Initial Study/Mitigated Negative Declaration

425 South Winchester Boulevard Project

SP19-065 and T19-042

SCH# XX

June 2020

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

MITIGATED NEGATIVE DECLARATION

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

PROJECT NAME: 425 South Winchester Project

PROJECT FILE NUMBERS: SP19-065 and T19-042

PROJECT DESCRIPTION: Special Use Permit and Tentative Map to allow the demolition of an existing gas station and allow the construction of a five-story mixed-use building consisting of retail/commercial, office, and residential uses. The ground level would contain approximately 8,000 square feet of retail/commercial space; additionally, approximately 5,000 square feet office space would be provided on the second floor. The proposed project also includes two levels of underground parking and three levels of residential uses totaling 27 residential units.

PROJECT LOCATION: 425 South Winchester Boulevard in the City of San José. The project site is on the northwest corner of South Winchester Boulevard and Olin Avenue.

ASSESSORS PARCEL NO.: 303-39-044 **COUNCIL DISTRICT:** 1

APPLICANT CONTACT INFORMATION: Mark Tersini, KT Urban Acquisitions, LLC., 21710 Stevens Creek Boulevard Suite 200, Cupertino, California, 95014 USA, (408) 257-2100

FINDING

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

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

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

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

C. AIR QUALITY.

Impact AQ-c: Project construction would exceed BAAQMD maximum increased cancer risk at the residential MEI.

MM AIR-1.1: Off-Road Diesel-Powered Construction Equipment

All mobile diesel-powered off-road equipment operating on-site for more than two days and larger than 50 horsepower shall, at a minimum, meet U.S. Environmental Protection Agency (EPA) particulate matter emissions standards for Tier 4 engines or equivalent. Prior to the issuance of any demolition permits, the project applicant shall submit a construction operations plan to the Supervising Planner of the Environmental Review Division of the Department of Planning, Building and Code Enforcement, which includes specifications of the equipment to be used during construction and confirmation this requirement is met. Such equipment could include concrete/industrial saws, graders, scrapers, rollers, cranes, forklifts, generator sets, and air compressors.

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

D. BIOLOGICAL RESOURCES.

Impact BIO-a: Demolition and construction activities, including the removal of trees from the project site, could impact nesting migratory birds and their nests.

MM-BIO-1:

Initial site disturbance activities, including vegetation removal, shall not occur during the general avian nesting season (February 1 through August 31, inclusive). If construction activities cannot be scheduled to avoid nesting season, the project applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and status of nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to avoid direct and indirect impacts to nesting birds. To avoid the destruction of active nests and protect the reproductive success of birds protected by the Migratory Bird Treaty Act and California Fish and Game Code, nesting bird surveys shall be performed not more than 14 days prior to vegetation clearance and structure demolition.

Following commencement of construction activities, no additional nesting bird surveys would be required. If active nests are discovered, a 300-foot radius avoidance buffer for raptors, and 50-foot radius avoidance buffers for other birds, shall be established around such active nests and no construction shall be allowed within the buffer areas until a qualified biologist has determined the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground disturbing activities shall occur within this buffer until the qualified biologist has confirmed breeding/nesting is complete and the young have fledged the nest. Nesting bird surveys are not

required for construction activities occurring between August 30 and February 1, inclusive.

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

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

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

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

I. HAZARDS AND HAZARDOUS MATERIALS.

Impact HAZ-d: The Project site is on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and has a closed Leaking Underground Storage Tank case. Project implementation may encounter residual concentrations of contaminants in soil and groundwater due to the site's past agricultural and gas station uses that exceed environmental screening levels and could expose construction workers, neighboring uses, and the environment to hazardous materials.

MM-HAZ-1:

After demolition but prior to issuance of any grading permits, a thorough Phase II Investigation of the property needs to be performed to determine if past site uses (e.g. gas station and agricultural history) have impacted the property and need to be addressed prior to excavation of the property for the underground parking garage. The purpose is to determine construction worker

safety issues and potential impact to the environment. A copy of the proposed Phase II sampling plan and the results of the Phase II Investigation shall be provided in a Report to the Director of the Department of Planning, Building and Code Enforcement or Director's Designee and the Municipal Compliance Officer of the City of San José Environmental Services Department for review.

If the Phase II indicates that residual contaminants are found and are above the Regional Water Quality Control Board environmental screening levels (ESLs) for construction worker safety, then a Site Health & Safety Plan must be completed to address measures to protect construction worker safety. If contamination exceeds residential ESLs, then the applicant must contact the SCCDEH to determine next steps. Next steps may include entering the Site Cleanup Program with the SCCDEH. The SCCDEH may require the project proponent to implement appropriate management procedures, such as removal of the contaminated soil and implementation of a Site Management Plan (SMP), Removal Action Workplan (RAP), or equivalent document. Copies of all environmental investigations and evidence of SCCDEH oversight shall be submitted to the Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement and the Supervising Environmental Compliance Officer in the City of San José's Environmental Services Department.

MM-HAZ-2:

Prior to any Underground Storage Tank (UST) removal activities including excavation, the project applicant shall obtain permits from the San José Fire Department (SJFD) and the SCCDEH. The permits include an Underground Storage Tank System Closure Permit Application with the SCCDEH and an Underground Storage Tank System Closure Application (UN-003) with the SJFD.

The SCCDEH and SJFD will be present during the tank removals and the SCCDEH will direct the applicant to collect soil samples in the former tank pit after the tanks have been removed. The soil samples will be tested, and depending upon the results, the SCCDEH will determine if the former USTs have leaked. If the USTs have leaked, the SCCDEH will designate the site as a leaking underground fuel leak case and require follow-up investigations and remediation, if necessary.

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

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

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

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

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

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

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

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

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

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

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

U. **MANDATORY FINDINGS OF SIGNIFICANCE**

Cumulative impacts would be less than significant. The proposed Project would implement the identified mitigation measures and would have either have no impacts or less-than-significant impacts on riparian habitat or other sensitive natural communities, migration of species, or applicable biological resources protection ordinances. Therefore, the proposed Project would not contribute to any cumulative impact for these resources. The Project would not cause changes in the environment that have any potential to cause substantial adverse direct or indirect effects on human beings.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **Tuesday August 4th, 2020** any person may:

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

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

Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Rosalynn Hughey, Director
Planning, Building and Code Enforcement

7-13-2020
Date

Deputy

Maira Blanco
Environmental Project Manager

Circulation period: July 15, 2020 to August 4, 2020

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Figures

Appendices

1.0 INTRODUCTION & PURPOSE

1.1 Project History

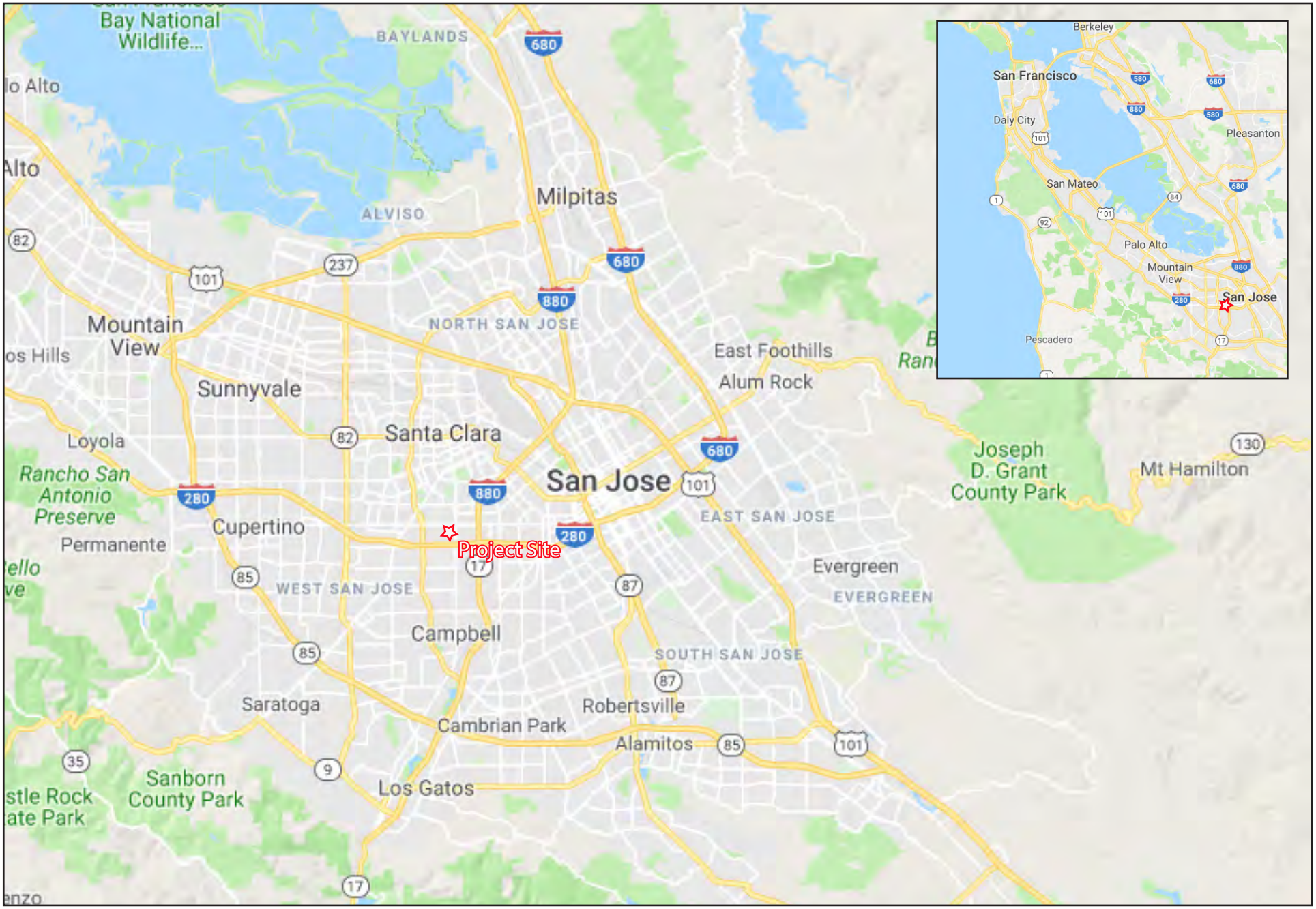
This Initial Study has been prepared by the City of San José (City) as the Lead Agency, in conformance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (Title 14, California Code of Regulations §15000 et seq.), and the regulations and policies of the City of San José. The purpose of this Initial Study is to provide objective information regarding the environmental consequences of the proposed project to the decision makers who will be reviewing and considering the project. The project site is located at 425 South Winchester Boulevard in the City of San José. The project site is on the northwest corner of South Winchester Boulevard and Olin Avenue. See Figure 1-2, Project Vicinity Map.

Envision San José 2040 General Plan Final and Supplemental Environmental Impact Report

In November 2011, the City of San José approved the Envision San José 2040 General Plan (General Plan), which is a long-range program for the future growth of the City. The General Plan Final Environmental Impact Report (FEIR) (SCH#2009072096), as amended, was a broad range analysis of the planned growth and did not analyze specific development projects. The intent was for the General Plan FEIR to be a program level document from which subsequent development consistent with the General Plan could tier. The General Plan FEIR did, however, develop project level information whenever possible, such as when a particular site was identified for a specific size and type of development. The General Plan FEIR also identified mitigation measures and adopted Statements of Overriding Consideration for all identified traffic and air quality impacts resulting from the maximum level of proposed development. For all other effects, it was concluded that implementation of General Plan policies, existing regulations, and adopted plans and policies would reduce the impact to a less than significant level. These conclusions are generally based on the assumption that all future projects allowed under the General Plan will reduce impacts to a less than significant level through measures included in project design or as conditions of approval, consistent with the policies and procedures for protecting environmental quality in the General Plan. Future development projects will be evaluated for consistency with this assumption and may require supplemental analysis to identify additional mitigation measures.

In December 2015, the City of San José also approved an Envision San José 2040 General Plan Supplemental Program EIR (General Plan SEIR) to include and update the greenhouse gas emissions analysis. On December 13, 2016, as part of the General Plan 4-Year Review, the City Council approved an addendum to the General Plan FEIR (as amended) and SEIR, to modify the job capacity to 751,650, reducing the number of jobs by 87,800. The number of residential units remained the same at 429,350 residential units.

The General Plan identifies specific Growth Areas with a defined development capacity for each area and places each Growth Area into one of three Horizons for the phasing of residential development. The project site is currently located within the City of San José Santana Row/Valley Fair Urban Village Plan area. At the time of its adoption, the Santana Row/Valley Fair Urban Village Plan was included in Horizon 3. On November 14, 2018, a City-initiated General Plan Text Amendment was approved by City Council to amend Appendix 5 of the *Envision San José 2040 General Plan and the Housing Growth Areas by Horizon Map* to shift certain Horizon 2 and 3 Urban Villages into Horizon 1 as directed by the Housing Crisis Workplan. The San José Santana Row/Valley Fair Urban Village Plan was shifted from Horizon 3 into Horizon 1.



Source: Google Earth, 2019

Figure 1-1: Regional Location

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Source: Nearmap, 2019

Figure 1-2: Project Vicinity Map

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2.0 PROJECT INFORMATION

2.1 Project Title and File Number

425 South Winchester Boulevard Project
File Nos. SP19-065 and T19-042

2.2 Project Location

The 0.55-gross acre project site is located at 425 South Winchester Boulevard in the City of San José. The project site is on the northwest corner of South Winchester Boulevard and Olin Avenue. See Figure 1-1 and Figure 1-2.

2.3 Lead Agency Contact

City of San José
200 East Santa Clara Street, 3rd Floor
San José, California 95113

Environmental Project Manager: Maira Blanco
Phone: (408) 535-7837
Email: Maira.Blanco@sanjoseca.gov

2.4 Property Owner/Project Applicant

Contact: Mark Tersini
KT Urban
21710 Stevens Creek Blvd., Ste. 200
Cupertino, CA 95014

2.5 Assessor's Parcel Number

APN 303-39-044

2.6 Zoning District and General Plan Designation

General Plan: Mixed Use Commercial (MUC)
Zoning: Commercial General (CG)

2.7 Habitat Plan Designation

Land Cover Designation:	*Urban-Suburban*
Development Zone:	*Urban Development greater than two acres covered*
Fee Zone:	*Urban Area*
Owl Conservation Zone:	*N/A*

2.8 Project-Related Approvals, Agreements and Permits

Special Use Permit
Vesting Tentative Map
Demolition Permit
Public Works Clearances: Grading Permit
Building Permit

3.0 DESCRIPTION OF PROPOSED PROJECT

3.1 Proposed Development

The project site is located at 425 South Winchester Boulevard in the City of San José, California on an approximate 0.55–acre parcel. The proposed 425 South Winchester Boulevard project (proposed project) would construct a five-story mixed-use building with retail/commercial, office, and residential uses. The maximum height of the building would be 65 feet[1]. The ground level would contain approximately 8,000 square feet of retail/commercial space; additionally, approximately 5,000 square feet office space would be provided on the second floor. The proposed project also includes two levels of underground parking and three levels of residential uses totaling 27 residential units. The primary pedestrian entrance to the building lobby would be on Olin Avenue. The proposed project floor plan would consist of:

- Levels B1 and B2 includes basement parking for office/retail (B1) and residential (B2)
- Level 1 would include the building lobby, retail space, and fitness room.
- Level 2 includes 4 two-bedroom units, 1 three-bedroom unit, and office space
- Levels 3 through 4 includes 8 one-bedroom units, 9 two-bedroom units, and 1 three-bedroom unit
- Level 5 includes 2 two-bedroom penthouse unit, 2 three-bedroom penthouse units, amenity area, amenity terrace, and private terrace areas
- The rooftop is designed with private terrace areas

The proposed project would include approximately 7,195 square feet of private open space (such as balconies) and approximately 2,820 square feet of open space common to the project residents (such as the amenity terrace on Level 5). A rendering of the proposed structures is shown in Figure 3-1, Proposed 425 South Winchester Rendering A through Figure 3-3, Proposed 425 South Winchester Rendering C. A site plan for the proposed project is shown on Figure 3-4, Project Site Plan. A typical residential floor plan for the proposed project is shown in Figure 3-5, Typical Residential Floor Plan.

Total on-site parking would include a total of 93 parking spaces. Level B1 would include 54 residential parking spaces. Level B2 would include 34 retail parking spaces and 19 office parking spaces. Vehicular parking in Level B1 and B2 would be accessible from a driveway off Olin Avenue. Vehicles exiting from the underground parking would also egress from the driveway off Olin Avenue. The driveway would have a width of approximately 22 feet. Additionally, 24 bicycle racks would be located on the ground floor (Level 1) in a secured bike parking room with access from the lobby (refer to Figure 3-6, Ground Floor Plan).

Construction of the proposed project is expected to commence in 2021 and last for approximately 19 months.

[1] The proposed building would have height of 65 feet to the parapet with up to 10 feet of building projections, consistent with the allowable height limitations of the Santana Row/Valley Fair Urban Village Plan.

SE AERIAL PERSPECTIVE

NE AERIAL PERSPECTIVE

NW AERIAL PERSPECTIVE

NW STREET PERSPECTIVE - SPAR AVE.

Source: C2K Architecture

Figure 3-1: Proposed 425 S. Winchester Rendering A

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SE PERSPECTIVE - INTERSECTION OF OLIN AND WINCHESTER BLVD.

SOUTH PERSPECTIVE - VIEW FROM OLIN AVE.

NW PERSPECTIVE - VIEW FROM NW CORNER OF PARCEL

NE PERSPECTIVE - VIEW FROM WINCHESTER BLVD.

Source: C2K Architecture

Figure 3-2: Proposed 425 S. Winchester Rendering B

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STREET PERSPECTIVE - DRIVING SOUTH ON WINCHESTER BLVD.

SE PERSPECTIVE - VIEW FROM SIDEWALK ACROSS WINCHESTER BLVD.

SE PERSPECTIVE - LOOKING WEST DOWN OLIN AVE.

SW PERSPECTIVE - FROM SIDEWALK ALONG OLIN AVE.

Source: C2K Architecture

Figure 3-3: Proposed 425 S. Winchester Rendering C

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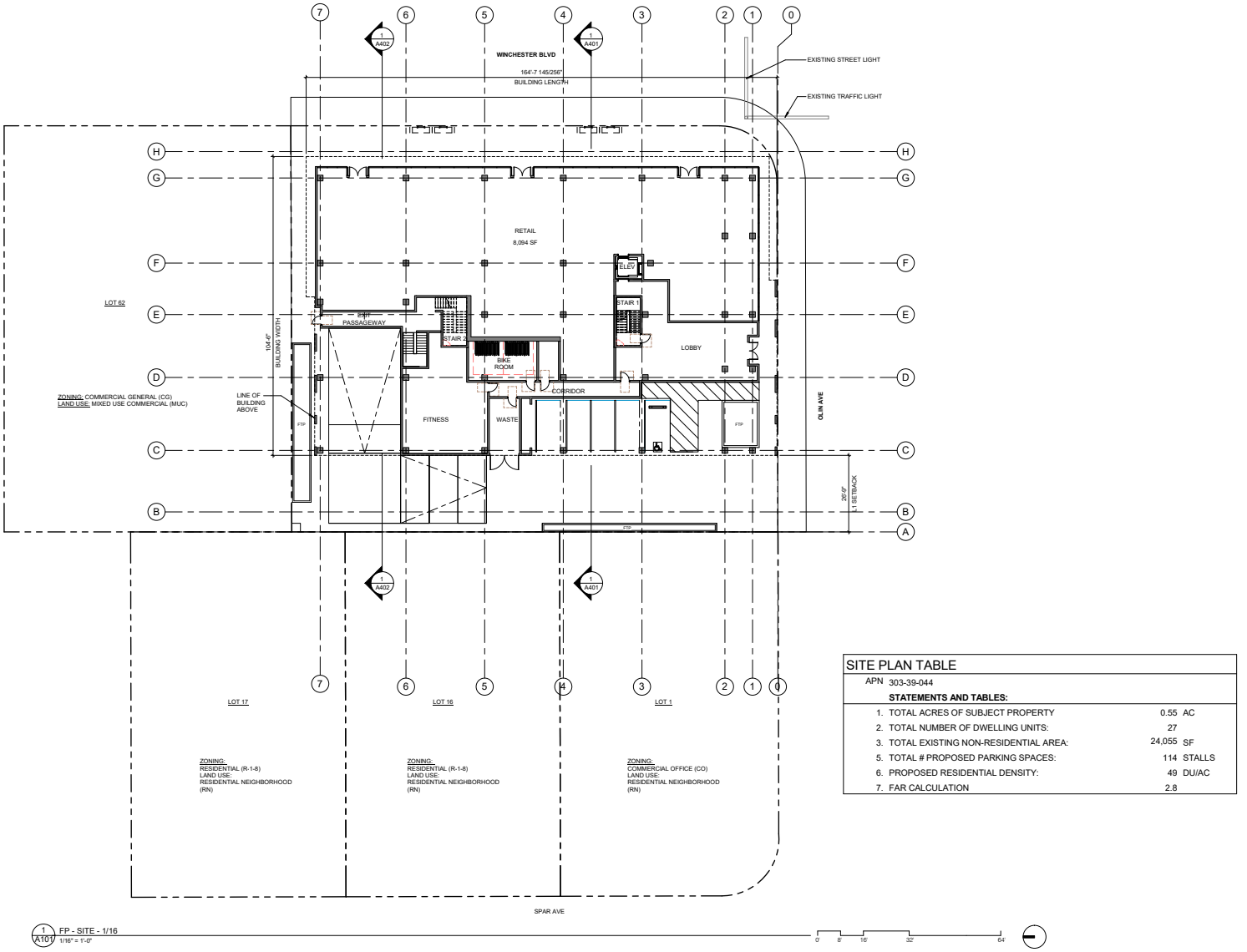

SITE PLAN TABLE		
APN	303-39-044	
	STATEMENTS AND TABLES:	
1.	TOTAL ACRES OF SUBJECT PROPERTY	0.55 AC
2.	TOTAL NUMBER OF DWELLING UNITS:	27
3.	TOTAL EXISTING NON-RESIDENTIAL AREA:	24,055 SF
5.	TOTAL # PROPOSED PARKING SPACES:	114 STALLS
6.	PROPOSED RESIDENTIAL DENSITY:	49 DU/AC
7.	FAR CALCULATION	2.8

Source: C2K Architecture

Figure 3-4: Project Site Plan

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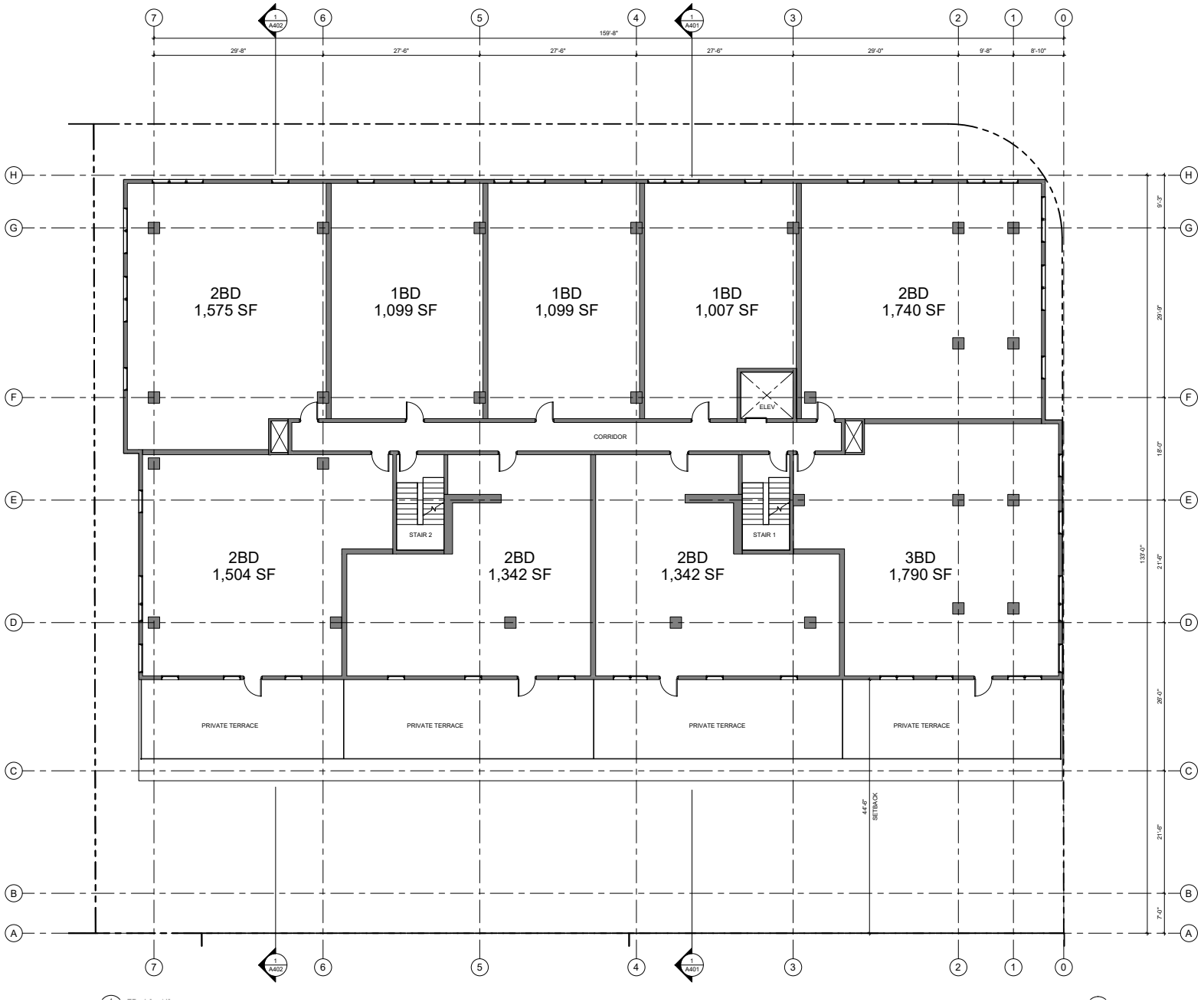

