction activities occur during noise-sensitive times of the day (e.g., early morning, evening, or nighttime hours), the construction occurs in areas immediately adjoining noise-sensitive land uses, or when construction lasts over extended periods of time. Construction of the proposed project would consist of demolishing four rows of asphalt parking spaces, grading and excavating to lay foundations, trenching, building erection, and paving. Project construction is anticipated to occur over an approximate period of nine months.

Where noise from construction activities exceeds 60 dBA Leq and exceeds the ambient noise environment by at least 5 dBA Leq at noise-sensitive uses in the project vicinity for a period exceeding one year, the impact would be considered significant. For commercial uses, a significant impact would be identified if construction noise were to exceed 70 dBA Leq and exceeds the ambient noise environment by at least 5 dBA Leq for a period exceeding one year. Additionally, the City considers significant construction noise impacts to have occurred if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would involve substantial noise-generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months, according to Policy EC-1.7 of the General Plan. Since the duration of substantial noise generating activities required for project construction is expected to be less than 12 months, the City considers the project's short-term noise increases to be less than significant (per General Plan Policy EC-1.7). In addition, existing commercial buildings are located between the project site and the closest residences, interrupting the line of sight between homes and project construction activities and blocking construction noise from these residences. Implementation of the following standard permit conditions listed below would further reduce the construction noise impacts to less than significant.

**Standard Permit Conditions**

- Construction activities shall be limited to the hours between 7:00 am and 7:00 pm, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.



- Unnecessary idling of internal combustion engines shall be strictly prohibited. Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses. Temporary noise barriers could reduce construction noise levels by 5 dBA.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
- Erect a temporary noise control blanket barrier, if necessary, along building façades facing construction sites. This measure would only be necessary if conflicts occurred that were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.
- Designate a "disturbance coordinator" responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include in it the notice sent to neighbors regarding the construction schedule.

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

**Less than Significant Impact.** The AIA is the area surrounding an airport where developments could be affected by noise. The closest airport to the project site is Reid-Hillview airport located approximately 0.9 mile to the east of the site. The project site is in the AIA, but outside the 60 CNEL noise contour for the Reid-Hillview airport. In addition, Mineta San José International Airport is located approximately four miles to the west of the project site and the site is outside the 65 dBA CNEL noise contour for this airport. Therefore, the project site would not be adversely affected by noise associated with airport operations in the project area and the impact would be less than significant.

**f) For a project within the vicinity of a private airstrip, will the project expose people residing or working in the project area to excessive noise levels?**

**No Impact.** The project does not lie within the vicinity of a private airstrip. Therefore, the proposed project would not expose people residing or working in the project area to excessive noise levels.

## 4.14 POPULATION AND HOUSING

### 4.14.1 Existing Setting

The population of San José was 1,042,094 as of 2016, which included 312,227 households.<sup>46</sup> The City's population is projected to reach 1,216,000 with 401,000 households by the year 2025.<sup>47</sup> The average number of persons per household in San José in 2014 was 3.21 and is projected to decrease slightly to 3.03 by the year 2025.

### 4.14.2 Environmental Checklist

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

### 4.14.3 Impact Discussion

- a) **Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?**

**Less than Significant Impact.** The proposed project would construct a new retail/commercial building within an existing shopping center and as discussed further in *Section 4.18 Utilities and Service Systems*, no additional infrastructure would be needed to serve the project. Therefore, the project would not directly or indirectly induce substantial population growth.

- b) **Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?**

**No Impact.** The proposed project would construct a new building on a parking lot of an existing shopping center and would not result in the displacement of housing and/or people. Therefore, the project would not result in an impact.