Source: C2K Architecture

Figure 3-5: Typical Residential Floor Plan

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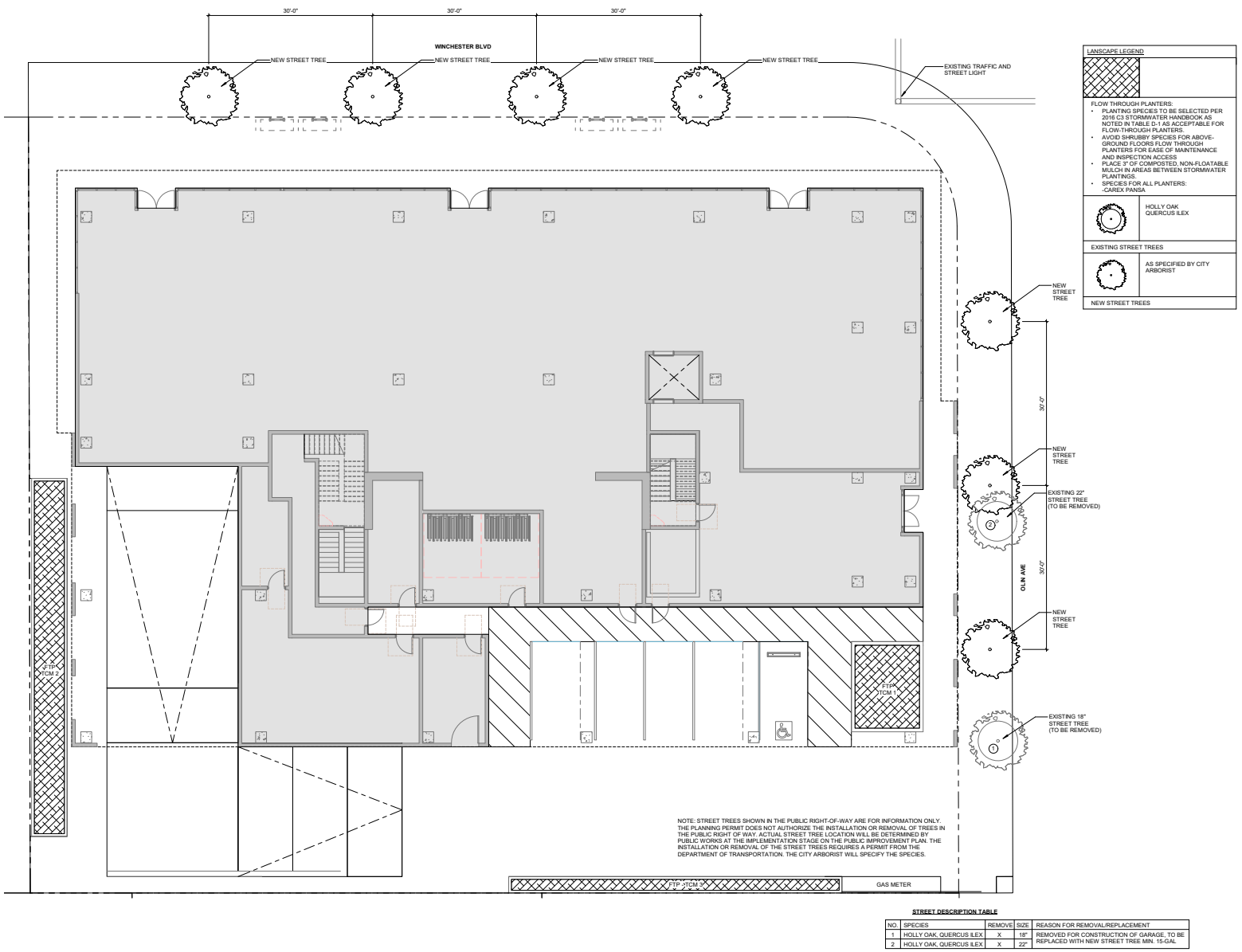

Source: C2K Architecture

Figure 3-7: Landscape Plan

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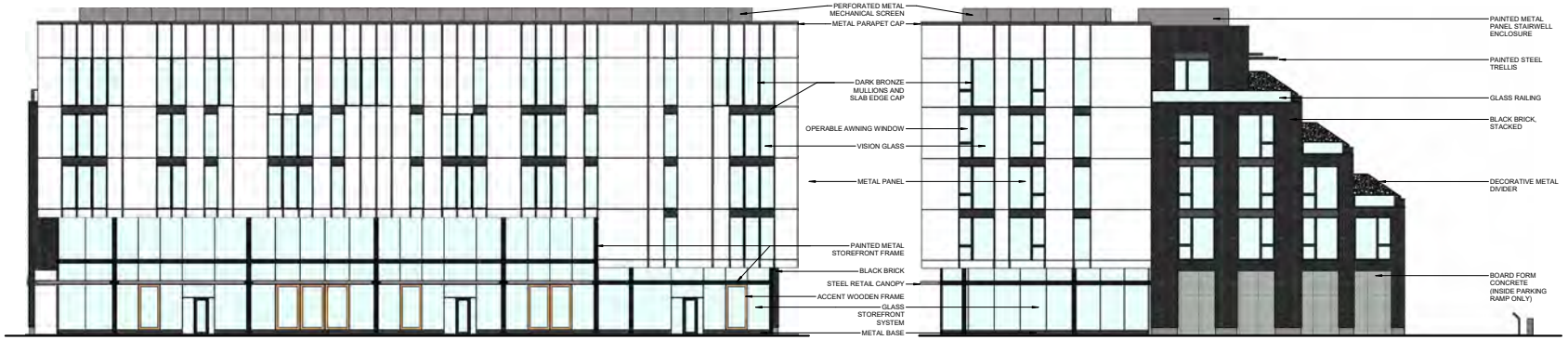
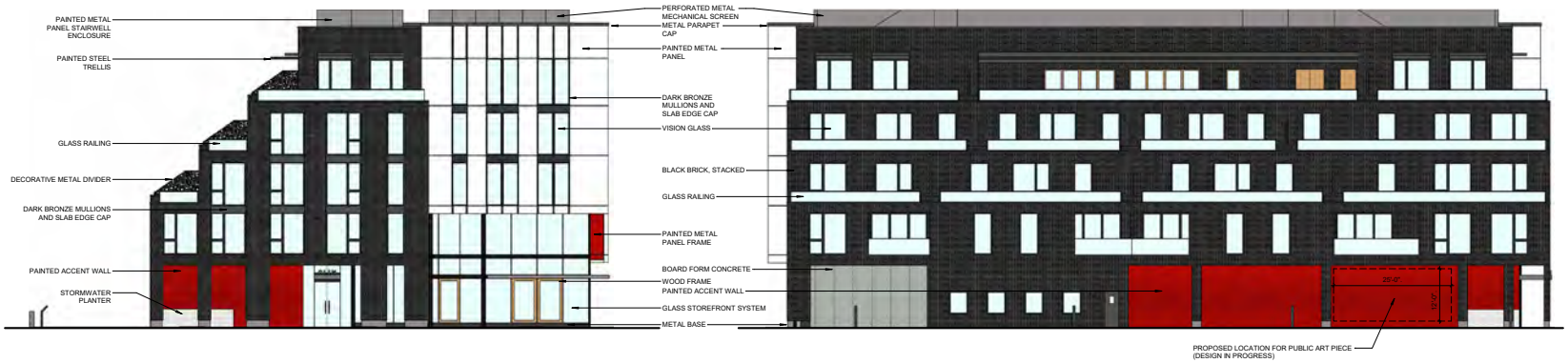


EAST ELEVATION

NORTH ELEVATION



SOUTH ELEVATION

WEST ELEVATION

Source: C2K Architecture

Figure 3-8: Proposed Elevation

425 Winchester Project
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3.2 Existing Project Site

The 0.55-acre project site is located at 425 South Winchester Boulevard (APN: 303-39-044) in the City of San José, on the northwest corner of South Winchester Boulevard and Olin Avenue. Currently, the project site is developed a gas station that is still in operation. The existing gas station has a single-story building, four pumping stations in the center of the project site, and surface parking along the northern and western boundaries. There is existing landscaping along the western, northern and eastern (South Winchester Boulevard) frontages of the project site. There are two existing oak trees along Olin Avenue. The project site also has existing light fixtures .

There is one driveway that allows access to the project site from South Winchester Boulevard and another driveway allows access to the project site from Olin Avenue. For vehicles exiting the project site onto South Winchester Boulevard, vehicles can only make a right turn to exit. There is existing utility access (water, sewer, electricity, gas) to the project site and no native habitat exists on the site.

3.3 Project Site Vicinity

The project site is located in an urban area with a mix of uses including commercial, office, and medium to high density residential uses. The project site is within the City of San José Santana Row/Valley Fair Urban Village Plan area, which is characterized by a wide range of commercial, residential, retail, and restaurant uses. The commercial area is home to two large retail commercial centers, Westfield Valley Fair Mall and Santana Row. The project site is located approximately 114 feet west of Santana Row, immediately across South Winchester Boulevard.

The project site is bound by South Winchester Boulevard to the east and Olin Avenue to the south. Immediately to the west, the project site is surrounded by a two-story commercial building located at 390 Spar Avenue and single-family residential uses along Spar Avenue. Immediately north of the project site is a vacant single-story building that previously operated as retail. Smaller existing commercial uses surround the project site to the north, east, and south. Immediately south of the project site, across Olin Avenue, an office/retail development, the Santana West Development Project, is currently under construction. The new development will include up to 970,000 square feet of office space and 29,000 square feet of retail space in six buildings, and retention of the Century 21 Theater building. The buildings would range in height from six to nine stories.

Interstate 280 runs approximately 0.25 mile south of the project site and Interstate 880 runs approximately 0.5 mile east of the project site. The project site is near Valley Transportation Authority (VTA) bus stop for routes 23, 60, and 323. Route 60 has nine bus stops. The nearest Route 60 bus stop is approximately 100 feet east of the project site, immediately across South Winchester Boulevard. Route 23 has 11 bus stops. The nearest Route 23 bus stop is located approximately 0.18-mile northwest of the project site, located on Stevens Creek Boulevard between North Winchester Boulevard and Hanson Avenue. Route 323 has eight bus stops. The nearest Route 323 bus stop is located approximately 0.19-mile northeast of the project site, located on Stevens Creek Boulevard between North Winchester Boulevard and Santana Row.

The Valley Fair Transit Center is located approximately 0.40-mile northeast of the project site, south of Forest Avenue between North Winchester Boulevard and North Redwood Avenue. The Valley Fair Transit Center serves two bus routes, Routes 23 and 60.

4.0 ENVIRONMENTAL ANALYSIS

4.1 Aesthetics

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

Existing Setting

The 0.55-acre project site is developed as an existing gas station that is still in operation. The existing gas station is a single-story building with full auto service. There is existing landscaping and trees on the adjacent sidewalk along Olin Avenue and landscaping north of the project site. The project site also has existing surface lighting.

The project site and surrounding area is highly urbanized. Buildings and transportation infrastructure (i.e., freeways, and roadways) dominate the aesthetic character. The vast majority of the surrounding area is covered with impervious surfaces. The project site is bordered on two sides by streets, South Winchester Boulevard and Olin Avenue. Surface parking stalls are located to the north and western boundaries of the project site.

The project site is located within an urban area of San José within the Santana Row/Valley Fair Urban Village Plan area and is bordered by commercial uses to the south, west, north, and across South Winchester Boulevard. The commercial uses are a mix of restaurants, retail, and offices.

Surrounding Area

The project site is surrounded by existing urban development and roadways. Immediately to the west of the project site a two-story commercial building with a surface parking lot. Further to the west, along Spar Avenue are single-family residences. Immediately to the north is a vacant single-story building that previously operated as retail. Adjacent to this vacant building is a single-story building occupied by a sushi restaurant. Across South Winchester Boulevard to the east is a three-story commercial building occupied by a restaurant. Across Olin Avenue to the south is a single-story building that previously operated as a restaurant. As discussed in Section 3.0 Description of Proposed Development, a new development consisting of six buildings ranging from six to nine stories of commercial and office space is currently under construction to the south of the project site.

Scenic Views

The City of San José is located in the Santa Clara Valley, bounded by the foothills of the Santa Cruz Mountains to the west, the Santa Teresa Hills to the south, and the Diablo Mountain Range to the east. The topography of the project site is flat and therefore does not provide scenic views of the Diablo foothills, approximately 10 miles east, or the Santa Cruz Mountains, approximately seven miles west, of the proposed project site. Due to its urban location, existing buildings, trees, and infrastructure (e.g., utility lines, elevated roadways, etc.) obscure viewpoints and viewsheds.

Nighttime Lighting

Sources of nighttime lighting in the Santana Row/Valley Fair Urban Village Plan area include indoor lighting visible through windows and outdoor lighting of signs, buildings, walkways, parking lots, commercial buildings, and parking structures.

Applicable Plans, Policies, and Regulations

City of San José Municipal Code

The City's Municipal Code includes several regulations associated with protection of the City's visual character and control of light and glare. Several sections of the Municipal Code include controls for lighting of signs and development adjacent to residential properties. These requirements call for floodlighting to have no glare and lighting facilities to be reflected away from residential use so that there will be no glare. The City's Zoning Ordinance (Title 20 of the Municipal Code) includes design standards, maximum building height, and setback requirements.

City Council Outdoor Lighting Policy 4-3

City Council Policy 4-3 contains guidelines for the use of outdoor lighting. The purpose of this policy is to promote energy-efficient outdoor lighting on private development in the City of San José that provides 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.

Residential Design Guidelines

The Residential Design Guidelines establish a framework for private residential units in San José and reinforce guidelines established in the General Plan. The Residential Design Guidelines are divided into

three parts: relationship to surroundings, internal organization, and guidelines for specific housing types. The Guidelines include information on street frontage, perimeter setbacks, parking, landscaped areas, building design, and street design, which ultimately influence how developers and residents view and interact with one another in the city.

Envision San José 2040 General Plan

Policy CD-1.1	Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
Policy CD-1.8	Create an attractive street presence with pedestrian-scaled building and landscaping elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity throughout the City.
Policy CD-1.12	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
Policy CD-1.13	Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.
Policy CD-1.17	Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.
Policy CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
Policy CD-4.5	For new development in transition areas between identified Growth Areas and nongrowth areas, use a combination of building setbacks, building step-backs, materials, building orientation, landscaping, and other design techniques to

	provide a consistent streetscape that buffers lower-intensity areas from higher-intensity areas and that reduces potential shade, shadow, massing, view shed, or other land use compatibility concerns.
Policy CD-4.9	For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).

Santana Row Valley Fair Urban Village Plan

DG-35	Non-occupiable architectural features such as roof forms, chimneys, stairwells and towers may project up to ten feet above the maximum height.
DS-1	Ground floor building frontages shall have clear, untinted glass or other glazing material on at least 60% of the surface area of the facade between a height of two and seven feet above grade.
DS-7	Buildings shall maintain facade quality of architectural articulation and finishes on all sides of a building that is visible to the public. Some of the architectural features of the main facade shall be incorporated into the rear and side elevations.
DS-8	Projects must comply with the SRVF Urban Village Height Limits.
DS-9	New projects proposed within the Urban Village Plan over 55 feet in height must provide detailed visualizations of their proposed project that show what the project would look like from the street-level, from different perspectives and distances, within the context of the neighborhood including both current and proposed projects.

Discussion

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

And,

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

Less than Significant Impact. The project site is surrounded by a combination of commercial and residential buildings with a mix of older and more modern design buildings. While there are intermittent views of the Santa Cruz Mountains to the south from the right-of-way of South Winchester Boulevard, the project area is relatively flat and views of scenery other than buildings are limited. In addition, the project site is not located along a state scenic highway or designated scenic corridor. The nearest Officially Designated State Scenic Highway is Highway 9 located approximately 6.2 miles southwest of the proposed project site. Santa Clara County has two Eligible State Scenic Highway sections- Highway 280 and Highway 17- approximately 5.8 miles west and 0.67 miles southeast of the project site, respectively. The project

site would not be visible from these eligible State Scenic highway segments. The project would not result in an adverse effect a scenic vista or damage scenic resources within a State-designated scenic highway. Thus, impacts would be less than significant.

c) *In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?*

Less than Significant Impact. The project site is surrounded by a combination of commercial and residential buildings with a mix of older and more modern buildings. Implementation of the proposed project would alter the visual character of the project site. Although the proposed five-story building would represent a visual change from the existing conditions, it would be consistent with the type of development planned for this area in the General Plan and Santana Row/Valley Fair Urban Village Plan. The proposed building would have height of 65 feet[2], which is consistent with the height limitations for the project site outlined in the Santana Row/Valley Fair Urban Village Plan. Figure 3-1 through Figure 3-3 demonstrates the proposed building heights in relation to the surrounding structures. As shown in Figure 3-1 through Figure 3-3, the proposed project would be similar in height to that of the surrounding buildings. Hotel Valencia, located approximately 500 feet west of the project site, is approximately 87 feet in height. In addition, the Santana West Redevelopment Project, located on the parcel immediately south of the project site, has a proposed maximum height of 65 feet.

The project proposes to remove two street trees to facilitate the construction of the project. The street trees would require a Public Works Street Tree Removal Permit and the proposed project would be subject to replanting vegetation in accordance with the recommendations of the City's arborist. Additionally, the project proposes new landscaping along the project's frontages to enhance the visual appearance of the site. In addition, the proposed project lighting facilities would be reflected away from residential properties so that there would be no glare, consistent with the City of San José Municipal Code.

The proposed project would be required to comply with the Santana Row/Valley Fair Urban Village Plan design guidelines and the City's Residential Design Guidelines, which would ensure that the building would be visually compatible with the surrounding area of the Santana Row/Valley Fair Urban Village Plan area. Consistent with the Santana Row/Valley Fair Urban Village Plan design guidelines, the proposed project design would include stepbacks in order to create a good visual transition from taller commercial structures to smaller residential structures (refer to Figure 3-8, Proposed Elevations). The proposed stepbacks, which ensure a smooth visual transition into the adjacent residential area, would ensure the project is generally consistent with the surrounding built environment. With adherence to the Residential Guidelines, and the policies set forth in the General Plan and Santana Row/Valley Fair Urban Village Plan Design Guidelines, the proposed project would not substantially degrade the existing visual character or quality of the project site and its surroundings. Thus, impacts would be less than significant.

[2] The proposed building would have height of 65 feet to the parapet with up to 10 feet of building projections, consistent with the allowable height limitations of the Santana Row/Valley Fair Urban Village Plan.

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

Less than Significant Impact. The proposed project would include outdoor lighting on the site typical of a mixed-use, multi-unit residential development. Existing ambient sources of nighttime lighting include neon and fluorescent signs, lighting of building exteriors and architectural accents, illumination through windows, landscape lighting, street lighting, parking lot lighting, and vehicle headlights. Glare within the project area is created by the reflection of sunlight and electric lights off of windows and building surfaces. The proposed project would go through a design review process during the planning review and would be reviewed for consistency with the General Plan, San José Municipal Code, Santana Row/Valley Fair urban Village Design Guidelines, City's Residential Design Guidelines, and related City Council Development policies such as Outdoor Lighting on Private Developments (Policy 4-3). For example, the Section 20.75.360 of the San José Municipal Code states that any and all lighting facilities hereafter erected, constructed, or used in connection with any use conducted on any property situate adjacent to a site or lot used for residential purposes shall be arranged and shielded that all light will be reflected away from any residential use so that there will be no glare which will cause unreasonable annoyance to occupants of such property, or otherwise interfere with the public health, safety, or welfare. Additionally, the City's Residential Design Guidelines suggest that materials such as stone, metal, or glass should be used on building exteriors and that glass materials utilized above the ground floor should have a maximum reflectivity of 8 percent, which would help to reduce glare. The General Plan FEIR, as supplemented, concluded that new development and redevelopment allowed under the General Plan would result in new sources of nighttime light and daytime glare; however, compliance with General Plan policies and existing regulations and adopted plans would avoid substantial light and glare impacts. Thus, impacts would be less than significant.

4.2 Agriculture and Forestry Resources

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. 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?				X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
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))?				X
d) Result in the loss of forest land or conversion of forest land to non-forest use?				X
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?				X

Existing Setting

The project area is identified as urban and built-up land on the State of California Important Farmland Map. Urban and built-up land is defined as land occupied by structures with a building density of at least one unit to a 1.5-acre parcel (or approximately six structures to a 10-acre parcel). Residential, industrial, institutional facilities, cemeteries, and sanitary landfills are common examples of Urban Built-Up Land.

There is no designated farmland on or adjacent to the project site. The project site is also not subject to a Williamson Act contract. [3]

Applicable Plans, Policies, and Regulations

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.

Farmland Mapping and Monitoring Program

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

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.

Discussion

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?

No Impact. The proposed project site and surrounding areas are not designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance on the State of California Important Farmland Map, and therefore would not result in a conversion of documented agricultural lands to non-agricultural use. Therefore, no impacts would occur.

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

No Impact. The proposed project site is not currently zoned for agricultural use and is not under a Williamson Act contract. Therefore, no impacts would occur.

[3] California, State of, Department of Conservation, Williamson Act/Land Conservation Act. Available at http://www.conservation.ca.gov/dlrp/lca. Accessed August 26, 2019.

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))?

No Impact. The project site is not currently zoned for forest land, timberland, or timberland zoned for production. Therefore, improvements planned as part of the proposed project would not conflict with existing zoning or cause rezoning of any such land. Therefore, no impacts would occur.

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

No Impact. The project site does not contain forest land. Therefore, no impact would occur in regard to changing forest land to a non-forest use. Therefore, no impacts would 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. No designated agricultural or forest land is located within the project site. Therefore, no impacts would occur.

4.3 Air Quality

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?			X	
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?			X	
c) Expose sensitive receptors to substantial pollutant concentrations?		X		
d) Result in other emissions (such as those leading to odors adversely affecting a substantial number of people?			X	

Existing Setting

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

Pollutants in the air can cause health problems, especially for children, the elderly, and people with heart or lung problems. Healthy adults may experience symptoms during periods of intense exercise. Pollutants can also cause damage to vegetation, animals, and property.

Sensitive populations are more susceptible to the effects of air pollution than the general population. Sensitive receptors in proximity to localized sources of toxics are of particular concern. Land uses considered sensitive receptors include residences, schools, playgrounds, childcare centers, long-term health care facilities, rehabilitation centers, convalescent centers, and retirement homes.

The proposed project site is located in an urban area in City of San José. The surrounding land uses are predominantly commercial, with some residences to the west. The eastern boundary of the site is South Winchester Boulevard. Table 4-1 lists the distances and locations of nearby sensitive receptors, which primarily include single-family residences.

Table 4-1: Sensitive Receptors

Receptor Description	Distance and Direction from the proposed project Site
Single-family residential community	20 feet west
Mixed use residential (under construction)	150 feet southeast
Hotel Valencia Santana Row	700 feet east
Assisted Living/Senior Housing	750 feet south
Winchester Mystery House	800 feet south
Shein Medicine Pediatrics and Associates	1,300 feet northwest
National University – San Jose	1,300 feet southeast
Single-family residential community	1,400 feet east
Santana Park	1,600 feet southeast
West Valley Alliance Church	1,800 feet southeast
Orion Montessori School	0.5 miles west
Christ Church of India	0.5 miles west

Applicable Plans, Policies, and Regulations

Ambient Air Quality Standards

The project is located within the San Francisco Bay Area Air Basin. The Bay Area Air Quality Management District (BAAQMD) is the local agency authorized to regulate stationary air quality sources in the Bay Area. The federal Clean Air Act and the California Clean Air Act mandate the control and reduction of specific air pollutants. Under these Acts, the U.S. Environmental Protection Agency (US EPA) and the California Air Resources Board (CARB) have established ambient air quality standards for specific "criteria" pollutants, designed to protect public health and welfare. Primary criteria pollutants include carbon monoxide (CO), reactive organic gases (ROG), nitrogen oxides (NO_x), particulate matter (PM_{10}), sulfur dioxide (SO_2), and lead (Pb). Secondary criteria pollutants include ozone (O_3), and fine particulate matter.