<sup>46</sup> City of San José, *Fact Sheet: History & Geography*, 2016. <http://www.sanjoseca.gov/DocumentCenter/View/780>

<sup>47</sup> Center for the Continuing Study of the California Economy. *Projections of Jobs, Populations, and Households for the City of San José*. August 2008. <http://www.sanjoseca.gov/DocumentCenter/View/3326>

- c) **Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?**

**No Impact.** Refer to 4.14.3 b) above.

## **4.15 PUBLIC SERVICES**

### **4.15.1 Regulatory setting**

The Envision San José 2040 General Plan includes the following public services policies applicable to the proposed 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-3.9:* Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.

*Policy ES-3.11:* Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.

### **4.15.2 Existing Setting**

#### **4.15.2.1 *Fire Protection Services***

Fire protection services for the project site are provided by the San José Fire Department (SJFD). The SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the City. The closest station to the project site is Station No. 16 located at 2001 King Road, approximately 0.9 mile east of the project site. For fire protection services, the General Plan identifies a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent of all Priority 2 (nonemergency) calls.

#### **4.15.2.2 *Police Protection Services***

Police protection services for the project site are provided by the San José Police Department (SJPd), which is headquartered at 1 Washington Square, approximately three miles southwest of the project site. For the last several years, the most frequent calls for service in the City have dealt with larceny, burglary, vehicle theft, and assault. For police protection services, the General Plan identifies a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent of all Priority 2 (nonemergency) calls.

#### **4.15.2.3 *Schools***

The project site is located within the Alum Rock Union Elementary School District and East Side Union High School District (ESUHSD). The Alum Rock Union Elementary School District operates nineteen elementary schools (K-5) and seven middle schools (6-8) in the greater San José area. The ESUHSD administers 19 high schools with a combined enrollment of approximately 24,500 students in the area of San José, Santa Clara County, California. The schools include 11 comprehensive or traditional and 7 alternative high school programs. An Adult Education Program serves an additional 26,000 students.

#### 4.15.2.4 *Parks*

The City's Department 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 190 neighborhood-serving parks and nine regional parks.<sup>48</sup> The nearest parks to the project site is Emma Prush Farm Regional Park, located approximately three-quarters of a mile from the project site.

#### 4.15.3 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project					
a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:					
- Fire Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
- Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
- Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
- Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
- Other Public Facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1

#### 4.15.4 Impact Discussion

- a) **Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for public services:**

- **Fire protection**

**Less than Significant Impact.** The proposed building is accounted for in the planned growth for the City. The project would be reviewed by the SJFD prior to issuance of a building permit and ensure the project complies with applicable building and fire codes. Furthermore, the proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies to promote public and

<sup>48</sup> City of San José. "Fast Facts." Accessed April 4, 2018. Available at <http://www.sanjoseca.gov/DocumentCenter/View/65881>

property safety. For these reasons, the proposed project would not result in significant impacts to fire protection services in the City.

**- Police Protection**

**Less than Significant Impact.** The proposed building is accounted for in the planned growth for the City and the proposed project would serve the existing population. Furthermore, the proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies to promote public and property safety. As a result, the proposed development would not require new police stations to be constructed or existing police stations to be expanded to serve the development while maintaining City service goals.

**- Schools, Parks and Other Public Facilities**

**No Impact.** The proposed project is the development of a parking lot with new commercial building. It does not propose any residential uses and as a result, no new residents or students would be directly generated by the proposed project. Therefore, the proposed project would have no impact on schools, parks, or library facilities in the City of San José.

## 4.16 RECREATION

### 4.16.1 Existing Setting

The City of San José owns and maintains approximately 3,502 acres of parkland, including neighborhood parks, community parks, and regional parks.<sup>49</sup> The City has 51 community centers and over 57 miles of trails.

The City's Department of Parks, Recreation, and Neighborhood Services is responsible for development, operation, and maintenance of all City park facilities.

Emma Prusch Farm Regional Park is located at 647 South King Road (opposite from the project site, across Story Road), approximately three-quarters of a mile from the project site. The park includes picnic sites that are capable of being reserved, barbecue facilities, restrooms, two youth playgrounds, a barn with plant and science center, two children's water play areas, and a parking lot on 43.5 acres.

### 4.16.2 Environmental Checklist

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

### 4.16.3 Impact Discussion

**a) 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?**

**No Impact.** The proposed project is the development of a parking lot with new commercial building. It does not propose any residential uses and no new residents would be directly generated by the proposed project. Therefore, the deterioration of local facilities and need to construct new and/or expanded recreational facilities would not occur because the project does not generate residential uses or new residents..

<sup>49</sup> City of San José. *Fast Facts*. Accessed: April 4, 2018. Available at: <http://www.sanjoseca.gov/DocumentCenter/View/65881>.

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

**No Impact.** See 4.16.3 a) above.



## **4.17 TRANSPORTATION/TRAFFIC**

### **4.17.1 Regulatory Setting**

#### **4.17.1.1 *Regional Transportation Planning***

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

#### **4.17.1.2 *Santa Clara County's Congestion Management Program***

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

#### **4.17.1.3 *City of San José Council Policy 5-3***

As established in City Council Policy 5-3 "Transportation Impact Policy" (2005), the City of San José uses the same Level of Service (LOS) method as the CMP, although the City's standard is LOS D rather than LOS E. 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.

#### **4.17.1.4 *Evergreen East Hills Development Policy***

In place of the citywide LOS D standard, the EEHDP, which is a revision of the Evergreen Development Policy, provides traffic capacity for a "Development Pool" of 500 residential units, 500,00 square feet of retail, and 75,000 square feet of commercial office within the Evergreen-East Hills Area, and the corresponding transportation infrastructure improvements. The EEHDP is intended to promote the long-term vitality of the Evergreen area by linking together development

with supporting transportation infrastructure improvements. In exchange for enabling development capacity in the area, the EEHDP provides a mechanism to require commensurate traffic impact fees in order to construct transportation system investments. The EEHDP also provides a framework for review of traffic-related impacts (which is more stringent than the Citywide LOS Policy TR-5.3) and provides project-level clearance for traffic impacts, traffic-related noise impacts, and air quality impacts associated with the “Development Pool” specified within the policy. All new development within the EEHDP Area is required to incorporate Transportation Demand Management (TDM) elements into facility design, to the extent possible, to reduce the demand of single-occupancy vehicles during peak commute periods.

#### **4.17.1.5      *K.O.N.A and East Valley/680 Communities Strong Neighborhood Initiative (SNI)***

This project is in the King Ocala Neighborhood Area (K.O.N.A.) and East Valley/680 Communities Strong Neighborhood Initiative (SNI) Areas. The K.O.N.A. Neighborhood Improvement Plan (NIP) includes Goal A: Safe and Efficient Transportation, Circulation and Parking as a specific goal for further development within the Plan Area. The K.O.N.A. NIP plan recognizes 10 priorities to focus resources towards in the neighborhood. The East Valley/680 Communities Neighborhood Improvement Plan also includes general goals for the Plan Area, with a list of 10 priority improvements. Number one priority improvement for the Plan Area is: Preserve and Improve the Tropicana Shopping Center. Transportation-related improvements specified in the NIP include: improved pedestrian and bicycle circulation, sidewalk repair and installation, street lighting, and street tree maintenance and installation.

#### **4.17.1.6      *Applicable Transportation Regulations and Policies***

*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-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-8.9:* 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.

#### **4.17.2        Existing Setting**

##### **4.17.2.1        *Roadway Network***

Regional access to the project site is provided via U.S. Highway 101 (U.S. 101). U.S. 101 is an eight-lane freeway (three mixed-flow lanes and one HOV lane in each direction). U.S. 101 extends northward through San Francisco and southward through Gilroy.

Local access to the project site is provided by King Road and Story Road. Story Road is a six lane divided arterial that extends from Fleming Avenue eastward to Senter Road westward. King Road is a four-lane, two-way roadway that extends from Mabury Road northwards to Aborn Road southwards.