CARB and the U.S. Environmental Protection Agency (EPA) establish ambient air quality standards for major pollutants at thresholds intended to protect public health. The standards for some pollutants are based on other values such as protection of crops or avoidance of nuisance conditions. Table 4-2 summarizes the State California Ambient Air Quality Standards (CAAQS) and the Federal National Ambient Air Quality Standards (NAAQS).

Table 4-2: State and National Ambient Air Quality Standards and Attainment Status for the San Francisco Bay Area Basin

Pollutant	Averaging Time	California Standards		National Standards	
		Concentration	Attainment Status	Concentration	Attainment Status
Ozone (O_3)	8 Hours	0.070 ppm (137µg/m^3)	No information available	0.070 ppm	N
	1 Hour	0.09 ppm (180 µg/m^3)	N	No standard	Not applicable

Pollutant	Averaging Time	California Standards		National Standards	
		Concentration	Attainment Status	Concentration	Attainment Status
Carbon Monoxide (CO)	8 Hours	9.0 ppm (10 mg/m^3)	A	9 ppm (10 mg/m^3)	U/A
	1 Hour	20 ppm (23 mg/m^3)	A	35 ppm (40 mg/m^3)	U/A
Nitrogen Dioxide (NO_2)	1 Hour	0.18 ppm (339 µg/m^3)	A	No standard	Not applicable
	Annual Arithmetic Mean	0.030 ppm (57 µg/m^3)	No information available	0.053 ppm (100 µg/m^3)	U/A
Sulfur Dioxide (SO_2)	24 Hours	0.04 ppm (105 µg/m^3)	A	0.14 ppm (365/µg/m^3)	A
	1 Hour	0.25 ppm (665 µg/m^3)	A	No standard	Not applicable
	Annual Arithmetic Mean	No standard	Not applicable	0.030 ppm (80/µg/m^3)	A
Particulate Matter (PM_{10})	Annual Arithmetic Mean	20 µg/m^3	N	No standard	Not applicable
	24 Hours	50 µg/m^3	N	150 µg/m^3	U
Particulate Matter – Fine ($PM_{2.5}$)	Annual Arithmetic Mean	12 µg/m^3	N	15 µg/m^3	N
	24 Hours	No standard	Not applicable	35 µg/m^3	N
Sulfates	24 Hours	25 µg/m^3	U	No standard	Not applicable
Lead	30-Day Average	1.5 µg/m^3	A	No standard	Not applicable
	Calendar Quarter	No standard	Not applicable	1.5 µg/m^3	A
Hydrogen Sulfide	1 Hour	0.03 ppm (42 µg/m^3)	U	No standard	Not applicable
Vinyl Chloride (chloroethene)	24 Hours	0.01 ppm (26 µg/m^3)	No information available	No standard	Not applicable
Visibility-Reducing Particles	8 Hours (10:00 to 18:00 PST)	Extinction coefficient of 0.23 per kilometer	U	No standard	Not applicable

Source: BAAQMD 2017 (http://www.baaqmd.gov/research-and-data/air-quality-standards-and-attainment-status).
A=attainment; N=nonattainment; U=unclassified
mg/m^3=milligrams per cubic meter; ppm=parts per million; ppb=parts per billion; µg/m^3=micrograms per cubic meter

CARB designates all areas within the State as either attainment (having air quality better than the CAAQS) or nonattainment (having a pollution concentration that exceeds the CAAQS more than once in three years). The San Francisco Bay Area Air Basin is currently designated as a nonattainment area for state and national standards for ozone and $PM_{2.5}$, and state standards for PM_{10}.

Ambient Air Monitoring

The closest air monitoring station to the project site that monitors ambient concentrations of these pollutants is the Los Gatos Monitoring Station (located approximately 6.75 miles southeast of the project site). The second closest is the San Jose-Jackson Street Monitoring Station located approximately 3.6 miles northeast of the project site. Local air quality data from 2016 to 2018 is provided in Appendix A.

National Ambient Air Quality Standards

As required by the Clean Air Act, the NAAQS have been established for the six primary criteria pollutants: carbon monoxide (CO), nitrogen oxides (NO_X), ozone (O_3), particulate matter (PM_{10} and $PM_{2.5}$), sulfur oxides, and lead. Pursuant to the California Clean Air Act, the state has also established the CAAQS, which

are generally more stringent than the corresponding federal standards. The BAAQMD is primarily responsible for assuring that the national and state ambient air quality standards are attained and maintained in the San Francisco Bay Air Basin.

Santa Clara County, and the Bay Area as a whole, is classified as a nonattainment area for ozone, PM_{10}, and $PM_{2.5}$ under federal law. The County is either in attainment or unclassified for other pollutants.

- Ozone, often called photochemical smog, is classified as a secondary air pollutant, meaning it is not emitted directly into the air. It is created by the action of sunlight on ozone precursors, primarily reactive hydrocarbons and NO_X. The major sources of ozone precursors include combustion sources such as factories and automobiles and evaporation of solvents and fuels. The main public health concerns associated with ground level ozone pollution are eye irritation and impairment of respiratory functions.
- PM_{10} consists of solid and liquid particles of dust, soot, aerosols, and other matter which are less than 10 microns in diameter. Major sources of PM_{10} are combustion (including automobile engines – particularly diesel, fires, and factories) and dust from paved and unpaved roads. Public health concerns associated with PM_{10} include aggravation of chronic disease and heart/lung disease symptoms.
- $PM_{2.5}$, also known as Fine Particulate Matter, consists of the same type of matter as PM_{10}, but is less than 2.5 microns in diameter. The major source of $PM_{2.5}$ is combustion, but the particles can also be formed by chemical changes occurring in the air. $PM_{2.5}$ can cause respiratory problems and is of particular concern because the particles can penetrate deeper into the lungs.

The region is required to adopt clean air plans on a triennial basis that show progress towards meeting the state ozone standard. The latest regional plan was adopted in April 2017. This plan includes a comprehensive strategy to reduce emissions from stationary, area, and mobile sources through the expeditious implementation of all feasible measures, including transportation control measures (TCMs) and programs such as "Spare the Air.[4]"

Clean Air Act

The Clean Air Act (CAA) of 1970 and the CAA Amendments of 1971 required the EPA to establish NAAQS, with states retaining the option to adopt more stringent standards or to include other specific pollutants. On April 2, 2007, the Supreme Court found that carbon dioxide is an air pollutant covered by the CAA; however, no NAAQS have been established for carbon dioxide.

These standards are the levels of air quality considered safe, with an adequate margin of safety, to protect the public health and welfare. They are designed to protect those "sensitive receptors" most susceptible to further respiratory distress such as asthmatics, the elderly, very young children, people already weakened by other disease or illness, and persons engaged in strenuous work or exercise. Healthy adults can tolerate occasional exposure to air pollutant concentrations considerably above these minimum standards before adverse effects are observed.

4 http://www.sparetheair.org/ accessed August 16, 2019.

The EPA has classified air basins (or portions thereof) as being in attainment, nonattainment, or unclassified for each criteria air pollutant, based on whether or not the NAAQS have been achieved. If an area is designated unclassified, it is because inadequate air quality data were available as a basis for a nonattainment or attainment designation.

National Emissions Standards for Hazardous Air Pollutants Program

Under federal law, 188 substances are listed as hazardous air pollutants (HAPs). Major sources of specific HAPs are subject to the requirements of the National Emissions Standards for Hazardous Air Pollutants (NESHAPS) program. The EPA is establishing regulatory schemes for specific source categories and requires implementation of Maximum Achievable Control Technologies (MACTs) for major sources of HAPs in each source category. State law has established the framework for California's Toxic air contaminant (TAC) identification and control program, which is generally more stringent than the federal program and is aimed at HAPs that are a problem in California. The state has formally identified 244 substances as TACs and is adopting appropriate control measures for each. Once adopted at the state level, each air district will be required to adopt a measure that is equally or more stringent.

California Air Toxics "Hot Spots" Information and Assessment Act (AB 2588)

The California Air Toxics "Hot Spots" Information and Assessment Act (AB 2588) is a state-wide program enacted in 1987. AB 2588 requires facilities that exceed recommended Office of Environmental Health Hazard Assessment (OEHHA) levels to reduce risks to acceptable levels.

Typically, land development projects generate diesel emissions from construction vehicles during the construction phase, as well as some diesel emissions from small trucks during the operational phase. Diesel exhaust is mainly composed of particulate matter and gases, which contain potential cancer-causing substances. Emissions from diesel engines currently include over 40 substances that are listed by EPA as hazardous air pollutants and by CARB as toxic air contaminants. On August 27, 1998, CARB identified particulate matter in diesel exhaust as a TAC, based on data linking diesel particulate emissions to increased risks of lung cancer and respiratory disease.

In September 2000, CARB adopted a comprehensive diesel risk reduction plan to reduce emissions from both new and existing diesel-fueled engines and vehicles. The goal of the plan is to reduce diesel PM emissions and the associated health risk by 75 percent in 2010 and by 85 percent by 2020. As part of this plan, CARB identified Airborne Toxic Control Measures (ATCM) for mobile and stationary emissions sources. Each ATCM is codified in the California Code of Regulations, including the ATCM to limit diesel-fueled commercial motor vehicle idling, which puts limits on idling time for large diesel engines (13 CCR Chapter 10 Section 2485).

California Clean Air Act

The California Clean Air Act (CCAA) allows states to adopt ambient air quality standards and other regulations provided that they are at least as stringent as federal standards. CARB, a part of the California Environmental Protection Agency, is responsible for the coordination and administration of both federal and state air pollution control programs within California, including setting the California ambient air quality standards. CARB also conducts research, compiles emission inventories, develops suggested control measures, and provides oversight of local programs. CARB establishes emissions standards for motor vehicles sold in California, consumer products (such as hairspray, aerosol paints, and barbecue lighter fluid), and various types of commercial equipment. It also sets fuel specifications to further reduce

vehicular emissions. CARB also has primary responsibility for the development of California's State Implementation Plan (SIP), for which it works closely with the federal government and the local air districts.

In addition to standards set for the six criteria pollutants, the State has set standards for sulfates, hydrogen sulfide, vinyl chloride, and visibility reducing particles. These standards are designed to protect the health and welfare of the populace with a reasonable margin of safety. Further, in addition to primary and secondary ambient air quality standards, the State has established a set of episode criteria for ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, and particulate matter. These criteria refer to episode levels representing periods of short-term exposure to air pollutants that actually threaten public health.

California State Implementation Plan

The federal Clean Air Act (and its subsequent amendments) requires each state to prepare an air quality control plan referred to as the SIP. The SIP is a living document that is periodically modified to reflect the latest emissions inventories, plans, and rules and regulations of air basins as reported by the agencies with jurisdiction over them. The CAA Amendments dictate that states containing areas violating the national ambient air quality standards revise their SIPs to include extra control measures to reduce air pollution. The SIP includes strategies and control measures to attain the NAAQS by deadlines established by the Clean Air Act. The EPA has the responsibility to review all State Implementation Plans to determine if they conform to the requirements of the CAA.

State law makes CARB the lead agency for all purposes related to the SIP. Local air districts and other agencies prepare SIP elements and submit them to CARB for review and approval. CARB then forwards SIP revisions to the EPA for approval and publication in the Federal Register. As discussed below, the BAAQMD Final 2017 Clean Air Plan (Clean Air Plan) is the SIP for the Basin.

Senate Bill 1889, Accidental Release Prevention Law/California Accidental Release Prevention Program

Senate Bill (SB) 1889 required California to implement a new federally mandated program governing the accidental airborne release of chemicals promulgated under Section 112 of the Clean Air Act. Effective January 1, 1997, the California Accidental Release Prevention Law (CalARP) replaced the previous California Risk Management and Prevention Program and incorporated the mandatory federal requirements. CalARP addresses facilities that contain specified hazardous materials, known as regulated substances, which if involved in an accidental release, could result in adverse offsite consequences. CalARP defines regulated substances as chemicals that pose a threat to public health and safety or the environment because they are highly toxic, flammable, or explosive.

City of San José General Plan

The City's General Plan includes the following air quality policies applicable to the project:

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

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

Policy MS-10.5: In order to reduce vehicle miles traveled and traffic congestion, require new development within 2,000 feet of an existing or planned transit station to encourage the use of public transit and minimize the dependence on the automobile through the application of site design guidelines and transit incentives.

Policy MS-10.4: Encourage effective regulation of mobile and stationary sources of air pollution, both inside and outside of San José. In particular, support Federal and State regulations to improve automobile emission controls.

Policy MS-10.6: Encourage mixed land use development near transit lines and provide retail and other types of service-oriented uses within walking distance to minimize automobile dependent development.

Policy MS – 10.7: Encourage regional and statewide air pollutant emission reduction through energy conservation to improve air quality.

Policy MS-11.1: Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.

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

Policy MS-11.4: Encourage the installation of appropriate air filtration at existing schools, residences, and other sensitive receptor uses adversely affected by pollution sources.

Policy MS-11.6: Develop and adopt a comprehensive Community Risk Reduction Plan that includes: baseline inventory of toxic air contaminants (TACs) and particulate matter smaller than 2.5 microns (PM2.5), emissions from all sources, emissions reduction targets, and enforceable emission reduction strategies and performance measures. The Community Risk Reduction Plan will include enforcement and monitoring tools to ensure regular review of progress toward the emission reduction targets, progress reporting to the public and responsible agencies, and periodic updates of the plan, as appropriate.

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

Policy MS-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-13.3: Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

Action MS-13.4: Adopt and periodically update dust, particulate, and exhaust control standard measures for demolition and grading activities to include on project plans as conditions of approval based upon construction mitigation measures in the BAAQMD CEQA Guidelines.

Action MS-13.5: Prevent silt loading on roadways that generates particulate matter air pollution by prohibiting unpaved or unprotected access to public roadways from construction sites.

Sensitive Receptors

BAAQMD defines sensitive receptors as facilities or land uses that include members of the population that are particularly sensitive to the effects of air pollutants, such as children, the elderly, and the chronically ill are likely to be located. These facilities may include residences, school playgrounds, child-care centers, retirement homes, convalescent homes, and people with illnesses.

Construction TAC and $PM_{2.5}$ Health Risks

Toxic air contaminants (TACs) are airborne substances that can cause short-term (acute) or long-term (chronic or carcinogenic, i.e., cancer causing) adverse human health effects (i.e., injury or illness). TACs include both organic and inorganic chemical substances. They may be emitted from a variety of common sources including gasoline stations, automobiles, dry cleaners, industrial operations, and painting operations. The current California list of TACs includes more than 200 compounds, including particulate emissions from diesel-fueled engines.

Construction equipment and associated heavy-duty truck traffic generate diesel exhaust, which is a known TAC. Diesel exhaust from construction equipment operating at the site poses a health risk to nearby sensitive receptors.

Under the BAAQMD Air Quality Guidelines (as shown in Appendix E), an incremental cancer risk of greater than 10 cases per million for a 70-year exposure duration at the Maximally Exposed Individual or MEI will result in a significant impact. The 10 in 1 million threshold is based on the latest scientific data, and is designed to protect the most sensitive individuals in the population as each chemical's exposure level includes large margins of safety. In addition to this carcinogen threshold, OEHHA recommends that the non-carcinogenic hazards for TACs at ground level should not exceed a chronic hazard index of greater than one.

Discussion

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

Less than Significant Impact. The most recently adopted plan, the Clean Air Plan, in the Basin outlines how the San Francisco area will attain air quality standards, reduce population exposure and protect public health, and reduce GHG emissions.

The Clean Air Plan assumptions for projected air emissions and pollutants in the City of San José are based on the Envision San José 2040 General Plan Land Use Designation Map which designates the proposed project site use as "Mixed Use Commercial". The proposed project site is zoned "Commercial General". The CG Zoning District allows for mixed-use residential/commercial in an urban village area. The proposed project would be consistent with the development assumptions for the land use. Therefore, the proposed project is consistent with the General Plan assumptions. The proposed project consists of 27 residential units consistent with the Envision San José 2040 General Plan Supplemental Program EIR land use designation and would not increase the regional population growth or cause changes in vehicle traffic that would obstruct implementation of the Clean Air Plan in the San Francisco Bay Area Basin.

As described below, construction and operational air quality emissions generated by the proposed project would not exceed the BAAQMD's emissions thresholds. Since the proposed project would not exceed these thresholds, the proposed project would not be considered by the BAAQMD to be a substantial emitter of criteria air pollutants, and would not contribute to any non-attainment areas in the Basin.

As discussion in section 4.15 Population and Housing, the proposed project would generate approximately 86 residents and 47 new jobs.[5] The Association of Bay Area Governments (ABAG) predicts that job opportunities in the City of San José will grow from 387,510 in 2010 to 554,875 by 2040. As of 2015, there were 359,128 job opportunities in the City[6]. The proposed project is consistent with the City General Plan, therefore the addition of 47 new jobs would be within the ABAG growth projections for the City of approximately 554,875 job by 2040 and would not exceed the ABAG growth projections for the City as identified in the General Plan FEIR, the City currently has an existing ratio of jobs per resident of 0.8.

The General Plan FEIR identified that at full buildout of the General Plan, the existing ratio of jobs per employed resident would be increased to a job per employed resident ratio of 1.3. The increase in jobs will incrementally decrease the overall jobs/housing imbalance within the City. The proposed project would not exceed the level of population or housing in regional planning efforts. Additionally, the proposed project would not significantly affect regional vehicle miles travelled pursuant to the CEQA Guidelines (Section 15206). Therefore, population growth from the proposed project would be consistent with ABAG's projections for the City and with the City's General Plan.

A development project is considered consistent with the 2017 Clean Air Plan Progress Report if it does not exceed the growth assumptions in the plan. The primary method of determining consistency with the 2017 Clean Air Plan growth assumptions is consistency with the General Plan land use designations and zoning designations. It should be noted that the Clean Air Plan does not make a specific assumption for

[5] The California Department of Finance estimates 3.21 residents per household in San José. The project proposes 27 residential units, which would result in approximately 86 residents. The City calculates one job per 300 SF of retail/commercial/office space. Therefore, 14,181 SF of retail/commercial/office space would result in 47.27 jobs within the City.
6 City of San José. Envision San José 2040 General Plan DEIR.

development, but bases assumptions on growth in population, travel, and business, based on socioeconomic forecasts. As noted above, the proposed project would not exceed the growth assumptions in the General Plan. Therefore, the growth assumptions in the Clean Air Plan would not be exceeded.

Given that approval of a project would not result in significant and unavoidable air quality impacts after the application of all feasible project conditions, the proposed project is considered consistent with the 2017 Clean Air Plan. In addition, projects are considered consistent with the 2017 Clean Air Plan if they incorporate all applicable and feasible control measures from the 2017 Clean Air Plan and would not disrupt or hinder implementation of any 2017 Clean Air Plan control measures.

The proposed project is consistent with the 2017 Clean Air Plan policies that are applicable to the proposed project site. As discussed in Table 4-3, the proposed project would comply with City, State, and regional requirements.

Table 4-3: Project Consistency with Applicable Clean Air Plan Control Measures

Control Measure	Project Consistency
Stationary Source Control Measures	
SS21: New Source Review of Toxic Air Contaminants	**Consistent**. The proposed project would not include uses that would generate new sources of TAC to impacts to the nearby sensitive receptors.
SS25: Coatings, Solvents, Lubricants, Sealants and Adhesives	**Consistent**. The proposed project would comply with Regulation 8, Rule 3: Architectural Coatings, which would dictate the ROG content of paint available for use during construction (also required per City of San José Environmental Standard Conditions).
SS26: Surface Prep and Cleaning Solvent	
SS29: Asphaltic Concrete	**Consistent**. Paving activities associated with the proposed project would be required to utilize asphalt that does not exceed BAAQMD emission standards in Regulation 8, Rule 15.
SS30: Residential Fan Type Furnaces	**Consistent**. BAAQMD is the responsible party for implementation of this regulation. The proposed project would use the latest central furnaces that comply with the applicable regulations. The proposed project would not conflict with BAAQMD's implementation of that measure.
SS31: General Particulate Matter Emissions Limitation	**Consistent**. This control measure is implemented by the BAAQMD through Regulation 6, Rule 1. This Rule Limits the quantity of particulate matter in the atmosphere by controlling emission rates, concentration, visible emissions and opacity. The proposed project would be required to comply with applicable BAAQMD rules.
SS32: Emergency Back-up Generators	**Consistent**. Use of back-up generators by the proposed project is currently not anticipated. However, if emergency generators were to be installed they would be required to meet the BAAQMD's emissions standards for back-up generators as further stipulated in San José Municipal Code Section 20.80.2030.
SS33: Commercial Cooking Equipment	**Consistent**. The proposed project does include the potential development of additional restaurant facilities. However, if any kitchen facilities or restaurants occur and they install a charbroiler, a catalytic oxidizer system must also be installed pursuant to BAAQMD Rule 6-2.

Control Measure	Project Consistency
SS34: Wood Smoke	**Consistent**. The proposed project would comply with BAAQMD Regulation 6, Rule 3 and prohibit the construction of wood burning appliances/ fireplaces.
SS36: Particulate Matter from Trackout	**Consistent**. Mud and dirt that may be tracked out onto the nearby public roads during construction activities would be removed promptly by the contractor based on BAAQMD's requirements.
SS37: Particulate Matter from Asphalt Operations	**Consistent**. Paving and roofing activities associated with the proposed project would be required to utilize best management practices to minimize the particulate matter created from the transport and application of road and roofing asphalt.
SS38: Fugitive Dust	**Consistent**. Material stockpiling and track out during grading activities as well as smoke and fumes from paving and roofing asphalt operations would be required to utilize best management practices, such as watering exposed surfaces twice a day, covering haul trucks, keeping vehicle speeds on unpaved roads under 15 mph, to minimize the creation of fugitive dust. See City of San José Environmental Standard Conditions for a more detailed list.
SS40: Odors	**Consistent**. The proposed project would comply with BAAQMD Regulation 7 to strengthen odor standards and enhance enforceability.
Transportation Control Measures	
TR2: Trip Reduction Programs	**Consistent**. The proposed project would include a number of travel demand measures (TDM) such as mix of land uses and increased residential density. These TDM Programs would help reduce vehicle miles traveled (VMT) and mobile greenhouse gas emissions.
TR8: Ridesharing and Last-Mile Connections	
TR9: Bicycle and Pedestrian Access Facilities	**Consistent**. There is currently pedestrian access to/from the proposed project site via sidewalks along Olin Avenue and South Winchester Boulevard. Pedestrian activities within Santana Row/Valley Fair Urban Village area is substantial. Bicyclist facilities in the area include South Winchester Boulevard and Monroe Street which both provide Class II bike lanes with buffered striping to separate vehicle and bike travel. On Stevens Creek Boulevard bicyclists either share the traffic lane or ride on the sidewalk. The proposed project would include 24 bicycle parking spaces as well as bicycle and pedestrian access on the driveway.
TR10: Land Use Strategies	**Consistent**. This measure is a BAAQMD funding tool to maintain and disseminate information on current climate action plans and other local best practices and collaborate with regional partners to identify innovative funding mechanisms to help local governments address air quality and climate change in their general plans. In addition, the proposed project site is located within 2,000 feet of transit stops at Stevens Creek Boulevard/ South Winchester Boulevard and South Winchester Boulevard/ Olsen Drive intersections. Therefore, these employment opportunities would be easily accessible via transit, furthering the City's General Plan goals to support a healthy community, reduce traffic congestion and decrease greenhouse gas emissions and energy consumption. The proposed project would not conflict with implementation of this measure.

Control Measure	Project Consistency
TR13: Parking Policies	**Consistent**. The proposed project would create approximately 93 new parking spaces. The proposed parking is sufficient for the proposed uses.
TR19: Medium and Heavy Duty Trucks	**Not Applicable**. The project does not involve warehousing or industrial uses that would generate substantial truck trips. The proposed project would not conflict with the implementation of this measure.
TR22: Construction, Freight and Farming Equipment	**Consistent**. The proposed project would comply through implementation of Mitigation Measure AQ-1, which requires construction equipment (graders and scrapers) to meet the CARB Tier 4 emissions standards.
Energy and Climate Control Measures	
EN1: Decarbonize Electricity Generation	**Consistent**. The proposed project would be constructed in accordance with the latest California Building Code and green building regulations/CalGreen and with the City of San José's California Green Building Standards Code. Additionally, the building would be LEED certified as required by City Council policy. The proposed project would achieve LEED NC v4 certification through the USGBC.
EN2: Decrease Electricity Demand	
Buildings Control Measures	
BL1: Green Buildings	**Consistent**. The proposed project would be constructed in accordance with the latest California Building Code and green building regulations/CalGreen. Additionally, the building would achieve LEED NC v4 certification through the USGBC.
L2: Decarbonize Buildings	
BL4: Urban Heat Island Mitigation	**Consistent**. The proposed project would demolish an existing gas station and associated asphalt surfaces. The proposed project would include some open space and landscaping for passive recreational uses serving the proposed project.
Natural and Working Lands Control Measures	
NW2: Urban Tree Planting	**Not Applicable**. The proposed project site is in an existing gas station. The proposed project includes landscaping with native vegetation and trees.
Waste Management Control Measures	
WA1: Landfills	**Consistent**. The waste service provider for the proposed project would be required to meet the AB 341 and SB 939, 1374, and 1383 requirements that require waste service providers to divert and recycle waste. Per Cal Green requirements the proposed project would recycle construction waste.
WA3: Green Waste Diversion	
WA4: Recycling and Waste Reduction	
Water Control Measures	
WR2: Support Water Conservation	**Consistent**. The proposed project would implement water conservation measures and low flow fixtures as required by Title 24, CalGreen, and the City of San José's Municipal Code Section 15-11 Water Efficient Landscaping Ordinance, which includes various specifications for plant types, water features, and irrigation design etc.
Source: BAAQMD, Clean Air Plan, 2017 and Kimley-Horn & Associates, 2019.	

The addition of 47 new jobs as a result of the proposed project would be within the ABAG growth projections for the City of approximately 554,875 jobs by 2040. Therefore, population growth from the proposed project would be consistent with ABAG's projections for the City and with the City's General Plan. In addition, the City of San José is "housing-rich", and the increase of jobs would promote a jobs/housing balance that is closer to 1 to 1. Population growth from the proposed project would be consistent with ABAG's projections for the City and with the City's General Plan. Thus, the proposed project not exceed the assumptions in the General Plan or the Clean Air Plan and there would be a less than significant impact.

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

Less than Significant Impact.

Construction Emissions

Project construction activities would generate short-term emissions of criteria air pollutants. The criteria pollutants of primary concern within the proposed project area include ozone-precursor pollutants (i.e., ROG and NO_x) and PM_{10} and $PM_{2.5}$. Construction-generated emissions are short term and temporary, lasting only while construction activities occur, but would be considered a significant air quality impact if the volume of pollutants generated exceeds the BAAQMD's thresholds of significance.

Construction results in the temporary generation of emissions during demolition, site preparation, site grading, road paving, motor vehicle exhaust associated with construction equipment and worker trips, and the movement of construction equipment, especially on unpaved surfaces. Emissions of airborne particulate matter are largely dependent on the amount of ground disturbance associated with site preparation activities, as well as weather conditions and the appropriate application of water.

The duration of construction activities associated with the proposed project are estimated to last approximately 19 months. The proposed project's construction-related emissions were calculated using the BAAQMD-approved CalEEMod computer program, which is designed to model emissions for land use development projects, based on typical construction requirements. Project demolition, site preparation, and grading are anticipated to begin in Spring 2021 and last approximately four months. The proposed project would export approximately 25,000 cubic yards (cy) of soil. construction of the proposed project is expected to commence in 2021 and last for approximately 19 months.[7] The exact construction timeline is unknown, however to be conservative, earlier dates were utilized in the modeling. This approach is conservative given that emissions factors decrease in future years due to regulatory and technological improvements and fleet turnover. See Appendix A: Air Quality Data for additional information regarding the construction assumptions used in this analysis. The proposed project's predicted maximum daily construction-related emissions are summarized in the following table, Table 4-4.

[7] Paving was modeled to be completed by end of Summer 2021. The Building construction phase was estimated to begin Summer 2021 and last approximately 13 months to Fall 2022. Architectural Coating would begin during the Building Construction phase and is estimated to be completed Summer 2022.

Table 4-4: Construction-Related Emissions

Construction Year	Pollutant (maximum pounds per day)					
	Reactive Organic Gases (ROG)	Nitrogen Oxide (NO_x)	Exhaust		Fugitive Dust	
			Coarse Particulate Matter (PM_{10})	Fine Particulate Matter ($PM_{2.5}$)	Coarse Particulate Matter (PM_{10})	Fine Particulate Matter ($PM_{2.5}$)
Unmitigated Scenario[1]						
2021	2.46	40.72	1.05	0.98	8.07	3.77
2022	10.39	17.45	0.79	0.76	0.55	0.15
Maximum Daily Construction	**10.39**	**40.72**	**1.05**	**0.98**	**8.07**	**3.77**
BAAQMD Significance Threshold [2, 3]	*54*	*54*	*82*	*54*	*N/A*	*N/A*
Exceed BAAQMD Threshold?	**No**	**No**	**No**	**No**	**N/A**	**N/A**
Mitigated Scenario[2]						
2021	1.31	22.08	0.25	0.25	4.21	1.82
2022	9.40	6.84	0.22	0.22	0.51	0.14
Maximum Daily Construction	**9.40**	**22.08**	**0.25**	**0.25**	**4.21**	**1.82**
BAAQMD Significance Threshold [2, 3]	*54*	*54*	*82*	*54*	*N/A*	*N/A*
Exceed BAAQMD Threshold?	**No**	**No**	**No**	**No**	**N/A**	**N/A**

1. Emissions were calculated using CalEEMod. Mitigated emissions include compliance with the BAAQMD's Basic Construction Mitigation Measures Recommended for All Projects and the City of San José Environmental Standard Conditions. These measures include the following: water exposed surfaces two times daily; cover haul trucks; clean track outs with wet powered vacuum street sweepers; limit speeds on unpaved roads to 15 miles per hour; complete paving as soon as possible after grading; limit idle times to 5 minutes; properly maintain mobile and other construction equipment; and post a publicly visible sign with contact information to register dust complaints and take corrective action within 48 hours.
2. The project would implement, Mitigation Measure AQ-1, which would require all off-road diesel powered construction equipment, greater than 50 horsepower, to meet CARB Tier 4 standards.
2. Bay Area Air Quality Management District, California Environmental Quality Act Air Quality Guidelines, updated May 2017.
3. BMPs = Best Management Practices. The BAAQMD recommends the implementation of all Basic Construction Mitigation Measures, whether or not construction-related emissions exceed applicable significance thresholds. Implementation of Basic Construction Mitigation measures are considered to mitigate fugitive dust emissions to be less than significant.

Source: Refer to the CalEEMod outputs provided in Appendix A, *Air Quality Assessment*.

Fugitive Dust Emissions. Fugitive dust emissions are associated with land clearing, ground excavation, cut-and-fill operations, demolition, and truck travel on unpaved roadways. Dust emissions also vary substantially from day to day, depending on the level of activity, the specific operations, and weather conditions. Fugitive dust emissions may have a substantial, temporary impact on local air quality. In addition, fugitive dust may be a nuisance to those living and working in the proposed project vicinity. Uncontrolled dust from construction can become a nuisance and potential health hazard to those living and working nearby. The BAAQMD recommends the implementation of all Basic Construction Control Measures, whether or not construction-related emissions exceed applicable significance thresholds and the project will implement the BAAQMD Basic Construction Control Measures as a Standard Permit Condition to control dust at the project site during all phases of construction:

Standard Permit Condition

These measures would be placed on the project plan documents prior to the issuance of any grading permits for the proposed project.

i. Water active construction areas at least twice daily or as often as needed to control dust emissions.
ii. Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
iii. Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
iv. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
v. Pave new or improved roadways, driveways, and sidewalks as soon as possible.
vi. Lay building pads as soon as possible after grading unless seeding or soil binders are used.
vii. Replant vegetation in disturbed areas as quickly as possible.
viii. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
ix. Minimizing idling times either by shutting off equipment when not in use, or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
x. Maintain and properly tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
xi. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

Construction Equipment and Worker Vehicle Exhaust. Exhaust emission factors for typical diesel-powered heavy equipment are based on the CalEEMod program defaults. Variables factored into estimating the total construction emissions include: level of activity, length of construction period, number of pieces/types of equipment in use, site characteristics, weather conditions, number of construction personnel, and the amount of materials to be transported onsite or offsite. Exhaust emissions from construction activities include emissions associated with the transport of machinery and supplies to and from the proposed project site, emissions produced on site as the equipment is used, and emissions from trucks transporting materials and workers to and from the site. Emitted pollutants would include ROG, NO_X, PM_{10}, and $PM_{2.5}$. The BAAQMD recommends the implementation of all Basic Construction Control Measures, whether or not construction-related emissions exceed applicable significance thresholds. See the above listed Standard Permit Conditions. As detailed in Table 4-4, unmitigated project construction emissions would be below BAAQMD thresholds and construction emissions would result in a less than significant impact. However, the proposed project would be required to use construction equipment that would meet CARB Tier 4 Final emissions standards in order to reduce a potentially significant impact associated with health risks from $PM_{2.5}$ diesel exhaust construction emissions, detailed in Impact 4.3(c) below. Implementation of Mitigation Measure AQ-1, detailed in Impact 4.3(c) below, would further reduce construction emissions, as detailed in Table 4-4. Regardless of Mitigation Measure AQ-1, construction air quality impacts would be less than significant.

ROG Emissions. In addition to gaseous and particulate emissions, the application of asphalt and surface coatings creates ROG emissions, which are O_3 precursors. In accordance with the methodology prescribed by the BAAQMD, the ROG emissions associated with paving have been quantified with CalEEMod.

The highest concentration of ROG emissions would be generated from architectural coating beginning in summer 2021 and lasting approximately three months. This phase includes the interior and exterior painting as well as striping of all paved parking areas and driveways. Paints would be required to comply with BAAQMD Regulation 8, Rule 3: Architectural Coating. Regulation 8, Rule 3 provides specifications on painting practices and regulates the ROG content of paint.

Summary. As shown in Table 4-4, all criteria pollutant emissions would remain below their respective thresholds. BAAQMD considers fugitive dust emissions to be potentially significant without implementation of the Construction Control Measures which help control fugitive dust. NO_X emissions are primarily generated by engine combustion in construction equipment, haul trucks, and employee commuting. Requiring the use of newer construction equipment with better emissions controls would reduce construction-related NO_X emissions. With implementation of the Standard Permit Condition, the proposed project's construction would not worsen ambient air quality, create additional violations of federal and state standards, or delay the Basin's goal for meeting attainment standards. Impacts would be less than significant.

Operational Emissions

Operational emissions for mixed-use developments are typically generated from mobile sources (burning of fossil fuels in cars); energy sources (cooling, heating, and cooking); and area sources (landscape equipment and household products). Table 4-5 shows that the proposed project's maximum emissions would not exceed BAAQMD operational thresholds.

Table 4-5: Maximum Daily Project Operational Emissions

Emissions Source	Pollutant (maximum pounds per day)[1]					
			Exhaust		Fugitive Dust	
	Reactive Organic Gases (ROG)	Nitrogen Oxides (NO_X)	Coarse Particulate Matter (PM_{10})	Fine Particulate Matter ($PM_{2.5}$)	Coarse Particulate Matter (PM_{10})	Fine Particulate Matter ($PM_{2.5}$)
Area	1.11	0.19	0.03	0.03	0.00	0.00
Energy	0.01	0.07	0.01	0.01	0.00	0.00
Mobile	0.59	1.76	0.01	0.01	1.39	0.37
Total Project Emissions	**1.70**	**2.01**	**0.04**	**0.04**	**1.39**	**0.37**
BAAQMD Significance Threshold[2]	*54*	*54*	*82*	*54*	*N/A*	*N/A*
BAAQMD Threshold Exceeded?	**No**	**No**	**No**	**No**	**N/A**	**N/A**

1. Emissions were calculated using CalEEMod.
2. Bay Area Air Quality Management District, *California Environmental Quality Act Air Quality Guidelines*, 2017.

Source: Refer to the CalEEMod outputs provided in Appendix A.

Area Source Emissions Area source emissions would be generated due to an increased demand for consumer products, architectural coating, hearths, and landscaping. As shown in Table 4-5, area source emissions from the proposed project would not exceed BAAQMD thresholds.

Energy Source Emissions. Energy source emissions would be generated as a result of electricity and natural gas (non-hearth) usage associated with the proposed project. The primary use of electricity and natural gas by the project would be for space heating and cooling, water heating, ventilation, lighting, appliances, and electronics. As shown in Table 4-5, energy source emissions from the proposed project would not exceed BAAQMD thresholds for ROG, NO_X, PM_{10}, and $PM_{2.5}$.

Mobile Sources. Mobile sources are emissions from motor vehicles, including tailpipe and evaporative emissions. Depending upon the pollutant being discussed, the potential air quality impact may be of either regional or local concern. For example, ROG, NO_X, PM_{10}, and $PM_{2.5}$ are all pollutants of regional concern (NO_X and ROG react with sunlight to form O_3 [photochemical smog], and wind currents readily transport PM_{10} and $PM_{2.5}$). However, CO tends to be a localized pollutant, dispersing rapidly at the source.

Project-generated vehicle emissions have been estimated using CalEEMod. Trip generation rates associated with the proposed project were based on the proposed project Transportation Analysis prepared by Kimley-Horn (2019). Based on the Transportation Analysis, the proposed project would result in a gross total of 572 daily vehicle trips. However, with applicable trip reductions including internal capture and location-based mode-share the proposed project would result in 501 new trips. The Transportation Analysis takes further credit for the existing land uses on the proposed project site which anticipates the proposed project to generate a net total of 187 additional daily trips to the roadway network. However, to be conservative this study used the 501 vehicle trips for the Air Quality analysis. Table 4-5 shows the net project emissions generated by vehicle traffic associated with the proposed project would not exceed established BAAQMD regional thresholds.

Total Operational Emissions. As indicated in Table 4-5, net project operational emissions would not exceed BAAQMD thresholds. As noted above, the BAAQMD has set its CEQA significance threshold based on the trigger levels for the federal NSR Program and BAAQMD's Regulation 2, Rule 2 for new or modified sources. The NSR Program was created to ensure projects are consistent with attainment of health-based federal ambient air quality standards. The federal ambient air quality standards establish the levels of air quality necessary, with an adequate margin of safety, to protect the public health. Therefore, the proposed project would not violate any air quality standards or contribute substantially to an existing or projected air quality violation and no criteria pollutant health impacts would occur. Project operational emissions would be less than significant.

Cumulative Short-Term Emissions

The SFBAAB is designated nonattainment for O_3, PM_{10}, and $PM_{2.5}$ for State standards and nonattainment for O_3 and $PM_{2.5}$ for Federal standards. As discussed above, the proposed project's construction-related emissions by themselves would not have the potential to exceed the BAAQMD significance thresholds for criteria pollutants.

Since these thresholds indicate whether an individual project's emissions have the potential to affect cumulative regional air quality, it can be expected that the proposed project-related construction emissions would not be cumulatively considerable. The BAAQMD recommends Basic Construction Control Measures for all projects whether or not construction-related emissions exceed the thresholds of

significance. Compliance with BAAQMD construction-related mitigation requirements are considered to reduce cumulative impacts at a Basin-wide level. As a result, construction emissions associated with the proposed project would not result in a cumulatively considerable contribution to significant cumulative air quality impacts.

Cumulative Long-Term Impacts
The BAAQMD has not established separate significance thresholds for cumulative operational emissions. The nature of air emissions is largely a cumulative impact. As a result, no single project is sufficient in size, by itself, to result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. The BAAQMD developed the operational thresholds of significance based on the level above which a project's individual emissions would result in a cumulatively considerable contribution to the Basin's existing air quality conditions. Therefore, a project that exceeds the BAAQMD operational thresholds would also be a cumulatively considerable contribution to a significant cumulative impact.

As shown in Table 4-5, the proposed project's operational emissions would not exceed BAAQMD thresholds. As a result, operational emissions associated with the proposed project would not result in a cumulatively considerable contribution to significant cumulative air quality impacts.

c) Expose sensitive receptors to substantial pollutant concentrations?

Less than Significant Impact with Mitigation Incorporated. Sensitive land uses are defined as facilities or land uses that include members of the population that are particularly sensitive to the effects of air pollutants, such as children, the elderly, and people with illnesses. Examples of these sensitive receptors are residences, schools, hospitals, and daycare centers. The nearest sensitive receptors to the project site are the single-family residences approximately 20 feet to the west on Olin Avenue and the mixed-use land use approximately 150 feet east, across South Winchester Boulevard. A complete list of nearby sensitive receptors is detailed in Table 4-1.

Toxic Air Contaminants
Construction equipment and associated heavy-duty truck traffic generate diesel exhaust, which is a known toxic air contaminant (TAC). Diesel exhaust from construction equipment operating at the site poses a health risk to nearby sensitive receptors. The closest sensitive receptor to the proposed project site are the residences to the west of the proposed project site. BAAQMD provides guidance for evaluating impacts from TACs in its CEQA Air Quality Guidelines document. As noted therein, an incremental cancer risk of greater than 10 cases per million at the Maximally Exposed Individual (MEI) will result in a significant impact. The BAAQMD considers exposure to annual $PM_{2.5}$ concentrations that exceed 0.3 µg/m^3 from a single source to be significant. The BAAQMD significance threshold for non-cancer hazards is 1.0.

Stationary sources within a 1,000-foot radius of the proposed project site were identified using BAAQMD's Stationary Source Screening Analysis Tools and consultation with the BAAQMD. BAAQMD confirmed four sources exist within 1,000-feet of the proposed project site and are further evaluated in the Health Risk Assessment (HRA) prepared by Kimley-Horn 2019.

Construction-Related Diesel Particulate Matter
Project construction would generate diesel particulate matter (DPM) emissions from the use of off-road diesel equipment required for grading and excavation, paving, and other construction activities. For construction activity, DPM is the primary toxic air contaminant of concern. On-road diesel-powered haul

trucks traveling to and from the construction area to deliver materials and equipment are less of a concern because they would not stay on the site for long durations. Diesel exhaust from construction equipment operating at the site poses a health risk to nearby sensitive receptors. The closest sensitive receptor are single-family residences approximately 20 feet west of the proposed project site.

The amount to which the receptors are exposed (a function of concentration and duration of exposure) is the primary factor used to determine health risk (i.e., potential exposure to TAC emission levels that exceed applicable standards). On-road diesel-powered haul trucks traveling to and from the construction area to deliver materials and equipment are less of a concern because they would not stay on the site for long durations.

Health-related risks associated with diesel-exhaust emissions are primarily linked to long-term exposure and the associated risk of contracting cancer. The use of diesel-powered construction equipment would be episodic and would occur in various phases throughout the proposed project site. Additionally, construction activities would limit idling to no more than five minutes (per City and State standards, see Standard Permit Condition in impact section above), which would further reduce nearby sensitive receptors' exposure to temporary and variable DPM emissions. Furthermore, even during the most intense year of construction, emissions of DPM would be generated from different locations on the proposed project site rather than in a single location because different types of construction activities (e.g., site preparation and building construction) would not occur at the same place at the same time.

$PM_{2.5}$ construction emissions rates in grams per second were calculated from the total annual mitigated on-site exhaust emissions reported in CalEEMod (0.09 tons unmitigated and 0.02 tons per year mitigated) total during construction. It should be noted that although construction would span over 19 months, the modeling conservatively uses the year with the highest emission for each phase. Annual emissions were converted to grams per second and these emissions rates were input into AERSCREEN.

As noted above, maximum (worst case) $PM_{2.5}$ exhaust construction emissions over the entire construction period were used in AERSCREEN to approximate construction DPM emissions. Risk levels were calculated based on the California Office of Environmental Health Hazard Assessment (OEHHA) guidance document, Air Toxics Hot Spots Program Risk Assessment Guidelines (February 2015). Results of this assessment are summarized in Table 4-6.

Table 4-6: Construction Risk

Exposure Scenario	Pollutant Concentration (µg/m³)	Maximum Cancer Risk (Risk per Million)	Chronic Noncancer Hazard	Acute Noncancer Hazard
Unmitigated Construction Scenario				
Project Emissions	0.096	30.7	0.020	0.40
Threshold	*0.3*	*10 in one million*	*1.0*	*1.0*
Threshold Exceeded	**No**	**Yes**	**No**	**No**
Mitigated Construction Scenario[1]				
Project Emissions	0.023	7.3	0.005	0.09
Threshold	*0.3*	*10 in one million*	*1.0*	*1.0*
Threshold Exceeded	**No**	**No**	**No**	**No**

1. Heavy-duty off-road construction equipment would also meet CARB Tier 4 Final emissions standards per Mitigation Measure AQ-1. Refer to Appendix E.

Results of this assessment indicate that the maximum unmitigated concentration of $PM_{2.5}$ during construction would be 0.096 µg/m³, which would not exceed the BAAQMD threshold of 0.3 µg/m³. Incorporation of Mitigation Measure AQ-1, detailed below, would further reduce the project $PM_{2.5}$ concentration to 0.02 µg/m³. The highest calculated carcinogenic risk from project construction, without implementation of Mitigation Measure AQ-1, would be 30.7 per million, which would exceed the BAAQMD threshold of 10 in one million. However, Mitigation Measure AQ-1 would reduce the project's maximum cancer risk to 7.3 per million, which is below the BAAQMD threshold of 10 in one million. Non-cancer hazards for DPM would be below BAAQMD threshold of 1.0, for both chronic noncancer hazard and acute noncancer hazard, as shown in Table 4-6. As described above, worst-case construction risk levels based on screening-level modeling (AERSCREEN) and conservative assumptions would be above the BAAQMD's thresholds for maximum cancer risk. However, construction risk levels would be less than significant with implementation of the identified Mitigation Measure AQ-1.

Mitigation Measures:

Mitigation Measure AQ-1 All mobile diesel-powered off-road equipment operating on-site for more than two days and larger than 50 horsepower shall, at a minimum, meet U.S. Environmental Protection Agency (EPA) particulate matter emissions standards for Tier 4 engines or equivalent. Prior to the issuance of any demolition permits, the project applicant shall submit a construction operations plan to the Supervising Planner of the Environmental Review Division of the Department of Planning, Building and Code Enforcement, which includes specifications of the equipment to be used during construction and confirmation this requirement is met. Such equipment could include concrete/industrial saws, graders, scrapers, rollers, cranes, forklifts, generator sets, and air compressors.

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

Existing Air Quality Conditions Affecting the Project

In December of 2015, the California Supreme Court in *BIA v. BAAQMD,* confirmed the CEQA considers the impacts of a project on the environment, not the effects of the existing environment on the project. However, the City has policies that address existing conditions (such as air quality) that affect a proposed project.

The proposed project would place sensitive receptors within 1,000-feet of two major roadways (mobile TAC source). The $PM_{2.5}$ and total organic gases (TOG) for two nearby roadways (South Winchester Boulevard and Stevens Creek Boulevard) were modeled in AERMOD. Based on the AERMOD outputs, the highest expected annual average diesel PM_{10} emission concentrations from diesel truck traffic at the proposed project site would be 0.025 µg/m³ from South Winchester Boulevard. The highest indoor concentration would be 0.008 µg/m³. As noted in Section 3 above, CCR Title 24 Part 6 requires new development to use MERV 13 air filtration on space conditioning systems and ventilation systems that provide outside air to the occupiable space of a dwelling. A MERV 13 filter has a particle removal efficiency

in the range of 80-90 percent. An 80 percent removal efficiency was conservatively used for the purposes of this study. According to the U.S. EPA's *Exposure Factor Handbook* (2011), on average, people spend 90 percent of their time indoors. As residents are not always indoors, the filtration's overall effectiveness accounts for the time spent outdoors, which equates to approximately three hours per day. It is noted that this is a conservative assumption for this Project, as all of the time spent outdoors would not occur at the proposed project site. SC-1 below includes details on the ventilation requirements.

Project Condition of Approval:

The ventilation system shall be provided with air filter(s) having a designated efficiency equal to or greater than MERV 13 when tested in accordance with ASHRAE Standard 52.2, or a particle size efficiency rating equal to or greater than 50 percent in the 0.30-1.0 µm range and equal to or greater than 85 percent in the 1.0-3.0 µm range, when tested in accordance with Air-Conditioning, Heating, and Refrigeration Institute (AHRI) Standard 680 (California Energy Commission, 2019 Building Energy Efficiency Standards for Residential and Nonresidential Buildings, Section 150.0[m][12]).

As shown in Table 4-7, the highest calculated carcinogenic risk at the proposed project site would be 6.53 per million for future residents. The risk calculations are based on the pollutant concentration at the worst-case location and conservatively assume: no cleaner technology or lower emissions in future years, and 95th percentile breathing rates. Table 4-7 shows the cancer risk at the proposed project site would be under the 10 in one million threshold and would be less than significant.