##### **4.17.2.2        *Existing Pedestrian and Bicycle Facilities***

Sidewalks are present along the surrounding roadways. There are crosswalks at the Story Road and King Road intersection.

Bicycle facilities are comprised of paths (Class I), lanes (Class II), and routes (Class III). Bicycle lanes are in each direction on King Road along the project's frontage. The Coyote Creek trail is approximately 1.8 miles southwest of the project site.

##### **4.17.2.3        *Existing Transit Service***

There is a transit stop on South King Road serving the project area. The transit stop serves VTA Lines 12, 22, and 77 that have terminals at the Eastridge Transit Center, Palo Alto Caltrain Station, the San José Civic Center, and the Milpitas Great Mall/Main Transit Center.

#### 4.17.3 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

#### 4.17.4 Impact Discussion

- a) **Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?**

**Less than Significant Impact.** The VTA CMP requires a transportation impact analysis (TIA) to be prepared when a project would add 100 or more peak hour trips to the roadway network. Projects that generate fewer than 100 trips during peak hours are presumed to have a less than significant impact on the LOS of local intersections that would carry project traffic. The building site is currently a parking area of the shopping center. The site, by itself, does not

generate peak hour vehicle trips. The proposed commercial building is expected to increase traffic in the area. Since the project is located in the EEHDP area, however, it is not required to perform a TIA. The EIR for the EEHDP provides project-level environmental review for the Revised Evergreen Development Policy components of the Evergreen-East Hills Vision Strategy (EEHVS). The approved development for the EEHVS area includes 500,000 square feet of commercial space and 75,000 square feet of office space. The proposed project would develop 20,748 square feet of office space and 10,996 square feet of retail space within the Tropicana Shopping Center property. The City's Department of Public Works reviewed the project plans and determined that it would be in conformance with the City's Transportation Level of Service Policy (Council Policy 5-3) and would not create a significant traffic impact as long as the project development conforms with the levels of commercial retail and office space defined by the EEHVS. Of the 500,000 square feet commercial retail and 75,000 square feet office that was established in the 2008 EEHDP, only 55,260 square feet of commercial and 59,231 square feet of office are remaining from the original allocation. In order to guarantee traffic capacity and be included in the current allocation, this project would need to pay the Traffic Impact Fee (TIF) as soon as the Planning Permit is approved. The City has indicated that the project would be consistent with development levels evaluated by the EIR for the EEHDP and a determination of less than significant can be made with respect to traffic impacts. The project would be required to pay the current rate in effect at the time the Public Works Clearance is issued. Therefore, impacts related to conflicts with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, considering all modes of transportation would be less than significant.

- b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?**

**Less than Significant Impact.** Refer to response to 4.17 (a). The project would not conflict with VTA CMP and, therefore, the impact would be less than significant.

- c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?**

**No Impact.** The project site is located within the AIA for the Reid-Hillview Airport and is not located within the Norman Y. Mineta San José International AIA or safety zones. The proposed building would not exceed 50 feet in height and therefore, would not require Federal Aviation Administration (FAA) airspace review. Therefore, the proposed project would not result in a change in air traffic patterns.

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

**Less than Significant Impact.** The proposed project would be constructed within the Tropicana Shopping Center parking lot area that is served by two access driveways connecting South King Road to the parking lot. The commercial building would be situated between these two driveways. The driveways would continue to serve both existing retail commercial uses in the shopping center as well as the proposed project. The proposed project would include driveway improvements such as pedestrian crossing striping and signage to minimize potential

traffic safety hazards on the site. The driveway improvement plans would be subject to Public Works Department review and approval to ensure safe operational use of these driveways. The project also proposes to construct one new 32-foot wide driveway on Story Road. The new driveways would be integrated into the proposed project to ensure safe operation for pedestrians, bicyclists, and vehicles using the site.