Table 4-7: On-Site Health Risk

Exposure Scenario	Pollutant Concentration (µg/m³)	Maximum Cancer Risk (Risk per Million)	Chronic Noncancer Hazard	Acute Noncancer Hazard
South Winchester Boulevard ($PM_{2.5}$)	0.008	6.53	0.0015	0.0101
South Winchester (TOG)	0.121	0.63	0.0007	0.0002
Stevens Creek ($PM_{2.5}$)	0.001	0.96	0.0002	0.0021
Stevens Creek (TOG)	0.015	0.08	0.0001	0.00004
Total	**0.145**	**8.2**	**0.0025**	**0.01244**
Threshold	*NA*	*10 in one million*	*1.0*	*1.0*
Threshold Exceeded	**NA**	**No**	**No**	**No**
Refer to Appendix E.				

Carbon Monoxide Hotspots

Intersection Hotspots. The primary mobile-source criteria pollutant of local concern is carbon monoxide. Concentrations of CO are a direct function of the number of vehicles, length of delay, and traffic flow conditions. Transport of this criteria pollutant is extremely limited; CO disperses rapidly with distance from the source under normal meteorological conditions. Under certain meteorological conditions, however, CO concentrations close to congested intersections that experience high levels of traffic and elevated background concentrations may reach unhealthy levels, affecting nearby sensitive receptors. Areas of high CO concentrations, or "hot spots," are typically associated with intersections that are projected to operate at unacceptable levels of service during the peak commute hours. CO concentration modeling is therefore typically conducted for intersections that are projected to operate at unacceptable levels of service during peak commute hours.

The SFBAAB is designated as in attainment for carbon monoxide (CO). Emissions and ambient concentrations of CO have decreased dramatically in the SFBAAB with the introduction of the catalytic converter in 1975. No exceedances of the CAAQS or NAAQS for CO have been recorded at nearby monitoring stations since 1991. As a result, the BAAQMD screening criteria notes that CO impacts may be determined to be less than significant if a project would not increase traffic volumes at local intersections to more than 44,000 vehicles per hour, or 24,000 vehicles per hour for locations in heavily urban areas, where "urban canyons" formed by buildings tend to reduce air circulation. Traffic would increase along surrounding roadways during long-term operational activities.

According to the Traffic Impact Analysis prepared for the proposed project (2019), the proposed project would generate 501 daily trips (187 net daily vehicle trips). The proposed project's effects to existing vehicle distribution and travel speeds would be nominal. Therefore, the project would not involve intersections with more than 24,000 or 44,000 vehicles per hour. As a result, the proposed project would not have the potential to create a CO hotspot and impacts would be less than significant.

Parking Structure Hotspots. Carbon Monoxide concentrations are a function of vehicle idling time, meteorological conditions, and traffic flow. Therefore, parking structures (and particularly subterranean parking structures) tend to be of concern regarding CO hotspots, as they are enclosed spaces with frequent cars operating in cold start mode. The proposed project includes 93 parking spaces, 88 of which would be constructed within the underground parking garage, and 5 of which would be located on the street level. The proposed project would be required to comply with the ventilation requirements of the International Mechanical Code (Section 404 [Enclosed Parking Garages]), which requires that mechanical ventilation systems for enclosed parking garages operate automatically by means of carbon monoxide detectors in conjunction with nitrogen dioxide detectors. Section 404.2 requires a minimum air flow rate of 0.05 cubic feet per second per square foot and the system shall be capable of producing a ventilation airflow rate of 0.75 cubic per second per square foot of floor plan area. Impacts, in regards to parking structure CO hotspots, would be less than significant.

Cumulative On-Site Health Impacts

In addition to mobile sources, stationary sources within a 1,000-foot-radius of the proposed project site were identified using BAAQMD's Stationary Source Screening Analysis Tools and consultation with the BAAQMD. As indicated in Table 4-8, TACs generated from the stationary and roadway sources within a 1,000-foot-radius would not exceed BAAQMD thresholds.

Table 4-8: Cumulative On-Site Health Risk

Emissions Sources	$PM_{2.5}$ ($\mu g/m^3$)	Cancer Risk (per million	Chronic Hazard	Acute Hazard
Roadway Sources	0.5	8.2	0.0025	0.0124
Stationary Sources				
FRIT	0.047	1.777	0.003	0.0188
BelmontCorp	0.001	1.033	0.002	0.0004
Hotel Valencia	0.001	0.541	0.001	0.0004
Santana Row Gas Mart	0.0	0.490	0.002	0.000
Cumulative Health Risk Values	**0.194**	**12.041**	**0.0105**	**0.032**

Emissions Sources	$PM_{2.5}$ ($\mu g/m^3$)	Cancer Risk (per million	Chronic Hazard	Acute Hazard
BAAQMD Cumulative Threshold	*0.8*	*100*	*10*	*10*
Threshold Exceeded?	**No**	**No**	**No**	**No**

As described above, cumulative impacts related to residential cancer risk, $PM_{2.5}$, chronic hazard, and acute hazard would be less than cumulatively considerable and within acceptable limits.

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

Less than Significant Impact.

Construction

According to the BAAQMD, land uses associated with odor complaints typically include wastewater treatment plants, landfills, confined animal facilities, composting stations, food manufacturing plants, refineries, and chemical plants. The proposed project does not include any uses identified by the BAAQMD as being associated with odors.

Construction activities associated with the proposed project may generate detectable odors from heavy duty equipment (i.e., diesel exhaust), as well as from architectural coatings and asphalt off-gassing. Odors generated from the referenced sources are common in the man-made environment and are not known to be substantially offensive to adjacent receptors. Any construction-related odors would be short-term in nature and cease upon project completion. As a result, impacts to existing adjacent land uses from construction-related odors would be short-term in duration and therefore would be less than significant.

Operational

BAAQMD has established odor screening thresholds for land uses that have the potential to generate substantial odor complaints, including wastewater treatment plants, landfills or transfer stations, composting facilities, confined animal facilities, food manufacturing, and chemical plants. BAAQMD's thresholds for odors are qualitative based on BAAQMD's Regulation 7, Odorous Substances. This rule places general limitations on odorous substances and specific emission limitations on certain odorous compounds.

The proposed project includes 27 dwelling units, commercial and office uses. None of these uses are anticipated to generate odors. With respect to odor impacts from adjacent and nearby properties that could affect project residents and visitors, land uses typically producing objectionable odors include agricultural uses, wastewater treatment facilities, waste-disposal facilities, food processing plants, chemical plants, composting, refineries, landfills, dairies, and fiberglass molding. None of these uses are located near the proposed project site. Impacts would be less than significant.

4.4 Biological Resources

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?				X
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological				X
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, or impede the use of native wildlife nursery sites?				X
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?		X		
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?				X

Existing Setting

The only vegetation on the project site are two street trees located along Olin Avenue. Both trees are Holly Oaks(*Quercus Ilex*). The westerly tree is approximately 18 inches in diameter and the other tree is approximately 22 inches in diameter.

There are no creeks, rivers, or other water bodies are located on or adjacent to the project site and the closest creek is the San Tomas Aquino Creek, approximately 2 miles west from the site. Typical bird species that use urban areas as habitat include rock dove, mourning dove, house sparrow, scrub jay, and starlings.

Applicable Plans, Policies, and Regulations

Migratory Bird Treaty Act

Migratory birds, including raptors (i.e., birds of prey) are protected by the Migratory Bird Treaty Act (MBTA). The MBTA prohibits killing, possessing, or trading in migratory birds, except under the terms of a valid permit issued pursuant to Federal regulations. The MBTA protects whole birds, parts of birds, bird nests, and eggs.

Santa Clara Valley Habitat Plan/ Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation 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, Santa Clara Valley Transportation Authority, U.S. Fish and Wildlife Service, and California Department of Fish and Wildlife. The SCVHCP 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 project site is located within the boundaries of the SCVHCP and is designated Urban- Suburban which comprises of areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures.

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. A tree removal permit is required by the City prior to the removal of any trees covered under the ordinance. An "ordinance-size tree" is:

- a single trunk measuring 38 inches or more in circumference at the height of 54 inches (i. e, 4 ½ feet) above natural grade; or
- a multi-trunk with combined measurements of each trunk circumference at 54 inches (i. e, 4 ½ feet) above natural grade adding up to 38 inches or more.

On private property, tree removal permits are issued by the Department of Planning, Building and Code Enforcement. Tree removal or modifications to all trees on public property (e.g., street trees within a parking strip or the area between the curb and sidewalk) are handled by a Department of Transportation (DOT) Street Tree Removal Permit..

The City's Heritage Tree List identifies more than 100 trees with special significance to the community because of their size, history, unusual species, or unique quality. Pursuant to Chapter 13.28 of the San José Municipal Code, it is illegal to prune or remove a heritage tree without first consulting the City Arborist and obtaining a permit.

A permit is needed to remove a tree if the tree is:

- a street tree or a heritage tree;
- an ordinance-size tree, live or dead; or
- any tree of any size located on multifamily, commercial, industrial, or mixed-use property or in a common area.

City of San José General Plan

The City's General Plan includes the following biological resource policies applicable to the 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 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.

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 California Department of Fish and Game or U.S. Fish and Wildlife Service?

No Impact. Because the project site is fully developed and located within an urban area, there are no natural features that could otherwise be modified and no candidate, sensitive, or special status species exist in the project area. Therefore, there would be no impact.

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

No Impact. The project site is currently an existing gas station that is still in operation, and is therefore almost entirely paved. Existing vegetation on the project site consist of landscaping along the western, northern, and eastern (South Winchester Boulevard) frontages and two Holly Oak trees along Olin Avenue. The project area is not identified to contain any riparian habitat or other sensitive natural community in any local or regional plans, policies or regulation and therefore there would be no impact.

c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological?

No Impact. The project site is fully developed does not contain any wetlands. There are no sensitive or natural habitats and the project site is not located adjacent to any waterways. Therefore, there would be no impact.

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, or impede the use of native wildlife nursery sites?

Less than Significant Impact with Mitigation Incorporated. There are two oaks trees located on the project site. While use of the trees for raptor nesting is unlikely due to the size of the trees and limited cover provided, migratory birds could use the trees for nesting. The Migratory Bird Treaty Act of 1918 and California Fish and Game Code Sections 3503 and 3503.5 protects raptors and their nests. The species could be potentially disturbed during tree removal and construction activities. With implementation of the following Mitigation Measure BIO-1, the project's impact to nesting birds and raptors would be less than significant.

Mitigation Measures:

Mitigation Measure BIO-1 Initial site disturbance activities, including vegetation removal, shall not occur during the general avian nesting season (February 1 through August 31, inclusive). If construction activities cannot be scheduled to avoid nesting season, the project applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and status of nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to avoid direct and indirect impacts to nesting birds. To avoid the destruction of active nests and protect the reproductive success of birds protected by the Migratory Bird Treaty Act and California Fish and Game Code, nesting bird surveys shall be performed not more than 14 days prior to vegetation clearance and structure demolition.

Following commencement of construction activities, no additional nesting bird surveys would be required. If active nests are discovered, a 300-foot radius avoidance buffer for raptors, and 50-foot radius avoidance buffers for other birds, shall be established around such active nests and no construction shall be allowed within the buffer areas until a qualified biologist has determined the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground disturbing activities shall occur within this buffer until the qualified biologist has confirmed breeding/nesting is complete and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 30 and February 1, inclusive.

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

Less than Significant Impact. Within the City of San José, the urban forest as a whole is considered an important biological resource because most trees provide some nesting, cover, and foraging habitat for birds and mammals that are tolerant of humans, as well as providing necessary habitat for beneficial insects. While the urban forest is not as favorable an environment for native wildlife as extensive tracts of native vegetation, trees in the urban forest are often the best commonly or locally available habitat within urban areas. The project is located in an urban area and includes two non-native street trees on/adjacent to the site that are considered part of the urban forest.

The two street trees, both of which are non-native Holly Oak species, with diameters ranging from 18 to 22 inches would be removed. Implementation of the following Standard Permit Conditions to replant the removed trees, would ensure that the impact from the removal of the two street trees would be less than significant level.

Standard Permit Conditions

Tree Replacement. The removed trees would be replaced according to tree replacement ratios required by the City, as provided in Table 4-9 below.

Table 4-9 City of San José Replacement Guidelines for Trees to be Removed

Diameter of Tree to be removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
18 inches or greater	5:1	4:1	3:1	24-inch box
12-17 inches	3:1	2:1	None	24-inch box
Less than 12 inches	1:1	1:1	None	15-gallon container

x:x = tree replacement to tree loss ratio
Note: Trees greater than 12" diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.
Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multifamily Residential, Commercial, and Industrial properties, a permit is required for removal of trees of any size.

- In the event the proposed project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement or the Director's designee, at the development permit stage:
    - The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site, at the development permit stage.

- Pay off-site tree replacement fee(s) to the City, prior to the issuance of grading permit(s), in accordance to the City Council approved Fee Resolution. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

With implementation of the Standard Permit Condition listed above, General Plan policies, and existing regulations such as the Municipal Code, development of the proposed project would result in a less than significant impact with relation to local policies and ordinances protecting biological resources, such as trees.

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?

No Impact. The project site is located within the Santa Clara Valley Habitat Plan (SCVHP) study area and is designated as "Urban–Suburban" in the SCVHP and is not designated a natural community area or identified as important habitat for endangered and threatened species.

According to the Downtown Strategy 2040 FEIR, the USFWS has indicated concerns regarding nitrogen deposition from air pollution that can affect plant composition in serpentine grasslands and the bay checkerspot butterfly in south Santa Clara County area. All major remaining populations of the butterfly and many of the sensitive serpentine plant populations occur in areas subject to air pollution from vehicle exhaust and other sources throughout the Bay Area including the project area. Because serpentine soils tend to be nutrient poor, and nitrogen deposition artificially fertilizes serpentine soils, nitrogen deposition facilitates the spread of invasive plant species. The displacement of these species, and subsequent decline of 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 Habitat Plan for new vehicle trips can be used to purchase conservation land for the Bay checkerspot butterfly.

As mentioned above, the project is consistent with the Habitat Plan, which is based on the conclusion that no impacts to any of the Habitat Plan's covered species would occur under the project. With the implementation of the Habitat Plan, the cumulative impacts of development City-wide and within the areas of Santa Clara County covered by the Habitat Plan would be offset through conservation and management of land for the Bay checkerspot butterfly. The project would implement the following Standard Permit Conditions.

Standard Permit Condition

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

4.5 Cultural Resources

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource pursuant to in § 15064.5?			X	
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?			X	
c) Disturb any human remains, including those interred outside of dedicated cemeteries?			X	

Existing Setting

A records search for the project site was conducted by the Sonoma State University Northwest Information Center (NWIC) on August 2, 2019 and revealed no previously recorded archaeological resources. The State Office of Historic Preservation Historic Property Directory (OHP HPD) (which includes listings of the California Register of Historical Resources, California State Historical Landmarks, California State Points of Historical Interest, and the National Register of Historic Places) does not include any previously recorded buildings or structures in the project area.

Identified historic resources in project area include the Flames Coffee Shop located at 449 South Winchester Boulevard, the City Landmark Century 21 Theater Building located at 3161 Olsen Drive, and the City Landmark Sarah L. Winchester House (also known as the Winchester Mystery House) located at 525 South Winchester Boulevard.

The residential neighborhood to the rear is a post-war Minimal Traditional and Ranch style neighborhood. Based on other similar neighborhoods in the City, it does not represent a good example locally and would not qualify as a historic district or conservation area.

The 0.55-acre project site is developed as an existing gas station that is still in operation. The existing gas station was built in 1967. Only gas stations that were designed in the mid-century modern style or older styles would need further evaluation for historic significance and eligibility, however there are few in the City of San José but the project site not one of them. [8] As such, because of the building type and year built, the City has determined that it would not qualify as a historic resource at the local, State, or National level.

[8] Personal Communications with City Historic Preservation Officer dated July 11, 2019.

Applicable Plans, Policies, and Regulations

The City's General Plan includes policies applicable to all development projects in San José. The following policies are specific to cultural resources and are 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 LU-13.15: Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.

Discussion

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

Less than Significant Impact. The project site is an existing gas station that is still in operation. The proposed project would be a mixed-use building with retail/commercial, office, and residential uses. As discussed above, the project site is not listed as a historic resource or eligible for listing on the local, state or federal registers.

Further, known historic resources located in proximity to the project site include the Flames Coffee Shop located at 449 South Winchester Boulevard (approximately 50 feet south), the City Landmark Century 21 Theater Building located at 3161 Olsen Drive (approximately 600 feet south), and the City Landmark Sarah L. Winchester House (also known as the Winchester Mystery House) located at 525 South Winchester Boulevard (approximately 650 feet south). These historic resources to the south of the site are sufficiently separated from the project site and there would not be any issues to potential impacts to these structures.

The residential neighborhood to the rear is a post-war Minimal Traditional and Ranch style neighborhood and based on other similar neighborhoods in the City, it would not represent a good example locally and this are likely would not qualify as a historic district or conservation area. The project would not have a historic impact on this neighborhood.

Therefore, construction of the project would have a less than significant impact on historic structures.

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

Less than Significant Impact. There are no known archaeological resources on the project site or in the vicinity of the project area. However, there is a remote possibility that previously unknown unrecorded archaeological resources could potentially be discovered during ground disturbing construction operations.

The General Plan FEIR concluded that future development and redevelopment allowed under the proposed General Plan, especially construction activities, could result in direct or indirect impacts to both prehistoric and historic archaeological resources. The General Plan includes policies [Policy ER-10.1, Policy ER-10.2, Policy ER-10.3] that require the provision of studies to identify possible archaeological resources on specific development sites and the incorporation of measures to avoid or limit possible disturbance of resources if they are accidentally encountered during construction. In the unlikely event that archaeological resources (including human remains) are encountered during excavation and construction, the project would implement the following Standard Permit Conditions:

Standard Permit Conditions

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

Human Remains. If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD).

The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

i. The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
ii. The MLD identified fails to make a recommendation; or
iii. The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.

In accordance with the General Plan policies and the Standard Permit Conditions, the project would substantially reduce impacts to archaeological resources. Therefore, this impact would be less than significant.

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

Less than Significant Impact. Based on the archaeological literature research conducted by NWIC, no evidence suggests that any prehistoric or historic-era marked or un-marked human interments are present within or in the immediate vicinity of the project site. However, there is the remote possibility that previously unknown Native American or other graves could be present and be uncovered during construction activities. California law recognizes the need to protect historic-era and Native American human burials, skeletal remains, and grave-associated items from vandalism and inadvertent destruction and any substantial change to or destruction of these resources would be a significant impact. Therefore, the City would require the project to comply with all applicable regulatory programs pertaining to subsurface cultural resources including the above-mentioned Standard Permit Conditions for avoiding and reducing impacts if human remains are encountered and impacts would be less than significant.

4.6 Energy

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?			X	
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?			X	

Existing Setting

Pacific Gas and Electric Company (PG&E) is San José's energy utility provider, furnishing both natural gas and electricity for residential, commercial, industrial, and municipal uses. PG&E generates or buys electricity from hydroelectric, nuclear, renewable, natural gas, and coal facilities. In 2018, natural gas facilities provided 15 percent of PG&E's electricity delivered to retail customers; nuclear plants provided 34 percent; hydroelectric operations provided 13 percent; renewable energy facilities including solar, geothermal, and biomass provided 39 percent.[9]

Applicable Plans, Policies, and Regulations

Renewable Energy Standards

In 2002, California established its Renewable Portfolio Standard program[10] with the goal of increasing the annual percentage of renewable energy in the state's electricity mix by the equivalent of at least 1 percent of sales, with an aggregate total of 20 percent by 2017. The California Public Utilities Commission subsequently accelerated that goal to 2010 for retail sellers of electricity (*Public Utilities Code* Section 399.15(b)(1)). Then-Governor Schwarzenegger signed Executive Order S-14-08 in 2008, increasing the target to 33 percent renewable energy by 2020. In September 2009, then-Governor Schwarzenegger continued California's commitment to the Renewable Portfolio Standard by signing Executive Order S-21-09, which directs the California Air Resources Board under its AB 32 authority to enact regulations to help the State meet its Renewable Portfolio Standard goal of 33 percent renewable energy by 2020. In September 2010, the California Air Resources Board adopted its Renewable Electricity Standard

[9] Pacific Gas and Electric, Exploring Clean Energy Solutions, https://www.pge.com/en_US/about-pge/environment/what-we-are-doing/clean-energy-solutions/clean-energy-solutions.page?WT.mc_id=Vanity_cleanenergy, accessed November 7, 2019.

[10] The Renewable Portfolio Standard is a flexible, market-driven policy to ensure that the public benefits of wind, solar, biomass, and geothermal energy continue to be realized as electricity markets become more competitive. The policy ensures that a minimum amount of renewable energy is included in the portfolio of electricity resources serving a state or country.

regulations, which require all of the State's load-serving entities to meet this target. In October 2015, then-Governor Brown signed into legislation Senate Bill 350, which requires retail sellers and publicly owned utilities to procure 50 percent of their electricity from eligible renewable energy resources by 2030. Signed in 2018, SB 100 revised the goal of the program to achieve the 50 percent renewable resources target by December 31, 2026, and to achieve a 60 percent target by December 31, 2030. SB 100 also established a further goal to have an electric grid that is entirely powered by clean energy by 2045. Under the bill, the State cannot increase carbon emissions elsewhere in the western grid or allow resource shuffling to achieve the 100 percent carbon-free electricity target.

California 2007 Energy Action Plan Update

The 2007 Energy Action Plan II is the State's principal energy planning and policy document. The plan describes a coordinated implementation strategy to ensure that California's energy resources are adequate, affordable, technologically advanced, and environmentally sound. In accordance with this plan, the state and its electricity providers would invest first in energy efficiency and demand-side resources, followed by renewable resources, and only then in clean conventional electricity supply to meet its energy needs.

Building Codes

Energy conservation standards for new residential and nonresidential buildings were adopted by the California Energy Resources Conservation and Development Commission (now the California Energy Commission) in June 1977 and are updated every three years (Title 24, Part 6, of the California Code of Regulations). Title 24 requires the design of building shells and building components to conserve energy. The standards are updated periodically to allow for consideration and possible incorporation of new energy efficiency technologies and methods. On June 10, 2015, the California Energy Commission (CEC) adopted the 2016 Building Energy Efficiency Standards, which went into effect on January 1, 2017. On May 9, 2018, the CEC adopted the 2019 Building Energy Efficiency Standards, which will take effect on January 1, 2020.

The 2016 Standards improved upon the previous 2013 Standards for new construction of and additions and alterations to residential and nonresidential buildings. Under the 2016 Standards, residential buildings are 28 percent more energy efficient and nonresidential buildings are 5 percent more energy efficient than under the 2013 Standards. Buildings that are constructed in accordance with the 2013 Building Energy Efficiency Standards are 25 percent (residential) to 30 percent (nonresidential) more energy efficient than the prior 2008 standards as a result of better windows, insulation, lighting, ventilation systems, and other features.

The 2019 Standards will improve upon the 2016 Standards. Under the 2019 Title 24 standards, residential buildings are expected to be about 7 percent more energy efficient, and when the required rooftop solar is factored in for low-rise residential construction, residential buildings that meet 2019 Title 24 standards would use about 53 percent less energy than those built to meet current standards.

The California Green Building Standards Code (California Code of Regulations, Title 24, Part 11), commonly referred to as the CALGreen Code, is a statewide mandatory construction code that was developed and adopted by the California Building Standards Commission and the California Department of Housing and Community Development. CALGreen standards require new residential and commercial buildings to comply with mandatory measures under five topical areas: planning and design; energy efficiency; water

efficiency and conservation; material conservation and resource efficiency; and environmental quality. CALGreen also provides voluntary measures (CALGreen Tier 1 and Tier 2) that local governments may adopt which encourage or require additional measures in the five green building topics. The most recent update to the CALGreen Code was adopted in 2019 and is effective January 1, 2020.

California Green Building Standards Code

The California Green Building Standards Code (California Code of Regulations, Title 24, Part 11), commonly referred to as the CALGreen Code, is a statewide mandatory construction code that was developed and adopted by the California Building Standards Commission and the California Department of Housing and Community Development. CALGreen standards require new residential and commercial buildings to comply with mandatory measures under five topical areas: planning and design; energy efficiency; water efficiency and conservation; material conservation and resource efficiency; and environmental quality. CALGreen also provides voluntary measures (CALGreen Tier 1 and Tier 2) that local governments may adopt which encourage or require additional measures in the five green building topics. The most recent update to the CALGreen Code was adopted in 2019 and is effective January 1, 2020.

2006 Appliance Efficiency Regulations

The California Energy Commission adopted Appliance Efficiency Regulations (Title 20, CCR Sections 1601 through 1608) on October 11, 2006. The regulations were approved by the California Office of Administrative Law on December 14, 2006. The regulations include standards for both Federally regulated appliances and non-Federally regulated appliances. While these regulations are now often viewed as "business-as-usual," they exceed the standards imposed by all other states and they reduce GHG emissions by reducing energy demand.

California Utility Efficiency Programs (Senate Bill 1037 and Assembly Bill 2021)

SB 1037 and AB 2021 require electric utilities to meet their resource needs first with energy efficiency. California Utility Efficiency Programs have also set new targets for statewide annual energy demand reductions.

City of San José Private Sector Green Building Policy

The San José City Council approved Policy 6-32 *Private Sector Green Building Policy* in October 2008 that establishes a baseline green building standard for private sector new construction within the City. Policy 6-32 is intended to enhance the public health, safety, and welfare of City residents, workers, and visitors by fostering practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water, and other resources. All projects are required to submit a Leadership in Energy and Environmental Design (LEED)[11], GreenPoint[12], 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 the Table 4-10 below.

Table 4-10: Green Building Practices

Applicable Project	Effective as of January 1, 2009
Commercial/Industrial – Tier 1	< 25,000 square-feet = LEED Applicable NC Checklist
Commercial/Industrial – Tier 2	> 25,000 square-feet = LEED Silver

[11] Created by the U.S. Green Building Council, LEED is a certification system that assigns points for green building measures based on a 110-point rating scale.
[12] Created by Build It Green, GreenPoint is a certification system that assigns points for green building measures based on a 381-point scale for multi-family developments and 341-point scale for single-family developments.

Applicable Project	Effective as of January 1, 2009
Residential < 10 units – Tier 1	GreenPoint or LEED Checklist
Residential > 10 Units – Tier 2	GreenPoint Rated 50 points or LEED Certified
High-Rise Residential (75' or higher)	LEED Certified

Green Vision

The Green Vision includes the goal to reduce per capita energy consumption by at least 50 percent compared to 2008 levels by 2022 and maintain or reduce net aggregate energy consumption levels equivalent to the 2022 level through 2040.

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.

City of San José Smart Energy Plan

In March 2001, the City of San José adopted a Smart Energy Plan which includes discussions and implementation steps for the following strategies:

- Explore regional energy solutions together with neighboring communities.
- Collaborate with neighboring communities to identify regional criteria for appropriate locations for new large, clean plants in Silicon Valley that do not harm residential communities.
- Explore creative energy partnerships among cities, the State, and federal governments, and the private sector to help ensure reliable supplies and achieve conservation.
- Reduce the City's energy demand through vigorous conservation efforts to achieve at least a 10 percent savings and encourage community conservation.
- Expand the City's model program for energy-efficient buildings to encourage long-term permanent conservation.
- Actively encourage small clean power plants in San José that can be located in appropriate industrial areas and publicly-owned lands, not in residential neighborhoods.
- Set clear predictable standards for clean energy generation projects within the City's authority and streamline the City's review and approval of appropriate power projects.

City Energy Programs

The City also has a number of programs to further promote energy conservation among residents and businesses in the City.

Silicon Valley Energy Watch (SVEW) program:

The City of San José, PG&E, and Ecology Action are part of the Silicon Valley Energy Watch program. The program assists cities, non-profits, small businesses, community organizations, professionals, and residents in the County to take advantage of cost-saving, energy-efficient technologies. SVEW offers free energy audits, targeted retrofits, technical assistance, education, and training.

City of San José Green Building Policies:

In 2001, the San José City Council adopted a series of Green Building Policies to demonstrate the City's commitment to the environmental, economic, and social stewardship and to yield cost savings to city taxpayers through reduced operating costs, to provide healthy work environments for staff and visitors, and to contribute to the City's goals of protecting, conserving, and enhancing the region's environmental resources. The Green Building Policy goals include a series in the category of energy and atmosphere. Energy and atmosphere policy goals are as follows:

- *Minimum Energy Performance*: establish the minimum level of energy efficiency for the base building and systems.
- *Optimize Energy Performance*: achieve increasing levels of energy performance above the minimum standard to reduce environmental impacts associated with excessive energy use.
- *Building Commissioning*: verify and ensure that the entire building is designed, constructed, and calibrated to operate as intended.
- *Measurement and Verification*: provide for the ongoing accountability and optimization of building energy and water consumption performance over time.
- *Renewable Energy*: encourage and recognize increasing levels of self-supply through renewable technologies to reduce environmental impacts associated with fossil fuel energy use.
- *Green Power*: encourage the development and use of grid-source, renewable energy technologies on a net zero pollution basis.
- *Reduce Ozone Depletion*: support early compliance with the Montreal Protocol by eliminating the use of CFC-based refrigerants and reducing the use of HCFCs and halons. As part of its promotion of Green Building policies, the City encourages participation in City sponsored organized educational and training events covering green building topics to increase the use of green building techniques in municipal, commercial, and residential building development projects in the City and create greater awareness of these practices.

Municipal Code

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

In September 2019, San José City Council approved a building reach ordinance (No. 30311) that encourages building electrification and energy efficiency, requires solar-readiness on nonresidential buildings, and required electric vehicle-readiness and EV equipment installation. Additionally, in October 2019 City Council approved an ordinance (No. 30330) prohibiting natural gas infrastructure in new detached accessory dwelling units, single-family, and low-rise multi-family buildings. Cities may adopt amendments to the Green Building Standards which exceed the standards required by the State. These two ordinances apply to new construction as of January 1, 2020.

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes policies applicable to all development projects in San José. The following policies are specific to energy use and energy efficiency and applicable to the 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-2.2 Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.

Policy MS-2.3 Utilize solar orientation, (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.

Action MS-2.8 Develop policies which promote energy reduction for energy-intensive industries. For facilities such as data centers, which have high energy demand and indirect greenhouse gas emissions, require evaluation of operational energy efficiency and inclusion of operational design measures as part of development review consistent with benchmarks such as those in EPA's EnergyStar Program for new data centers.

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

Policy MS-3.1 Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation or other area functions.

Policy MS-5.5 Maximize recycling and composting from all residents, businesses, and institutions in the City.

Policy MS-6.5 Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.

Policy MS-6.8 Maximize reuse, recycling, and composting citywide.

Policy MS-14.1 Promote job and housing growth in areas served by public transit and that have community amenities within a 20-minute walking distance.

Policy MS-14.2 Enhance existing neighborhoods by adding a mix of uses that facilitate biking, walking, or transit ridership through improved access to shopping, employment, community services, and gathering places.

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

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

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-17.2 Ensure that development within San José is planned and built in a manner consistent with fiscally and environmentally sustainable use of current and future water supplies by encouraging sustainable development practices, including low-impact development, water-efficient development and green building techniques. Support the location of new development within the vicinity of the recycled water system and promote expansion of the South Bay Water Recycling (SBWR) system in areas planned for new development. Residential development outside of the Urban Service Area can be approved only at minimal levels and only allowed to use non-recycled water at urban intensities. For residential development outside of the Urban Service Area, restrict water usage to well water, rainwater collection, or other similar sustainable practice. Non-residential development may use the same sources and potentially make use of recycled water, provided that its use will not result in conflicts with other General Plan policies, including geologic or habitat impacts. To maximize the efficient and environmentally beneficial use of water, outside of the Urban Service Area, limit water consumption for new development so that it does not diminish the water supply available for projected development in areas planned for urban uses within San José or other surrounding communities.

Policy MS-18.5 Reduce citywide per capita water consumption by 25% by 2040 from a baseline established using the 2010 Urban Water Management Plans of water retailers in San José.

Policy MS-18.6 Achieve by 2040, 50 million gallons per day of water conservation savings in San José, by reducing water use and increasing water use efficiency.

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 IN-5.3 Use solid waste reduction techniques, including source reduction, reuse, recycling, source separation, composting, energy recovery and transformation of to extend the lifespan of existing landfills and to reduce the need for future landfill facilities and to achieve the City's Zero Waste goals.

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-1.4 Through the entitlement process for new development fund needed transportation improvements for all modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.

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

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.

Discussion

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

Less Than Significant Impact.

Construction

The energy consumption associated with construction of the proposed project includes primarily diesel fuel consumption from on-road hauling trips and off-road construction diesel equipment, and gasoline consumption from on-road worker commute and vendor trips. Temporary electric power for as-necessary lighting and electronic equipment (such as computers inside temporary construction trailers, and heating, ventilation, and air conditioning) would be powered by a generator. The amount of electricity used during construction would be minimal; typical demand would stem from the use of electrically powered hand tools and several construction trailers by managerial staff during the hours of construction activities. The majority of the energy used during construction would be from petroleum. This analysis relies on the construction equipment list and operational characteristics, as stated in Section 4.3, Air Quality and Section 4.8, Greenhouse Gas Emissions, as well as, Appendix A and C of this Initial Study. Table 4-11 quantifies the construction energy consumption are provided for the proposed project, followed by an analysis of impacts based on those quantifications.

Table 4-11: Project Energy Consumption During Construction

Source	Project Construction Usage	Santa Clara County Annual Energy Consumption	Percentage Increase Countywide
Diesel Use	**Gallons**		
On-Road Construction Trips [1]	40,788	101,253,089	0.0403%
Off-Road Construction Equipment [2]	17,143	101,253,089	0.0169%
Construction Diesel Total	**57,931**	**101,253,089**	**0.0572%**
Gasoline	**Gallons**		
On-Road Construction Trips [1]	5,448	610,142,526	0.0009%

1. On-road mobile source fuel use based on vehicle miles traveled (VMT) from CalEEMod and fleet-average fuel consumption in gallons per mile from EMFAC2017 in Santa Clara County. Electricity demand based on VMT and calculated average electric vehicle fuel economy for 2015 models (in kWh per mile) from the DOE Fuel Economy Guide.
2. Off-road mobile source fuel usage based on a fuel usage rate of 0.05 gallons of diesel per horsepower (hp)-hour from USEPA.
Abbreviations:
CalEEMod: California Emission Estimation Model; EMFAC: Emission Factor Model 2014; kWh: kilowatt-hour;
Sources: AWMA, 1992; DOE 2016; USEPA 1996.

In total, construction of the proposed project would consume approximately 57,931 gallons of diesel and 5,448 gallons of gasoline. The proposed project's fuel from the entire construction period would increase fuel use in the County by approximately 0.06 percent for diesel and 0.001 percent for gasoline.

There are no unusual project characteristics that would necessitate the use of construction equipment that would be less energy-efficient than at comparable construction sites in the region or state. In addition, some incidental energy conservation would occur during construction through compliance with State requirements that equipment not in use for more than five minutes be turned off. Project construction equipment would also be required to comply with the latest EPA and CARB engine emissions standards. These engines use highly efficient combustion engines to minimize unnecessary fuel consumption. Additionally, the proposed project would utilize Tier 4 construction equipment per Mitigation Measure AQ-1.

The CEQA Guideline Appendix G and Appendix F criteria requires the proposed project's effects on local and regional energy supplies and on the requirements for additional capacity to be addressed. A 0.29 percent increase in construction fuel demand is not anticipated to trigger the need for additional capacity. Fuel consumption is based on a conservative construction phasing and conservative estimates for annual construction fuel consumption. Longer phases would result in lower construction intensity and a lower annual fuel consumption, resulting in lower annual demand on energy supplies. Additionally, use of construction fuel would cease once the proposed project is fully developed. As such, project construction would have a nominal effect on the local and regional energy supplies. Therefore, it is expected that construction fuel consumption associated with the proposed project would not be inefficient, wasteful, or unnecessary. The proposed project would not substantially affect existing energy or fuel supplies, or resources and new capacity would not be required. Impacts would be less than significant in this regard.

Operational

The energy consumption would include building electricity, water, and natural gas usage, as well as fuel usage from on-road vehicles. Note that this energy resources analysis is consistent with the analysis presented in Section 4.3, Air Quality, and Section 4.8, Greenhouse Gases. Quantifications of operational energy consumption are provided for the proposed project in Table 4-12 below.

Table 4-12: Annual Energy Consumption during Operations

Source	Project Operational Usage	Santa Clara County Annual Energy Consumption	Percentage Increase Countywide
Electricity Use	**Megawatt Hour/Year (MWh/year)**		
Area [1]	480,170	16,668,161	0.0029%
Natural Gas Use	**Therms/year**		
Area [1]	2,567	440,030,822	0.0006%
Diesel Use	**Gallons/Year**		
Mobile [2]	3,728	101,253,089	0.0037%
Gasoline Use	**Gallons/Year**		
Mobile [2]	28,704	610,142,526	0.0047%

Notes:
1. The electricity and natural gas usage are based on project-specific estimates and CalEEMod defaults.
2. Calculated based on the mobile source fuel use based on vehicle miles traveled (VMT) and fleet-average fuel consumption (in gallons per mile) from EMFAC2017 for operational year 2022. For electric vehicles, model year 2015 electric vehicle fuel economy is used from the DOE Fuel Economy Guide.

Abbreviations: CalEEMod: California Emission Estimation Model; EMFAC2017: California Air Resources Board Emission Factor Model; kBTU: thousand British Thermal Units; kWh: kilowatt-hour

Operation of uses implemented pursuant to the proposed project would annually consume approximately 480,170 MWh of electricity, 2,567 therms of natural gas, 3,728 gallons of diesel, and 28,704 gallons of gasoline.

Pacific Gas and Electric (PG&E) provides electricity to the proposed project area. Electricity is currently used by the existing residences on the proposed project site. The proposed project site is expected to continue to be served by the existing PG&E electrical facilities. Total electricity demand in PG&E's service area is forecast to increase by approximately 12,000 GWh—or 12 billion kWh—between 2016 and 2028.[13] The proposed project's anticipated electricity demand (approximately 480,170 MWh) would be nominal compared to overall demand in PG&E's service area. Therefore, the projected electrical demand would not significantly impact PG&E's level of service.

Regarding natural gas, Santa Clara County consumed 440,030,822 therms of natural gas in 2017. Therefore, the proposed project's operational energy consumption for space and water heating would represent 0.0006 percent of the natural gas consumption in the County.

[13] California Energy Commission, *California Energy Demand 2018-2030 Revised Forecast, Figure 49 Historical and Projected Baseline Consumption PG&E Planning Area*, April 2018.

In 2018, Californians consumed approximately 15,589,042,965 gallons of gasoline and approximately 3,107,823,655 gallons of diesel fuel. Santa Clara County annual gasoline fuel use in 2018 was 610,142,526 gallons and diesel fuel use was 101,253,089 gallons. Expected project operational use of gasoline and diesel would represent 0.005 percent of current gasoline use and 0.004 percent of current diesel use in the County.

It should also be noted that the proposed project design and materials would comply with the 2019 Building Energy Efficiency Standards, which take effect on January 1, 2020, and/or future 2019 Building Energy Efficiency Standards depending on when construction permits are issued. Prior to issuance of a building permit, the City of San José would review and verify that the proposed project plans demonstrate compliance with the current version of the Building and Energy Efficiency Standards. Title 24 standards require energy conservation features in new construction (e.g., high- efficiency lighting, high-efficiency heating, ventilating, and air-conditioning (HVAC) systems, thermal insulation, double-glazed windows, water conserving plumbing fixtures).

Although the proposed project does not include on-site renewable energy resources, the proposed building would be built to achieve LEED certification consistent with San José Council Policy 6-32. The project proponent anticipates that LEED certification would be achieved in part by conforming to the City's Green Building Measures. Additionally, the proposed project would also be required adhere to the provisions of CALGreen, which establishes planning and design standards for sustainable site development, energy efficiency (in excess of the California Energy Code requirements), water conservation, material conservation, and internal air contaminants. The insulation and design code requirements would minimize wasteful energy consumption.

None of the project energy uses exceed one percent of Santa Clara County use. Therefore, project operations would not substantially affect existing energy or fuel supplies or resources. The proposed project would comply with applicable energy standards and new capacity would not be required. Impacts would be less than significant in this regard.

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

Less Than Significant Impact. As stated above, the project would be required to be built to LEED Certification pursuant Council Policy 6-32. The proposed project would be required to comply with existing regulations, including applicable measures from the City's General Plan, or would be directly affected by the outcomes (vehicle trips and energy consumption would be less carbon intensive due to statewide compliance with future low carbon fuel standard amendments and increasingly stringent Renewable Portfolio Standards). As such, the proposed project would not conflict with any other state-level regulations, including City Reach codes, pertaining to energy. The proposed infill project would reduce single-occupancy traffic trips and include green design measures to achieve LEED certification. Therefore, the project would comply with existing State energy standards and would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency and impacts would be less than significant.

4.7 Geology and Soils

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:			X	
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.			X	
ii) Strong seismic ground shaking?			X	
iii) Seismic-related ground failure, including liquefaction?			X	
iv) Landslides?				X
b) Result in substantial soil erosion or the loss of topsoil?			X	
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?			X	
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?			X	
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems				X

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
where sewers are not available for the disposal of waste water?				
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?			X	

Existing Setting

Soils and Groundwater

The project site is in the Santa Clara Valley, which is flanked on the west by the Santa Cruz Mountains, on the east by the Diablo Range, and the San Francisco Bay to the north. The mountain ranges to the east and west consist of older Franciscan and related rocks and overlying sedimentary rocks ranging in age from the Cretaceous through Tertiary time. The valley's basin contains alluvial deposits derived from the Diablo Range and the Santa Cruz Mountains. Sediments in the site vicinity consist of Holocene age mainly continental deposits of unconsolidated to semi-consolidated alluvium, though includes some marine deposits near the coast.

The project site lies at an elevation of approximately 130 feet above mean sea level and is predominantly flat. Soil conditions at the proposed project site consist of alluvial deposits consisting of interbedded layers of clay, silt, sand, and gravel.[14]

Seismicity and Seismic Hazards

The project area is not located within the Alquist-Priolo Earthquake Fault Zone[15] or the Santa Clara County Geologic Hazard Zone and no active faults have been mapped on the project site. The project site is not within a designated Landslide and Liquefaction Zone[16].

The City of San José is within one of the most seismically active areas in the United States, capable of generating an earthquake with a magnitude 6.7 or greater. The San Andreas Fault system, including the Monte Vista-Shannon Fault, exists within the Santa Cruz Mountains and the Hayward and Calaveras Fault systems exist within the Diablo Range. Development in the City is likely to be exposed to strong ground shaking within the useful lifetime of new development.

[14] California, State of, Department of Conservation. Web Soil Survey. Available at: https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx. Accessed August 27, 2019.
[15] California, State of, Department of Conservation. Regulatory Maps. http://maps.conservation.ca.gov/cgs/informationwarehouse/index.html?map=regulatorymaps. Accessed August 27, 2019.
[16] California, State of, Department of Conservation. Earthquake Zones of Required Investigation San Jose West Quadrangle. Available at: http://qmw.conservation.ca.gov/SHP/EZRIM/Maps/SAN_JOSE_WEST_EZRIM.pdf. Accessed August 27, 2019.

Applicable Plans, Policies, and Regulations

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act (Act) was passed in 1972 to address the hazard of surface faulting to structures for human occupancy .The Alquist-Priolo Earthquake Fault Zoning Act regulates development and construction of buildings intended for human occupancy to avoid the hazard of surface fault rupture. The act categorizes faults as active (Historic and Holocene age), potentially active (Late Quaternary and Quaternary age), and inactive (pre-Quaternary age). The Earthquake Fault Zones indicate areas with potential surface fault-rupture hazards. Areas within the Alquist-Priolo Earthquake Fault Zone require special studies to evaluate the potential for surface rupture to ensure that no structures intended for human occupancy are constructed across an active fault. This Act requires the State Geologist to establish regulatory zones (Earthquake Fault Zones) around the surface traces of mapped active faults, and to publish appropriate maps that depict these zones. If an active fault is found, a structure for human occupancy cannot be placed over the trace of the fault and must be set back from the fault (typically 50 feet).

California Building Code

The California Building Code (CBC), Part 2 of Title 24 of the California Code of Regulations (CCR), is based on the International Building Code and prescribes a standard for constructing safer buildings throughout the State of California. It contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, strength of the ground and distance to seismic sources. The Code is renewed on a triennial basis every three years; the current version is the 2016 Building Standards Code. Building permits for individual projects within the Plan Area will be reviewed to ensure compliance with the CBC.

City of San José Envision San José 2040 General Plan

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

Policy EC-3.1: Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.

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

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

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

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

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.

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.

Discussion

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

i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

Less than Significant Impact. According to the California Department of Conservation Alquist-Priolo mapping data, the project site is not located within an Alquist-Priolo Earthquake Fault Zone. There are no known active or potentially active faults trending towards or through the project site; however, the project site lies within the region affected by the active San Andreas Fault system, which influences faults throughout the region, including the Hayward and Calaveras faults. Several smaller faults including the Evergreen, Quimby, Piercy, and Clayton faults, are also found in the project vicinity, primarily along the base of the San José Foothills. Although the project is located within a seismically active region, there is no known fault mapped on or proximate to the project site. Therefore, the possibility of significant fault rupture on the project site would be less than significant.

ii. Strong seismic ground shaking?

Less than Significant Impact. The project site is located within a seismically active region and strong seismic ground shaking could occur. The Association of Bay Area Governments (ABAG) Resilience Program maps shows various faults throughout the region. The project would be required to be in conformance with the California Building Code, City regulations, and other applicable seismic construction standards. Conformance with these standard engineering practices and design criteria would reduce the effects of seismic ground shaking. Furthermore, the project would be built and maintained in accordance with a site-specific geotechnical report, as required by the General Plan FEIR and outlined in the Standard Permit Condition below. Therefore, impacts would be less than significant.

Standard Permit Conditions

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

iii. Seismic-related ground failure, including liquefaction?

Less than Significant Impact. Liquefaction generally occurs as a "quicksand" type of ground failure caused by strong ground shaking. The primary factors influencing liquefaction potential include groundwater, soil type, relative density of the sandy soils, confining pressure, and the intensity and duration of ground shaking. As shown in Figure 3.6-1 in the General Plan FEIR, the project site is not located in a State seismic hazard zone specific to liquefaction. All structures and foundations requiring building permits would be required to meet California Building Code requirements to withstand ground shaking, minimizing potential impacts resulting from liquefaction. Adherence to the California Building Code would ensure that the seismic-related ground failure, including liquefaction impacts would be less than significant.

iv. Landslides?

No Impact. Landslides are mass movements of the ground that include rock falls, relatively shallow slumping and sliding of soil, and deeper rotational or transitional movement of soil or rock. The project site is relatively flat and is not located in an area mapped as an earthquake-induced landslide hazard area as shown in Figure 3.6-1 in the City's General Plan FEIR. Therefore, there would be no impact.

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

Less than Significant Impact. Grading during the construction phase of the project would displace soils and temporarily increase the potential for soils to be subject to wind and water erosion. However, erosion and loss of topsoil can be controlled using standard construction practices, as described in an erosion control plan for the proposed project. Furthermore, the proposed project would be required implement Standard Permit Conditions described below to further reduce potential erosion impacts during construction. Therefore, impacts would be less than significant.

Standard Permit Conditions

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

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

Less than Significant Impact. As discussed above, the project site is not within a designated Landslide and Liquefaction Zone. While the project is not located in an area mapped as liquefaction hazard, all structures and foundations requiring building permits would still be required to meet California Building Code requirements to withstand ground shaking, minimizing potential impacts resulting from liquefaction. Adherence to the California Building Code, City regulations, and other applicable standards would ensure that the seismic and liquefaction impacts are less than significant.

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

Less than Significant Impact. The proposed project would be required to be in conformance with the California Building Code, City regulations, and other applicable standards. Refer to response 5.7 (a) for more information. Conformance with standard engineering practices and design criteria would reduce impacts related to expansive soil potential to a less than significant level.

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

No Impact. The project would connect to the City sewer system and would not include the implementation of septic tanks or alternative wastewater disposal systems. Therefore, there would be no impact.

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

Less than Significant Impact. The project site has been previously graded and developed and does not support or contain any unique geologic feature. Based on the age and type of surface soils, there is low potential to impact undiscovered paleontological resources. While the project site is located within a high sensitivity area (at depth) for paleontological resources as shown in Figure 3.1-1 in the City's General Plan FEIR, subsurface testing and excavation in the immediate project area, including project sites closer to Guadalupe River than the project site, has failed to yield any evidence of paleontological deposits. Implementation of the following Standard Permit Condition would substantially reduce potential impacts to paleontological resources.

Standard Permit Condition

Paleontological Resources. If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement (PBCE) shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning or Director's designee of the PBCE.

The General Plan FEIR concluded that with implementation of existing regulations and adopted General Plan policies, new development within San José would have a less than significant impact on paleontological resources.

4.8 Greenhouse Gas Emissions

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?			X	
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?			X	

Existing Setting

Certain gases in the earth's atmosphere classified as GHGs, play a critical role in determining the earth's surface temperature. Solar radiation enters the earth's atmosphere from space. A portion of the radiation is absorbed by the earth's surface and a smaller portion of this radiation is reflected toward space. This absorbed radiation is then emitted from the earth as low-frequency infrared radiation. The frequencies at which bodies emit radiation are proportional to temperature. Because the earth has a much lower temperature than the sun, it emits lower-frequency radiation. Most solar radiation passes through GHGs; however, infrared radiation is absorbed by these gases. As a result, radiation that otherwise would have escaped back into space is instead "trapped," resulting in a warming of the atmosphere. This phenomenon, known as the greenhouse effect, is responsible for maintaining a habitable climate on earth.