The proposed project would include four-foot wide sidewalks on east and west sides of the building. There is an existing city sidewalk along the site's frontage on South King Road. The project proposes to widen the sidewalk to 12-feet. The site plan also shows a stone paved path would be provided for pedestrians and bicyclists along the site's frontage on South King Road. This path would connect the office entrance area to the east and west sides of the building. These proposed project improvements would improve site circulation and decrease hazards associated with the safety of pedestrians and bicyclists. Proposed pedestrian ramps at the access driveway would further improve pedestrian access for ADA compliance. Therefore, impacts related to hazardous design features or incompatible land uses would be less than significant.

**e) Result in inadequate emergency access?**

**Less than Significant Impact.** The proposed project would not alter access to the project site such that emergency access would be reduced, restricted, or otherwise diminished. The existing 26-foot driveway at the east and west border of the project parcel would remain adequate as under existing conditions. In addition, future commercial development of the project would be reviewed and approved by the San José Fire Department and Department of Public Works to ensure adequate emergency access during construction and operation and impacts would be less than significant.

**f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?**

**Less than Significant Impact.** The proposed commercial building would not generate a substantial number of bicycle trips. Nine bicycle parking spaces are required for the proposed project. 29 bicycle parking spaces would be provided consistent with San José requirements.

As discussed in 4.17.4 (d), the project proposes to provide sidewalks and paved paths in compliance with the City's adopted plans and policies to encourage multi-modal travel. Based on the size of the proposed commercial use, the project would not generate a substantial number of transit related trips. It is estimated that the small increase in transit demand generated by the proposed project could be accommodated by the current available ridership capacities of the transit services in the study area, and no project-sponsored transit related improvements would be necessary. Therefore, impacts related to conflicts with adopted policies, plans or programs supporting alternative transportation would be less than significant.

## **4.18 UTILITIES AND SERVICE SYSTEMS**

### **4.18.1 Regulatory Setting**

#### **4.18.1.1 *General Plan***

The *Envision San José 2040 General Plan* includes the following utility and service system 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-3.1:* Require water-efficient landscaping, which conforms to the State’s Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.

*Policy MS-3.2:* Promote use of green building technology or techniques that can help to reduce the depletion of the City’s potable water supply as building codes permit.

*Policy MS 3.3:* Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.

*Policy MS-19.1:* Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a sustainable local water supply.

*Policy MS-19.3:* Expand the use of recycled water to benefit the community and the environment.

*Policy MS-19.4:* Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.

*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).

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

#### **4.18.1.2 *San José Zero Waste Strategic Plan/Green Vision***

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

#### **4.18.2      Existing Setting**

There is no existing water use and wastewater generation as the building site is currently a parking lot without landscaping.

##### **4.18.2.1      *Water Services***

Water services are provided to the City of San José by three water retailers, San José Water Company (SJWC), the City of San José Municipal Water System (SJMWS), and the Great Oaks Water Company (Great Oaks). Water services to the project site would be supplied by the San José Water Company. There are currently no recycled water lines in the immediate site vicinity.<sup>50</sup>

##### **4.18.2.2      *Sanitary Sewer/Wastewater Treatment***

Wastewater from the City of San José is treated at the San José-Santa Clara Regional Wastewater Facility (the Facility). The Facility is a regional wastewater treatment facility serving eight tributary sewage collection agencies and is administered and operated by the City of San José's 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.<sup>51</sup> The facility is currently operating under a 120 million gallons per day (gpd) 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.

The General Plan EIR states that average wastewater flow rates are approximately 70 to 80 percent of domestic water use and 85 to 95 percent of business use (assuming no internal recycling or reuse programs). For the purposes of this analysis, wastewater flow rates are assumed to be 90 percent of the total on-site water use. There is an existing four-inch sanitary sewer main in the public right-of-way on the south side of King Road that the project would be draining to.

##### **4.18.2.3      *Storm Drainage***

The City of San José owns and maintains the municipal stormwater drainage system which serves the project parcel. The lines that serve the parcel drain into Coyote Creek and carry stormwater from the storm drain into San Francisco Bay. Coyote Creek is located approximately 1.24 mile west of the site. There is no overland release of stormwater directly into any water body from the project parcel.