The primary GHGs contributing to the greenhouse effect are carbon dioxide (CO_2), methane (CH_4), and nitrous oxide (N_2O). Fluorinated gases also make up a small fraction of the GHGs that contribute to climate change. Examples of fluorinated gases include chlorofluorocarbons (CFCs), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulfur hexafluoride (SF_6), and nitrogen trifluoride (NF_3); however, it is noted that these gases are not associated with typical land use development. Human-caused emissions of GHGs exceeding natural ambient concentrations are believed to be responsible for intensifying the greenhouse effect and leading to a trend of unnatural warming of the Earth's climate, known as global climate change or global warming.

GHGs are global pollutants, unlike criteria air pollutants and toxic air contaminants (TACs), which are pollutants of regional and local concern. Whereas pollutants with localized air quality effects have relatively short atmospheric lifetimes (approximately one day), GHGs have long atmospheric lifetimes (one to several thousand years). GHGs persist in the atmosphere for long enough time periods to be dispersed around the globe. Although the exact lifetime of a GHG molecule is dependent on multiple

variables and cannot be pinpointed, more CO_2 is emitted into the atmosphere than is sequestered by ocean uptake, vegetation, or other forms of carbon sequestration. Of the total annual human-caused CO_2 emissions, approximately 55 percent is sequestered through ocean and land uptakes every year, averaged over the last 50 years, whereas the remaining 45 percent of human-caused CO_2 emissions remains stored in the atmosphere (Intergovernmental Panel on Climate Change, 2013).

Applicable Plans, Policies, and Regulations

To date, no national standards have been established for nationwide GHG reduction targets, nor have any regulations or legislation been enacted specifically to address climate change and GHG emissions reduction at the project level. Various efforts have been promulgated at the federal level to improve fuel economy and energy efficiency to address climate change and its associated effects.

Energy Independence and Security Act of 2007

The Energy Independence and Security Act of 2007 (December 2007), among other key measures, requires the following, which would aid in the reduction of national GHG emissions:

- Increase the supply of alternative fuel sources by setting a mandatory Renewable Fuel Standard requiring fuel producers to use at least 36 billion gallons of biofuel in 2022.
- Set a target of 35 miles per gallon for the combined fleet of cars and light trucks by model year 2020, and direct the National Highway Traffic Safety Administration (NHTSA) to establish a fuel economy program for medium- and heavy-duty trucks and create a separate fuel economy standard for work trucks.
- Prescribe or revise standards affecting regional efficiency for heating and cooling products and procedures for new or amended standards, energy conservation, energy efficiency labeling for consumer electronic products, residential boiler efficiency, electric motor efficiency, and home appliances.

U.S. Environmental Protection Agency Endangerment Finding

The EPA's authority to regulate GHG emissions stems from the U.S. Supreme Court decision in Massachusetts v. EPA (2007). The Supreme Court ruled that GHGs meet the definition of air pollutants under the existing Clean Air Act and must be regulated if these gases could be reasonably anticipated to endanger public health or welfare. Responding to the Court's ruling, the EPA finalized an endangerment finding in December 2009. Based on scientific evidence, it was found that six GHGs constitute a threat to public health and welfare. Thus, it is the Supreme Court's interpretation of the existing Act and the EPA's assessment of the scientific evidence that form the basis for the EPA's regulatory actions.

Federal Vehicle Standards

In response to the U.S. Supreme Court ruling discussed above, the George W. Bush Administration issued Executive Order 13432 in 2007 directing the EPA, the Department of Transportation, and the Department of Energy to establish regulations that reduce GHG emissions from motor vehicles, non-road vehicles, and non-road engines by 2008. In 2009, the NHTSA issued a final rule regulating fuel efficiency and GHG emissions from cars and light-duty trucks for model year 2011, and in 2010, the EPA and NHTSA issued a final rule regulating cars and light-duty trucks for model years 2012 – 2016.

In 2010, President Barack Obama issued a memorandum directing the Department of Transportation, Department of Energy, EPA, and NHTSA to establish additional standards regarding fuel efficiency and GHG reduction, clean fuels, and advanced vehicle infrastructure. In response to this directive, the EPA and NHTSA proposed stringent, coordinated federal GHG and fuel economy standards for model years 2017 – 2025 light-duty vehicles. The proposed standards projected to achieve 163 grams per mile of CO2 in model year 2025, on an average industry fleet-wide basis, which is equivalent to 54.5 miles per gallon if this level were achieved solely through fuel efficiency. The final rule was adopted in 2012 for model years 2017 – 2021, and NHTSA intends to set standards for model years 2022 – 2025 in a future rulemaking. On January 12, 2017, the EPA finalized its decision to maintain the current GHG emissions standards for model years 2022 – 2025 cars and light trucks. It should be noted that the EPA is currently proposing to freeze the vehicle fuel efficiency standards at their planned 2020 level (37 mpg), canceling any future strengthening (currently 54.5 mpg by 2026).

In addition to the regulations applicable to cars and light-duty trucks described above, in 2011, the EPA and NHTSA announced fuel economy and GHG standards for medium- and heavy-duty trucks for model years 2014 – 2018. The standards for CO2 emissions and fuel consumption are tailored to three main vehicle categories: combination tractors, heavy-duty pickup trucks and vans, and vocational vehicles. According to the EPA, this regulatory program will reduce GHG emissions and fuel consumption for the affected vehicles by 6 to 23 percent over the 2010 baseline.

In August 2016, the EPA and NHTSA announced the adoption of the phase two program related to the fuel economy and GHG standards for medium- and heavy-duty trucks. The phase two program will apply to vehicles with model year 2018 through 2027 for certain trailers, and model years 2021 through 2027 for semi-trucks, large pickup trucks, vans, and all types and sizes of buses and work trucks. The final standards are expected to lower CO2 emissions by approximately 1.1 billion metric tons and reduce oil consumption by up to 2 billion barrels over the lifetime of the vehicles sold under the program.

In 2018, the President and the EPA stated their intent to halt various federal regulatory activities to reduce GHG emissions, including the phase two program. California and other states have stated their intent to challenge federal actions that would delay or eliminate GHG reduction measures and have committed to cooperating with other countries to implement global climate change initiatives. The timing and consequences of these types of federal decisions and potential responses from California and other states are currently speculative.

Clean Power Plan and New Source Performance Standards for Electric Generating Units

On October 23, 2015, the EPA published a final rule (effective December 22, 2015) establishing the carbon pollution emission guidelines for existing stationary sources: electric utility generating units (80 FR 64510–64660), also known as the Clean Power Plan. These guidelines prescribe how states must develop plans to reduce GHG emissions from existing fossil-fuel-fired electric generating units. The guidelines establish CO2 emission performance rates representing the best system of emission reduction for two subcategories of existing fossil-fuel-fired electric generating units: (1) fossil-fuel-fired electric utility steam-generating units and (2) stationary combustion turbines. Concurrently, the EPA published a final rule (effective October 23, 2015) establishing standards of performance for GHG emissions from new, modified, and reconstructed stationary sources: electric utility generating units (80 FR 64661–65120). The rule prescribes CO2 emission standards for newly constructed, modified, and reconstructed affected fossil-fuel-fired electric utility generating units. The U.S. Supreme Court stayed implementation of the

Clean Power Plan pending resolution of several lawsuits. Additionally, in March 2017, President Trump directed the EPA Administrator to review the Clean Power Plan in order to determine whether it is consistent with current executive policies concerning GHG emissions, climate change, and energy.

Assembly Bill (AB) 32 – The California Global Warming Solutions Act of 2006

California AB 32 was signed into law in September 2006. The bill requires statewide reductions of GHG emissions to 1990 levels by 2020 and the adoption of rules and regulations to achieve the most technologically feasible and cost-effective GHG emissions reductions.

Assembly Bill 1493

AB 1493 (also known as the Pavley Bill) requires that CARB develop and adopt, by January 1, 2005, regulations that achieve "the maximum feasible reduction of GHG emitted by passenger vehicles and light-duty trucks and other vehicles determined by CARB to be vehicles whose primary use is noncommercial personal transportation in the State."

To meet the requirements of AB 1493, CARB approved amendments to the California Code of Regulations (CCR) in 2004 by adding GHG emissions standards to California's existing standards for motor vehicle emissions. Amendments to CCR Title 13, Sections 1900 and 1961 and adoption of 13 CCR Section 1961.1 require automobile manufacturers to meet fleet-average GHG emissions limits for all passenger cars, light-duty trucks within various weight criteria, and medium-duty weight classes for passenger vehicles (i.e., any medium-duty vehicle with a gross vehicle weight rating less than 10,000 pounds that is designed primarily to transport people), beginning with the 2009 model year. Emissions limits are reduced further in each model year through 2016. When fully phased in, the near-term standards will result in a reduction of about 22 percent in GHG emissions compared to the emissions from the 2002 fleet, while the mid-term standards will result in a reduction of about 30 percent.

Assembly Bill 3018

AB 3018 established the Green Collar Jobs Council (GCJC) under the California Workforce Investment Board (CWIB). The GCJC will develop a comprehensive approach to address California's emerging workforce needs associated with the emerging green economy. This bill will ignite the development of job training programs in the clean and green technology sectors.

Senate Bill (SB) 97 – Modification to the Public Resources Code

In August 2007, Governor Schwarzenegger signed SB 97. SB 97 required the Office of Planning and Research to prepare, develop, and transmit guidelines to the Resources Agency for the mitigation of GHG emissions or the effects of GHG emissions including, but not limited to, the effects associated with transportation and energy consumption. The Resources Agency adopted the CEQA Guidelines Amendments addressing GHG emissions on December 30, 2009.

Senate Bill 375 – Sustainable Communities and Climate Protection Act

SB 375 encourages housing and transportation planning on a regional scale in a manner designed to reduce vehicle use and associated GHG emissions. The bill requires the California Air Resources Board (CARB) to set regional targets for the purpose of reducing GHG emissions from passenger vehicles for 2020 and 2035. Per SB 375, CARB appointed a Regional Targets Advisory Committee on January 23, 2009 to provide recommendations on factors to be considered and methodologies to be used in CARB's target setting process. The per capita reduction targets set for passenger vehicles in the San Francisco Bay Area are a seven percent reduction by 2020 and a 15 percent reduction by 2035.

Senate Bills 1078 and 107

SB 1078 (Chapter 516, Statutes of 2002) requires retail sellers of electricity, including investor-owned utilities and community choice aggregators, to provide at least 20 percent of their supply from renewable sources by 2017. SB 107 (Chapter 464, Statutes of 2006) changed the target date to 2010.

Senate Bill 1368

SB 1368 (Chapter 598, Statutes of 2006) is the companion bill of AB 32 and was signed into law in September 2006. SB 1368 required the California Public Utilities Commission (CPUC) to establish a performance standard for baseload generation of GHG emissions by investor-owned utilities by February 1, 2007. SB 1368 also required the CEC to establish a similar standard for local publicly owned utilities by June 30, 2007. These standards could not exceed the GHG emissions rate from a baseload combined-cycle, natural gas fired plant. Furthermore, the legislation states that all electricity provided to California, including imported electricity, must be generated by plants that meet the standards set by CPUC and CEC.

Senate Bill 32

Signed into law in September 2016, SB 32 codifies the 2030 GHG reduction target in Executive Order B-30-15 (40 percent below 1990 levels by 2030). The bill authorizes CARB to adopt an interim GHG emissions level target to be achieved by 2030. CARB also must adopt rules and regulations in an open public process to achieve the maximum, technologically feasible, and cost-effective GHG reductions.

Senate Bill 100 (California Renewables Portfolio Standards Program: Emissions of Greenhouse Gases)

Signed into Law in September 2018, SB 100 increased California's renewable electricity portfolio from 50 to 60 percent by 2030. SB 100 also established a further goal to have an electric grid that is entirely powered by clean energy by 2045.

CARB Scoping Plan

CARB adopted its Scoping Plan on December 11, 2018. The Scoping Plan functions as a roadmap to achieve GHG reductions in California required by AB 32 through subsequently enacted regulations. CARB's Scoping Plan contains the main strategies California will implement to reduce CO2eq emissions by 174 million metric tons (MT), or approximately 30 percent, from the State's projected 2020 emissions level of 596 million MT CO2eq under a business as usual (BAU) scenario. This is a reduction of 42 million MT CO2eq, or almost ten percent, from 2002 to 2004 average emissions, but requires the reductions in the face of population and economic growth through 2020.

CARB's Scoping Plan calculates 2020 BAU emissions as the emissions that would be expected to occur in the absence of any GHG reduction measures. The 2020 BAU emissions estimate was derived by projecting emissions from a past baseline year using growth factors specific to each of the different economic sectors (e.g., transportation, electrical power, commercial and residential, industrial, etc.). CARB used three-year average emissions, by sector, for 2002 to 2004 to forecast emissions to 2020. The measures described in CARB's Scoping Plan are intended to reduce the projected 2020 BAU to 1990 levels, as required by AB 32.

AB 32 requires CARB to update the Scoping Plan at least once every five years. CARB adopted the first major update to the Scoping Plan on May 22, 2014. The updated Scoping Plan summarizes recent science related to climate change, including anticipated impacts to California and the levels of GHG reduction necessary to likely avoid risking irreparable damage. It identifies the actions California has already taken to reduce GHG emissions and focuses on areas where further reductions could be achieved to help meet the 2020 target established by AB 32. The Scoping Plan update also looks beyond 2020 toward the 2050

goal, established in Executive Order S-3-05, and observes that "a mid-term statewide emission limit will ensure that the State stays on course to meet our long-term goal." The Scoping Plan update did not establish or propose any specific post-2020 goals, but identified such goals adopted by other governments or recommended by various scientific and policy organizations.

Santa Clara County Climate Action Plan 2009

The Santa Clara County Climate Action Plan (CAP) focuses on County operations, facilities and employee actions that will reduce not only GHG emissions but also energy and water consumption, solid waste and fuel consumption. These are areas of opportunity for the County to make a difference, set a good example, and in many cases, save money. The GHG emission reduction goals require a change from "business as usual" to attain them. The goals were to stop increasing the amount of emissions by 2010, decrease emissions by 10 percent every 5 years from 2010 – 2050, and reach an 80 percent reduction by 2050. The CAP is being issued in the context of legislative and regulatory action at the federal and state level. California's climate change goals are set forth in AB 32, the Global Warming Solutions Act of 2006. This legislation requires a reduction of California GHG emissions to 1990 levels by 2020. In December 2008, CARB approved the Climate Change Scoping Plan Document required by AB 32. The Scoping Plan Document, which provides a roadmap for California to reduce its GHG emissions, recognizes the importance of development and implementation of Climate Action Plans by California cities and counties. Executive Order S-03-05 goes even further by requiring statewide reductions in GHG emissions to 80 percent below 1990 by the year 2050.

BAAQMD CEQA Guidelines and 2017 Bay Area Clean Air Plan

BAAQMD recently adopted new CEQA Guidelines (June 2010, Updated May 2017). The new guidelines supersede the previously adopted 2010 CEQA Guidelines and include new and updated thresholds for analyzing air quality impacts, including a threshold for GHG emissions. Under these thresholds, if a project would result in an operational-related GHG emission of 1,100 metric tons (MT) (or 4.6 MT per service population[17]) of carbon dioxide equivalents (CO2e) per year or more, it would make a cumulatively considerable contribution to GHG emissions and result in a cumulatively significant impact to global climate change. The BAAQMD CEQA Guidelines also outline a methodology for estimating GHGs.[18]

Envision San José 2040 General Plan

The General Plan includes strategies, policies, and action items that are incorporated in the City's Greenhouse Gas (GHG) Reduction Strategy to help reduce GHG emissions. The GHG Reduction Strategy identifies a series of GHG emissions reduction measures to be implemented by development projects that would allow the City to achieve its GHG reduction goals. The City of San José approved a Supplemental Program EIR for the General Plan to include and update the greenhouse gas emissions analysis in December 2015. 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 as outlined in the CEQA Guidelines and the recent standards for "qualified plans" as set forth by BAAQMD.

[17] Service Population (SP) is an efficiency-based measure used by BAAQMD to estimate the development potential of a general or area plan. Service Population is determined by adding the number of residents to the number of jobs estimated for a given point in time
[18] Bay Area Air Quality Management District, *CEQA Guidelines*, May 2011

City of San José Greenhouse Gas Reduction Strategy

The City of San José adopted a Greenhouse Gas Reduction Strategy on November 1, 2011, to be consistent with the implementation requirements of AB 32. A Supplemental EIR for the Greenhouse Gas Reduction Strategy was adopted on December 15, 2015. AB 32 requires the State of California as a whole to reduce GHG emissions to 1990 levels by the year 2020. The Greenhouse Gas Reduction Strategy seeks to reduce GHG emissions within the City through a number of sustainable actions, including minimizing car travel, building site locations that optimize solar installation potential either for heating water or for electricity generation, planting trees to help mitigate heat island effects, and providing access to safe, pedestrian friendly sidewalks, trails and bike paths, as well as mass transit.

The GHG Reduction Strategy identifies GHG emissions reduction measures to be implemented by development projects in 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. These measures include installing energy efficient appliances, green building ordinance and initiatives, on-site renewable energy, and replacing traffic lights with LED lights to name a few in the build environment and energy category. Land use and transportation includes measures such as increasing density of development, increasing location efficiency, mixed-use developments, and providing bike parking. Recycling and waste reduction measures include using reclaimed water.

Compliance with the mandatory measures and voluntary measures required by the City would ensure an individual project's consistency with the GHG Reduction Strategy. Implementation of the proposed General Plan through 2020 would not constitute a cumulatively considerable contribution to global climate change.

Discussion

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

Less than Significant Impact.

Short-Term Construction Greenhouse Gas Emissions

Construction of the proposed project would result in direct emissions of CO_2, N_2O, and CH_4 from the operation of construction equipment and the transport of materials and construction workers to and from the proposed project site. Neither the City nor BAAQMD have a threshold for construction GHG emissions, which are one-time, short-term emissions and therefore would not significantly contribute to long-term cumulative GHG emissions impacts of the proposed project. However, the BAAQMD advises that construction GHG should be disclosed and a determination on the significance of construction GHG emissions in relation to meeting AB 32 GHG reduction goals should be made. Total GHG emissions generated during all phases of construction were combined and are presented in Table 4-13. The CalEEMod outputs are contained within the Appendix C.

Table 4-13: Construction Greenhouse Gas Emissions

Year	$MTCO_2e$[1]
2021	378
2022	257
Total	635

$MTCO_2e$ = metric tons of carbon dioxide equivalent.
1. Due to Rounding, Total $MTCO_2e$ may be marginally different from CalEEMod output.
Source: CalEEMod version 2016.3.2. Refer to Appendix C for model outputs.

As shown in Table 4-13, project construction-related activities would generate approximately 635 metric tons of carbon dioxide equivalent ($MTCO_2e$) of GHG emissions over the course of construction. Once construction is complete, the generation of construction-related GHG emissions would cease. As detailed in Table 4-15, the project would be consistent with the CARB Scoping plan, which would ensure the project does not interfere with implementation of AB 32 or SB 32. Further, the project would comply with the standard permit conditions highlighted in section 4.3 Air Quality, which include various dust, particulate matter, and construction equipment exhaust control measures. As a result, construction GHG emissions would be less than significant.

Long-Term Operational Greenhouse Gas Emissions

Operational or long-term emissions would occur over the proposed project's life. GHG emissions would result from direct emissions such as project-generated vehicular traffic, on-site combustion of natural gas, and operation of any landscaping equipment. Operational GHG emissions would also result from indirect sources, such as off-site generation of electrical power over the life of the proposed project, the energy required to convey water to, and wastewater from the project site, the emissions associated with solid waste generated from the proposed project site, and any fugitive refrigerants from air conditioning or refrigerators. Table 4-14 summarizes the total GHG emissions associated with the proposed project.

Table 4-14: Operational Greenhouse Gas Emissions

Category	$MTCO_2e$[1]
Area Source	1.42
Energy	51.57
Mobile	247.66
Waste	6.38
Water and Wastewater	5.13
Total Project[2]	**312.16**
Population[3]	133
Project $MTCO_2e$/SP/year[4]	**2.35**

Category	$MTCO_2e$[1]
Threshold	2.6 $MTCO_2e$/SP/year
Exceeds Threshold?	No

1. Emissions were calculated using CalEEMod version 2016.3.2.
2. Emissions may not total due to rounding.
3. Includes 47 employees and 86 residents.
4. metric tons of carbon dioxide equivalent per service person per year
Source: CalEEMod version 2016.3.2. Refer to Appendix C for model outputs.

Below is a description of the primary sources of operational emissions:

Area Sources. Area source emissions occur from hearths (i.e. natural gas fireplaces), architectural coatings, landscaping equipment, and consumer products. Landscaping is anticipated to occur throughout the proposed project site. Additionally, the primary emissions from architectural coatings are volatile organic compounds, which are relatively insignificant as direct GHG emissions. The proposed project would result in 1.42 $MTCO_2eq/yr$ (refer to Table 4-14).

Energy Consumption. Energy consumption consists of emissions from project consumption of electricity and natural gas. The proposed project would result in approximately 61 $MTCO_2e/yr$ from energy consumption (refer to Table 4-14).

Mobile Sources. Mobiles sources from the proposed project were calculated with CalEEMod based on the trip generation from the proposed project Traffic Study. As shown in Table 4-14, the mobile source emissions from the proposed project would be approximately 348 $MTCO_2e/yr$.

Solid Waste. Solid waste releases GHG emissions in the form of methane when these materials decompose. The proposed project would result in approximately 13 $MTCO_2e/yr$ from solid waste (refer to Table 4-14).

Water and Wastewater. GHG emissions from water demand would occur from electricity consumption associated with water conveyance and treatment. Existing water efficiency regulations require the project to limit the use of turf. The proposed project would result in approximately 6 $MTCO_2e/yr$ from water and wastewater conveyance and treatment (refer to Table 4-14).

Table 4-14 shows that operational emissions from the proposed project would generate approximately 312 $MTCO_2e$ per year. However, the City of San José threshold for operational GHG emissions is 2.6 $MTCO_2e/sp/yr$ for 2030. The proposed project would generate approximately 47 employees and 86 residents for a total of 133 people.[19] This would result in 2.35 $MTCO_2e/sp/yr$. Therefore, the proposed project is below the 2030 threshold.

It should be noted that the operational emissions incorporate adjustments for project energy consumption based on the 2019 Title 24 Part 6 (Building Energy Efficiency Standards). The standards also require updated thermal envelope standards (preventing heat transfer from the interior to exterior and vice versa), residential and nonresidential ventilation requirements, and nonresidential lighting

[19] The California Department of Finance estimates 3.21 residents per household in San José. The project proposes an additional 27 residential units, which would result in an increase of approximately 86 residents. The City calculates one job per 300 SF of retail/commercial/office space. (City of San José Envision 2040, 2011) ((9,181 SF retail/commercial + 5,000 SF office) / 300 SF = 47.27 jobs)

requirements that would cut residential energy use by more than 50 percent (with solar) and nonresidential energy use by 30 percent. The standards also encourage demand responsive technologies including battery storage and heat pump water heaters and improve the building's thermal envelope through high performance attics, walls and windows to improve comfort and energy savings (California Energy Commission, March 2018). The proposed project would also comply with the appliance energy efficiency standards in Title 20 of the California Code of Regulations. The Title 20 standards include minimum levels of operating efficiency, and other cost-effective measures, to promote the use of energy- and water-efficient appliances. The proposed project would be constructed according to the standards for high-efficiency water fixtures for indoor plumbing and water efficient irrigation systems required in 2019 Title 24, Part 11 (CALGreen).

At the State and global level, improvements in technology, policy, and social behavior can also influence and reduce operational emissions generated by a project. The state is currently on a pathway to achieving the Renewable Portfolio Standards goal of 33 percent renewables by 2020 and 60 percent renewables by 2030 per SB 100. Despite these goals, the majority of the proposed project's emissions would still be from mobile and energy sources. Future mobile source emissions are greatly dependent on changes in vehicle technology, fuels, and social behavior, which can be influenced by policies to varying degrees. Taking known future policies into account, CARB estimates that over 90 percent of future vehicles in Santa Clara County would still run on gasoline even with increased electric vehicle mode share (California Air Resources Board, 2017). This is assumed to also be applicable to the San José vehicle fleet, absent data that may suggest otherwise. Due to these external factors, average emissions from transportation in 2050 would mostly still generate GHG emissions, but the quantity is uncertain in light of potential changes in technology and policy over the next 30 years.

The majority of project emissions (approximately 96 percent) would occur from mobile and energy sources. As noted above, energy and mobile sources are targeted by statewide measures such as low carbon fuels, cleaner vehicles, strategies to promote sustainable communities and improved transportation choices that result in reducing VMT, continued implementation of the Renewable Portfolio Standard (the target is now set at 60 percent renewables by 2030), and extension of the Cap and Trade program (requires reductions from industrial sources, energy generation, and fossil fuels). The Cap and Trade program covers approximately 85 percent of California's GHG emissions as of January 2015. The statewide cap for GHG emissions from the capped sectors (i.e., electricity generation, industrial sources, petroleum refining, and cement production) commenced in 2013 and will decline approximately three percent each year, achieving GHG emission reductions throughout the program's duration. The passage of AB 398 in July 2017 extended the duration of the Cap and Trade program from 2020 to 2030. With continued implementation of various statewide measures, the proposed project's operational energy and mobile source emissions would continue to decline in the future.