Currently, 100 percent of the project site is impervious. There is an existing eight-inch storm drain line in the public right-of-way on S. King Road that the project will be draining to.

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<sup>50</sup> South Bay Water Recycling. *Recycled Water Pipeline System*. July 28, 2011. Accessed April 4, 2018. <https://www.sanjoseca.gov/DocumentCenter/View/4692>.

<sup>51</sup> City of San José. *San José-Santa Clara Regional Wastewater Facility*. Accessed: April 4, 2018. <http://www.sanjoseca.gov/?nid=1663>.



#### 4.18.2.4 *Solid Waste*

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California Integrated Waste Management Board in 1996 and was reviewed in 2004 and 2007. Each jurisdiction in the County has a landfill diversion requirement of 50 percent per year. In 2008, the City of San José diverted approximately 60 percent of the waste generated in the City. According to the IWMP, the County has adequate disposal capacity beyond 2022. In October 2007, the San José City Council adopted a Zero Waste Resolution which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022. The City landfills approximately 700,000 tons per year of solid waste including 578,000 tons per year at landfill facilities in San José. The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year. The existing parking lot does not generate any solid waste.

#### 4.18.3 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
c) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
d) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,9
e) Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,9
f) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,9
g) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,9
h) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,9

#### 4.18.4 Impact Discussion

a) **Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?**

**Less than Significant Impact.** The project site is in the jurisdiction of the City of San José. The General Plan FEIR states that average wastewater flow rates are approximately 70 to 80 percent of domestic water use and 85 to 95 percent of office and/or business use (assuming no internal recycling or reuse programs). For the purposes of this analysis, wastewater flow rates are assumed to be 90 percent of the total on-site water use due to the very limited landscaping on-site. The proposed 31,744 square foot commercial building would use approximately 22,568 gallons of water daily.<sup>52</sup> The proposed project site is estimated to generate 20,311 gpd of wastewater.<sup>53</sup>

Based on the City of San José General Plan FEIR, the City's average dry weather wastewater flow is approximately 69.8 million gallons per day (mgd). The City's capacity allocation at the San José-Santa Clara Regional Wastewater Facility is approximately 108.6 mgd, leaving the City with approximately 38.8 mgd of excess treatment capacity. Based on a sanitary sewer hydraulic analysis prepared for the General Plan FEIR, full build out under the General Plan would increase average dry weather flows by approximately 30.8 mgd, which is below the City's allocated treatment capacity. The project is part of the planned growth of the City and would not result in a substantial increase in wastewater generation at the site. Therefore, the impact would be less than significant.

b) **Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?**

#### Water

**Less than Significant Impact.** The proposed project would result in construction of a three-story commercial/office building with up to 20,748 square feet office space and 10,996 square feet retail space. The project would use approximately 22,423 gallons of water daily.

The General Plan FEIR determined that the City's water demand could exceed water supply with implementation of the General Plan during dry and multiple dry years after 2025. The General Plan policies, existing regulations, adopted plans and other City policies would continue to require water conservation measures be incorporated in new development which would substantially reduce water demand. In addition, the General Plan FEIR concluded that with implementation of General Plan water conservation policies and regulations, full build out under the General Plan would not exceed the available water supply under standard and drought conditions.

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<sup>52</sup> California Air Pollution Control Officers Association (CAPCOA). *CalEEMod. Appendix D Calculation Detail for CalEEMod. October 2017. Table 9.1 Water Use Rates.* Accessed February 26, 2018. Available at: [http://www.aqmd.gov/docs/default-source/caleemod/05\\_appendix-d2016-3-2.pdf?sfvrsn=4](http://www.aqmd.gov/docs/default-source/caleemod/05_appendix-d2016-3-2.pdf?sfvrsn=4). 31,744 square feet of proposed uses, 177,734 gallons/year/1,000 square feet (31,744) = 5,641,988 gallons/year or 22,568 gallons/day based on a 250-day year for the use.

<sup>53</sup> This number equates to 90 percent of the water usage in the buildings.

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 have a less than significant impact on the City's water supply.

### **Wastewater**

**Less than Significant Impact.** Refer to 4.18.4 (a).

- c) **Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?**

**Less than Significant Impact.** The City of San José owns and maintains the municipal storm drainage system which serves the project site. Because the project would disturb more than 10,000 square feet of impervious area, the project would be required to comply with the City's Post-Construction Urban Runoff Policy 6-29 and the NPDES MRP/C.3 requirement. Under existing conditions, 100 percent of the approximately 37,655 square foot building site is covered with impervious surfaces. Under project conditions, the project site would be covered with approximately 25,680 square feet of impervious surfaces. The proposed project would add 11,975 square feet of landscaped areas on the project site. The project would comply with the stormwater regulations by directing stormwater runoff to biotreatment cells. Compared to existing conditions, the proposed project would decrease both the rate and volume of stormwater runoff and, therefore, would not exceed the capacity of the City's existing storm drain system.

- d) **Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?**

**Less than Significant Impact.** Potable water for the proposed project would be supplied by San José Water Company. There is no existing water usage as the building site is currently a parking lot with no landscaping. The proposed project would add 3,154 gpd of water to the existing use of the shopping center.

The General Plan FEIR 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 have a less than significant impact on the City's water supply.

- e) **Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?**

**Less than Significant Impact.** Refer to Response to 4.18.3 (a) and (b). Impacts related to a determination by a wastewater treatment provider that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments would be less than significant.

- f) **Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?**

**Less than Significant Impact.** The proposed project would generate approximately 29.5 tons of solid waste per year.<sup>54</sup> The General Plan FEIR concluded that the increase in waste generated by full build out under the General Plan would not cause the City to exceed the capacity of existing landfills that serve the City. Future increases in solid waste generation from development allowed under the General Plan would be avoided with ongoing implementation of the City's Zero Waste Strategic Plan. This plan, in combination with existing regulations and programs, would ensure that full build out of the General Plan would not result in significant impacts from the provision of landfill capacity to accommodate the City's increased service population. Therefore, implementation of the proposed project would have a less than significant impact on the solid waste disposal capacity.

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<sup>54</sup> California Emissions Estimator Model. Users Guide. Appendix D, Table 10.1 *Solid Waste Disposal Rates*. Accessed February 26, 2018. [http://www.aqmd.gov/docs/default-source/caleemod/05\\_appendix-d2016-3-2.pdf?sfvrsn=4](http://www.aqmd.gov/docs/default-source/caleemod/05_appendix-d2016-3-2.pdf?sfvrsn=4). 31,744 square feet of proposed uses, 0.93 tons waste/year/1,000 square feet (31,744) = 29.5 tons/year.

## 4.19 MANDATORY FINDINGS OF SIGNIFICANCE

### 4.19.1 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-14
b) Does the project have impacts that are individually limited, but cumulatively considerable ("cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-14
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1-14

### 4.19.2 Impact Discussion

- a) **Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?**

**Less than Significant Impact.** The proposed project would not impact any biological resources except the new vehicle trips generated by the project that could contribute to cumulative off-site impacts from nitrogen deposition to serpentine habitat in southern Santa Clara County. The impacts would be reduced through payment of fair share fees to the SCVHP that are used to acquire and manage habitat to offset the effects of nitrogen deposition. The project could result in impacts to cultural resources, should they be discovered on-site during project construction, which would be reduced through standard measures required by the City of all development projects. With the implementation of the standard permit conditions described in this Initial Study, these impacts would be less than significant.

**b) Does the project have impacts that are individually limited, but cumulatively considerable?**

**Less than Significant Impact.** The project would emit criteria air pollutants and GHG emissions and contribute to the overall regional and global emissions of such pollutants. By its very nature, air pollution and GHG emissions are largely a cumulative impact. The project-level thresholds identified by BAAQMD are the basis for determining whether a project's individual impact is cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions. As discussed in *Section 4.3 Air Quality*, the project would have a less than significant impact on air quality. For this reason, the project would have a less than significant cumulative impact on air quality.

The proposed project includes measures to reduce GHG emissions and is consistent with the City's GHG Reduction Strategy and would not preclude the City or State from meeting emission reduction limits by the horizon year 2020. The proposed project would not generate long-term GHG emissions, either directly or indirectly, that would result in a cumulatively considerable contribution to global climate change.

Cumulative impacts of the proposed project on Biological Resources are considered less than significant as the project would pay all applicable SCVHP fees to mitigate the cumulative off-site impact from nitrogen deposition to serpentine habitat in southern Santa Clara County.

No known subsurface cultural resources exist on-site and there are no historic buildings on or adjacent to the project site. Standard Permit Conditions with regard to accidental discovery of cultural resources and human remains have been included to ensure potential impacts are less than significant and do not contribute to cumulative impacts.

The proposed project would be constructed in conformance with the recommendations of the site-specific geotechnical analysis as well as the most current California Building Code. Therefore, the project would not contribute to any cumulative impacts related to Geology, Soils and Seismicity.

The effects of the proposed project on Hazards and Hazardous Materials are less than cumulatively considerable due to regulations and best practices requiring proper storage, use and disposal of hazardous materials and wastes.

The project would generate surface runoff during construction. Standard permit conditions have been included in the project to reduce potential construction-related water quality impacts. Since these project impacts would be temporary and would be mitigated, the cumulative impacts on water quality would be less than significant.

There are no cumulative noise impacts associated with the proposed project. Construction noise impacts are anticipated to be temporary and localized. Vibration impacts associated with construction activities would be reduced with the implementation of standard measures to less than significant. Future cumulative roadway noise impacts would be less than significant as discussed in *Section 4.13 Noise and Vibration*.

The project is within the EEHDP area and would be consistent with the development levels evaluated by the EIR for the EEHDP by paying an approximate \$430,734 TIF. Consequently, there are no cumulative traffic or transportation impacts associated with the proposed project.

As discussed in the respective sections, the proposed project would have no impact or a less than significant impact on aesthetics, agriculture and forest resources, mineral resources, population and housing, public services, recreation, and utility and service facilities. There are no recently approved or reasonably foreseeable projects that, when combined with the proposed project, would result in a cumulatively considerable impact not previously identified by the General Plan FEIR. Therefore, none of the environmental impacts evaluated in this document would be cumulatively considerable.

**c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?**

**Less than Significant Impact with Mitigation.** As discussed in *Section 4.3 Air Quality*, a Community Risk Assessment (See Appendix A) was completed to evaluate the potential risks to humans from construction and operation of the project. The increased cancer risks and PM 2.5 concentration resulting from the project were found to be below applicable BAAQMD significance thresholds with identified mitigation MM AQ-1.1. Therefore, the impact on sensitive human receptors is less than significant.

As discussed in *Section 4.9 Hazards and Hazardous Materials*, the project does not have any significant hazards and hazardous material impacts. Implementation of the measures included in the project and compliance with City General Plan policies and measures would further reduce these impacts to a less than significant level.

As discussed in *Section 4.13 Noise and Vibration*, standard measures are proposed to reduce the construction vibration impact of the project on nearby residences and businesses. These would prohibit the use of heavy vibration-generating construction equipment, such as vibratory rollers or excavation using clam shell or chisel drops, within 30 feet of any adjacent building and would designate a person responsible for registering and investigating claims of excessive vibration. Therefore, the ground-borne vibration impact on sensitive human receptors would be less than significant.

No other potential risks to human beings were identified in the analysis.

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## **SECTION 6.0      LEAD AGENCY AND CONSULTANTS**

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### **6.1              LEAD AGENCY**

#### **City of San José, Department of Planning, Building and Code Enforcement**

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