Project construction emissions are shown in Table 4-13 and operational emissions are shown in Table 4-14. Construction and operational impacts would be less than significant. Project-related GHG emissions would not result in a cumulatively considerable contribution to the significant cumulative impact of climate change.

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

Less than Significant Impact.

City of San José

As discussed above in the Local Regulatory Section, the City of San José does not have a stand-alone Climate Action Plan, but there are General Plan goals, policies, and actions to reduce the generation of GHG emissions within the City. The proposed project would be consistent with and rely on these goals, policies, and actions. Therefore, the proposed project would result in a less than significant cumulative impact to global climate change.

It is expected that the proposed project would contribute marginally to regional GHG emissions, both through construction and operational emissions. Consistency with the Land Use/Transportation Diagram in the General Plan (General Plan Goals/Policies IP-1, LU-10), along with conformance to the City's Green Building Measures (General Plan Goals MS-1, MS-14) would ensure that the project is in compliance with the City's GHG Reduction Strategy. As described in detail above in Section *Applicable Plans, Policies, and Regulations*, the GHG Reduction Strategy lists mandatory criteria that development projects must satisfy in order to be consistent with City goals and policies. The proposed project is consistent with the General Plan land use designation for the site and, consistent with the City's GHG Reduction Strategy, the project is a mixed-use infill project. Further, in line with the City's GHG Reduction Strategy, approximately 24 bicycle parking spaces would be provided on site and the project would include various energy conservation measures such as energy efficient appliances.

The proposed project would be subject to compliance with all building codes in effect at the time of construction, which include energy conservation measures mandated by California Building Standards Code Title 24 – Energy Efficiency Standards. Because Title 24 standards require energy conservation features in new construction (e.g., high- efficiency lighting, high-efficiency heating, ventilating, and air-conditioning (HVAC) systems, thermal insulation, double-glazed windows, water conserving plumbing fixtures), they indirectly regulate and reduce GHG emissions. California's Building Energy Efficiency Standards are updated on an approximately three-year cycle. The 2016 standards improved upon the 2013 standards for new construction of, and additions and alterations to, residential, commercial, and industrial buildings. The 2016 standards went into effect on January 1, 2017. The 2019 Building Energy Efficiency Standards were adopted on May 9, 2018 and will take effect on January 1, 2020. Under the 2019 standards, residential dwellings will be required to use approximately 53 percent less energy and nonresidential buildings will be required to use approximately 30 percent less energy than buildings under the 2016 standards.

Additionally, the proposed project would be required to follow the Green Building Regulations for Private Development (Chapter 17.84) of the City of San José Municipal Code. The proposed project would comply with SB X7-7, which requires California to achieve a 20 percent reduction in urban per capita water use by 2020. As well as implement best management practices for water conservation to achieve the City's water conservation goals.

The proposed project demonstrates consistency with the General Plan goals, measures, and emission reduction targets, and would not conflict with any applicable plan, policy, or regulation of an agency adopted to reduce GHG emissions, including Title 24, AB 32, and SB 32. Therefore, project impacts would be less than significant.

CARB Scoping Plan

The California State Legislature adopted AB 32 in 2006. AB 32 focuses on reducing GHGs (carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride) to 1990 levels by the year 2020. Pursuant to the requirements in AB 32, the CARB adopted the Climate Change Scoping Plan (Scoping Plan) in 2008, which outlines actions recommended to obtain that goal. The Scoping Plan provides a range of GHG reduction actions that include direct regulations, alternative compliance mechanisms, monetary and non-monetary incentives, voluntary actions, market-based mechanisms such as the cap-and-trade program, and an AB 32 implementation fee to fund the program.

The latest CARB Climate Change Scoping Plan (2017) outlines the state's strategy to reduce state's GHG emissions to return to 40 percent below 1990 levels by 2030 pursuant to SB 32. The CARB Scoping Plan is applicable to state agencies and is not directly applicable to cities/counties and individual projects. Nonetheless, the Scoping Plan has been the primary tool that is used to develop performance-based and efficiency-based CEQA criteria and GHG reduction targets for climate action planning efforts.

The 2017 Scoping Plan Update identifies additional GHG reduction measures necessary to achieve the 2030 target. These measures build upon those identified in the First Update to the Climate Change Scoping Plan (2013). Although a number of these measures are currently established as policies and measures, some measures have not yet been formally proposed or adopted. It is expected that these measures or similar actions to reduce GHG emissions would be adopted as required to achieve statewide GHG emissions targets.

As shown in Table 4-15, the proposed project is consistent with most of the CARB Scoping Plan measures.

Table 4-15: Project Consistency with Applicable CARB Scoping Plan Measures

Scoping Plan Sector	Scoping Plan Measure	Implementing Regulations	Project Consistency
Transportation	California Cap-and-Trade Program Linked to Western Climate Initiative	Regulation for the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanism October 20, 2015 (CCR 95800)	**Consistent.** The Cap-and-Trade Program applies to large industrial sources such as power plants, refineries, and cement manufacturers. However, the regulation indirectly affects people who use the products and services produced by these industrial sources when increased cost of products or services (such as electricity and fuel) are transferred to the consumers. The Cap-and-Trade Program covers the GHG emissions associated with electricity consumed in California,

Scoping Plan Sector	Scoping Plan Measure	Implementing Regulations	Project Consistency
			whether generated in-state or imported. Accordingly, GHG emissions associated with CEQA projects' electricity usage are covered by the Cap-and-Trade Program. The Cap-and-Trade Program also covers fuel suppliers (natural gas and propane fuel providers and transportation fuel providers) to address emissions from such fuels and from combustion of other fossil fuels not directly covered at large sources in the Program's first compliance period.
	California Light-Duty Vehicle Greenhouse Gas Standards	Pavley I 2005 Regulations to Control GHG Emissions from Motor Vehicles	**Consistent**. This measure applies to all new vehicles starting with model year 2012. The proposed project would not conflict with its implementation as it would apply to all new passenger vehicles purchased in California. Passenger vehicles, model year 2012 and later, associated with construction and operation of the proposed project would be required to comply with the Pavley emissions standards.
		2012 LEV III Amendments to the California Greenhouse Gas and Criteria Pollutant Exhaust and Evaporative Emission Standards	**Consistent.** The LEV III amendments provide reductions from new vehicles sold in California between 2017 and 2025. Passenger vehicles associated with the site would comply with LEV III standards.
	Low Carbon Fuel Standard	2009 readopted in 2015. Regulations to Achieve Greenhouse Gas Emission Reductions Subarticle 7. Low Carbon Fuel Standard CCR 95480	**Consistent.** This measure applies to transportation fuels utilized by vehicles in California. The proposed project would not conflict with implementation of this measure. Motor vehicles associated with construction and operation of the proposed project would utilize low carbon transportation fuels as required under this measure.
	Regional Transportation-Related Greenhouse Gas Targets	SB 375. Cal. Public Resources Code §§ 21155, 21155.1, 21155.2, 21159.28	**Consistent**. The project would provide development in the region that is consistent with the growth projections in the Regional Transportation

Scoping Plan Sector	Scoping Plan Measure	Implementing Regulations	Project Consistency
			Plan/Sustainable Communities Strategy (SCS) (Plan Bay Area 2040).
	Goods Movement	Goods Movement Action Plan January 2007	**Not applicable**. The proposed project does not propose any changes to maritime, rail, or intermodal facilities or forms of transportation.
	Medium/Heavy-Duty Vehicle	2010 Amendments to the Truck and Bus Regulation, the Drayage Truck Regulation and the Tractor-Trailer Greenhouse Gas Regulation	**Consistent**. This measure applies to medium and heavy-duty vehicles that operate in the state. The proposed project would not conflict with implementation of this measure. Medium and heavy-duty vehicles associated with construction and operation of the proposed project would be required to comply with the requirements of this regulation.
	High Speed Rail	Funded under SB 862	**Not applicable**. This is a statewide measure that cannot be implemented by a Project Applicant or Lead Agency.
Electricity and Natural Gas	Energy Efficiency	Title 20 Appliance Efficiency Regulation	**Consistent.** The proposed project would not conflict with implementation of this measure. The proposed project would comply with the latest energy efficiency standards. Additionally, the proposed project would achieve LEED NC v4 certification through the USGBC.
		Title 24 Part 6 Energy Efficiency Standards for Residential and Non-Residential Building	
		Title 24 Part 11 California Green Building Code Standards	
	Renewable Portfolio Standard/Renewable Electricity Standard.	2010 Regulation to Implement the Renewable Electricity Standard (33% 2020)	**Consistent**. The proposed project would obtain electricity from the electric utility company, PG&E. PG&E obtained 33 percent of its power supply from renewable sources in 2016. Therefore, the utility would provide power when needed on site that is composed of a greater percentage of renewable sources.
		SB 350 Clean Energy and Pollution Reduction Act of 2015 (50% 2030)	
	Million Solar Roofs Program	Tax incentive program	**Consistent.** This measure is to increase solar throughout California, which is being done by various electricity providers and existing solar programs.

Scoping Plan Sector	Scoping Plan Measure	Implementing Regulations	Project Consistency
			Homeowners within the project would be able to take advantage of incentives that are in place at the time of construction.
Water	Water	Title 24 Part 11 California Green Building Code Standards SBX 7-7—The Water Conservation Act of 2009 Model Water Efficient Landscape Ordinance	**Consistent.** The proposed project would comply with the California Green Building Standards Code, which requires a 20 percent reduction in indoor water use. Additionally, the proposed project would achieve LEED NC v4 certification through the USGBC. The proposed project would also comply with the City's Water-Efficient Landscape Ordinance (Chapter 15.11 of the San José Municipal Code).
Green Buildings	Green Building Strategy	Title 24 Part 11 California Green Building Code Standards	**Consistent.** The State goal is to increase the use of green building practices. The proposed project would implement required green building strategies through existing regulation that requires the proposed project to comply with various CalGreen requirements. Additionally, the proposed project would achieve LEED NC v4 certification through the USGBC.
Industry	Industrial Emissions	2010 CARB Mandatory Reporting Regulation	**Not applicable.** The proposed project does not include industrial land uses.
Recycling and Waste Management	Recycling and Waste	Title 24 Part 11 California Green Building Code Standards AB 341 Statewide 75 Percent Diversion Goal	**Consistent.** The proposed project would not conflict with implementation of these measures. The proposed project is required to achieve the recycling mandates via compliance with the CALGreen code. The City has consistently achieved its state recycling mandates.
Forests	Sustainable Forests	Cap and Trade Offset Projects	**Not applicable.** The proposed project site is an existing gas station located in an urban area. No forested lands exist on-site.
High Global Warming Potential	High Global Warming Potential Gases	CARB Refrigerant Management Program CCR 95380	**Not applicable**. The regulations are applicable to refrigerants used by large air conditioning systems and large commercial and industrial refrigerators and cold storage system. The proposed project is not expected

Scoping Plan Sector	Scoping Plan Measure	Implementing Regulations	Project Consistency
			to use large systems subject to the refrigerant management regulations adopted by CARB.
Agriculture	Agriculture	Cap and Trade Offset Projects for Livestock and Rice Cultivation	**Not applicable**. The proposed project site is an infill site. No grazing, feedlot or other agricultural activities that generate manure currently exist on-site or are proposed to be implemented by the proposed project.

Source: California Air Resources Board (CARB), *California's 2017 Climate Change Scoping Plan*, 2017b and CARB, *Climate Change Scoping Plan*, December 2008.

As noted above, the proposed project would emit approximately 312 $MTCO_2e$ per year, directly from on-site activities and indirectly from off-site motor vehicles. Also, as demonstrated in Table 4-15, the proposed project would not conflict with the CARB Scoping Plan. GHG emissions caused by long-term operation of the proposed would be less than significant.

Appendix B, Local Action, of the 2017 CARB Scoping Plan lists potential actions that support the State's climate goals. However, the Scoping Plan notes that the applicability and performance of the actions may vary across the regions. The document is organized into two categories (A) examples of plan-level GHG reduction actions that could be implemented by local governments and (B) examples of on-site project design features, mitigation measures, that could be required of individual projects under CEQA, if feasible, when the local jurisdiction is the lead agency.

The proposed project would implement a number of the Standard Permit Conditions during construction. For example, the Standard Permit Condition outline in the Air Quality Section 4.3 above, included enforcing idling time restrictions on construction vehicles, use of added exhaust muffling and filtering devices, replant vegetation in disturbed areas as quickly as possible, and posting a publicly visible sign with the telephone number and person at the lead agency to contact regarding dust complaints. Mitigation Measure AQ-1 would require construction vehicles to operate Tier 4 engines or equivalent. As indicated above, GHG reductions are also achieved as a result of State of California energy and water efficiency requirements for new non-residential developments. These efficiency improvements correspond to reductions in secondary GHG emissions. For example, in California, most of the electricity that powers homes is derived from natural gas combustion. Therefore, energy saving measures, such as Title 24, reduces GHG emissions from the power generation facilities by reducing load demand.

The proposed project would be required to comply with existing regulations, including applicable measures from the City's General Plan, or would be directly affected by the outcomes (vehicle trips and energy consumption would be less carbon intensive due to statewide compliance with future low carbon fuel standard amendments and increasingly stringent Renewable Portfolio Standards). As such, the proposed project would not conflict with any other state-level regulations pertaining to GHGs.

Regarding goals for 2050 under Executive Order S-3-05, at this time it is not possible to quantify the emissions savings from future regulatory measures, as they have not yet been developed; nevertheless, it can be anticipated that operation of the proposed project would comply with all applicable measures are enacted that State lawmakers decide would lead to an 80 percent reduction below 1990 levels by 2050.

Plan Bay Area

The proposed project would be consistent with the overall goals of Plan Bay Area 2040 to provide housing, healthy and safe communities, and climate protection with an overall goal to reduce VMT. As noted above, the proposed project would develop the proposed project site with housing, commercial, and offices uses consistent with the General Plan. The proposed project would add some additional employment, trips related to employees that work directly at the proposed project site. Thus, implementation of the proposed project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs, and this impact would be less than significant.

4.9 Hazards and Hazardous Materials

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?			X	
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?			X	
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
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, would it create a significant hazard to the public or the environment?		X		
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?				X
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?			X	

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?				X

Existing Setting

The 0.55-acre project site is located within an urban area and is predominantly surrounded by residential and commercial uses. During 1939 through 1969, the project site was used as agricultural land. The project site was developed into a gas station with automotive repair services in 1967, refer to Appendix D.

Onsite Sources of Contamination

A records search of the Santa Clara County Department of Environmental Health, Regional Water Quality Control Board's Geotracker database, and Department of Toxic Substances Control's Envirostor database found no records of the project site pertaining to open cases of a leaking underground storage tanks (LUSTs), toxic releases, or site cleanup requirements.[20] However, there is one closed case of a LUST located on the project site (EXXON#7-3667, Case No. 05-015). A line leak was discovered in 1984 and was taken out of service, significant levels of pollution in groundwater was observed in the early 1990's. Monitoring performed over a 10-year timespan determined that the pollution was localized and was not expected to threaten beneficial uses of water, therefore the case was closed in 1996.

Due to the historic agricultural use of the project site, six organochlorine pesticides (OCPs) were detected above laboratory reporting limits in the project site soil analysis, refer to Appendix D. However, the six OCPs that were detected above the laboratory reporting limit, were reported below their respective residential and commercial soil environmental screening levels (ESLs).

Off-Site Sources of Contamination

The nearest offsite LUST cleanup site located at 3030 Stevens Creek Boulevard is approximately 574 feet southwest of the project site, which operated as Courtesy Chevrolet. The potential contaminant of concern on this site was gasoline. Remedial action was taken from 1994 to 1996. The case has been closed as of 1996.

Airports

The Norman Y. Mineta San José International Airport is located approximately 2.6 miles northwest of the project site. Federal Aviation Regulations, Part 77, "Objects Affecting Navigable Airspace" (referred to as FAR Part 77), requires that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways or which would otherwise stand at least 200 feet in height

[20]As shown in the Geotracker database,EXXON#7-3667, Case No. 05-015 is located at 425 South Winchester Blvd. However, the map in the Geotracker Database shows EXXON#7-3667, Case No. 05-015 as located on 550 South Winchester Blvd. 425 South Winchester Blvd is the accurate address for EXXON#7-3667, Case No. 05-015.

above ground. For the project site, the maximum allowable height is 65 feet[21] in height above ground per the Santana Row/Valley Fair Urban Village Plan. The proposed building would be within the allowable height of 65 feet; projections up to 10 feet in height are permitted in accordance with the Urban Village Plan.

Wildland Fire Hazards

The project site is not located within a Very-High Fire Hazard Severity Zone for wildland fires.[22]

Applicable Plans, Policies, and Regulations

Hazardous waste generators and users in the City are required to comply with regulations enforced by several federal, state, and county agencies. The regulations are designed to reduce the risk associated with human exposure to hazardous materials and minimize adverse environmental effects. The San José Fire Department coordinates with the Santa Clara County Hazardous Materials Compliance Division to implement the Santa Clara County Hazardous Materials Management Plan and to ensure that commercial and residential activities involving classified hazardous substances are properly handled.

Government Code Section 65962.5 (Cortese List)

The Hazardous Waste and Substances Sites (Cortese) List is a planning document used by the state, local agencies, and developers to comply with CEQA requirements in providing information about the location of hazardous materials release sites. Government Code Section 65962.5 requires the California Environmental Protection Agency (Cal/EPA) to develop at least annually an updated Cortese List. The Cortese List includes lists maintained by the Department of Toxic Substances Control (DTSC) and the State Water Resources Control Board (SWRCB).

California Department of Forestry and Fire Protection (CAL FIRE)

The California Department of Forestry and Fire Protection (CAL FIRE) has mapped fire threat potential throughout California. CAL FIRE ranks fire threats based on the availability of fuel and the likelihood of an area burning (based on topography, fire history, and climate). The rankings include no fire threat, moderate, high, and very high fire threats.

City of San José Envision San José 2040 General Plan

The General Plan includes the following hazardous material policies applicable to the project:

Policy EC-6.6: Address through environmental review for all proposals for new residential, park and recreation, school, day care, hospital, church or other uses that would place a sensitive population in close proximity to sites on which hazardous materials are or are likely to be located, the likelihood of an accidental release, the risks posed to human health and for sensitive populations, and mitigation measures, if needed, to protect human health.

Action EC-6.8: The City will use information on file with the County of Santa Clara Department of Environmental Health under the California Accidental Release Prevention (CalARP) Program as part of accepted Risk Management Plans to determine whether new

[21] The proposed building would have height of 65 feet to the parapet with up to 10 feet of building projections, consistent with the allowable height limitations of the Santana Row/Valley Fair Urban Village Plan.
[22] California Department of Forestry and Fire Protection. FHSZ Viewer. Available at https://egis.fire.ca.gov/FHSZ/. Accessed August 27, 2019.

residential, recreational, school, day care, church, hospital, seniors or medical facility developments could be exposed to substantial hazards from accidental release of airborne toxic materials from CalARP facilities.

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

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

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

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

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

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

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

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

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. The project site is an existing gas station that is still in operation. The proposed project would use limited hazardous materials and substances such as cleaners, paints, solvents; and fertilizers and pesticides for site landscaping. Operation of the office and commercial uses would include the use and storage of cleaning supplies and maintenance chemicals in small quantities, similar to other businesses nearby and would not generate substantial hazardous emissions or chemical releases that would affect surrounding uses. All materials and substances would be subject to applicable health and safety requirements. Compliance with applicable federal, local, and state requirements would ensure no significant hazard to the public or the environment are created through the routine transport, use, or disposal of hazardous materials Thus, impacts 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. The project is not anticipated to result in a release of hazardous materials into the environment. The proposed facility would be expected to use limited hazardous materials and substances such as cleaners, paints, solvents; and fertilizers and pesticides for site landscaping. All materials and substances would be subject to applicable health and safety requirements. Thus, impacts 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?

No Impact. The closest school, Lynhaven Elementary School, is approximately 0.8 mile southwest of the project site, located at 881 Cypress Avenue. Because the project site would be located more than one-quarter mile of this school, emissions and hazardous materials handling at the site, during construction and operations, would not pose a significant health risk to nearby schools. Thus, no impacts would occur.

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, would it create a significant hazard to the public or the environment?

Less than Significant Impact with Mitigation Incorporated. The project site is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. No records of the project site were found pertaining to open cases of Leaking Underground Storage Tanks (LUST), toxic releases, or site cleanup requirements. However, there is one closed case of a LUST located on the project site, as discussed in the On-Site Sources of Contamination above. In addition, six OCPs were identified on

the project site, above laboratory reporting limits. However, the six OCPs were reported below their respective residential and commercial ESLs. The nearest offsite LUST cleanup site is located approximately 574 feet southwest of the project site, but has been remediated and the case is closed.

During construction, project implementation could potentially encounter residual concentrations of contaminants in soil and groundwater due to the project site's agricultural and gas station uses in the past and, if found, the contaminants could potentially exceed the environmental screening levels. This could potentially expose construction workers, neighboring uses, and the environment to hazardous materials. Implementation of Mitigation Measures HAZ-1 and HAZ-2 would reduce impacts related to hazards and hazardous materials sites to a less than significant level. Thus, with the following mitigation measures, the impacts would be less than significant.

Mitigation Measures

Mitigation Measure HAZ-1: This property is currently a gas station and has a history of a former Leaking Underground Storage Tank Case. After demolition but prior to issuance of any grading permits, a thorough Phase II Investigation of the property needs to be performed to determine if past site uses (e.g. gas station and agricultural history) have impacted the property and need to be addressed prior to excavation of the property for the underground parking garage. The purpose is to determine construction worker safety issues and potential impact to the environment. A copy of the proposed Phase II sampling plan and the results of the Phase II Investigation shall be provided in a Report to the Director of the Department of Planning, Building and Code Enforcement or Director's Designee and the Municipal Compliance Officer of the City of San José Environmental Services Department for review.

If the Phase II indicates significant contamination that exceed Regional Water Quality Control Board environmental screening levels (ESLs) for construction worker safety, then a Site Health & Safety Plan must be completed to address measures to protect construction worker safety. If contamination exceeds residential ESLs, then the applicant must contact the SCCDEH to determine next steps. Next steps may include entering the Site Cleanup Program with the SCCDEH. The SCCDEH may require the project proponent to implement appropriate management procedures, such as removal of the contaminated soil and implementation of a Site Management Plan (SMP), Removal Action Workplan (RAP), or equivalent document. Copies of all environmental investigations and evidence of SCCDEH oversight shall be submitted to the Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement and the Supervising Environmental Compliance Officer in the City of San José's Environmental Services Department.

Mitigation Measure HAZ-2: Prior to any Underground Storage Tank (UST) removal activities including excavation, the project applicant shall obtain permits from the San José Fire Department (SJFD) and the SCCDEH. . The permits include an Underground Storage Tank System Closure Permit Application with the SCCDEH and an Underground Storage Tank System Closure Application (UN-003) with the SJFD.

The SCCDEH and SJFD will be present during the tank removals and the SCCDEH will direct the applicant to collect soil samples in the former tank pit after the tanks have been removed. The soil samples will be tested, and depending upon the results, the SCCDEH will determine if the former USTs have leaked. If the USTs have leaked, the SCCDEH will designate the site as a leaking underground fuel leak case and require follow-up investigations and remediation, if necessary.

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

No Impact. The project site is not located within two miles of a public airport or private airstrip. The project site is located approximately 2.6 miles northwest of Mineta San José International Airport, the closest major airport. The project site is located approximately seven miles west of the Reid Hillview Airport, the closest minor airport. The project site is not located within the "Airport Influence Area" defined by the Santa Clara County Airport Land Use Commission's Comprehensive Land Use Plan (CLUP). According to Figures 3.8-1 and 3.8-2 in the General Plan FEIR, the proposed project is not located within the San José International or Reid-Hill Airport Safety Zones. In addition, as the proposed structure's maximum height is below the FAR Part 77 notification surface elevation over the site (approximately 75 feet above ground), the project does not require FAA airspace safety review. The project site would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. Thus, no impacts would occur.

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

Less than Significant Impact. Implementation of the project would not impair or physically interfere with an adopted emergency response or evacuation plan. The City of San José Emergency Operations Plan (EOP) was prepared by the City describing the City's response to emergency situations associated with natural disasters, technological incidents and nuclear defense operations. The EOP outlines the overall organizational and operational concepts in relation to response and recovery and includes the roles and responsibilities of the various committees and agencies during an emergency; and the activation and execution procedures of the emergency response system.

No revisions to the EOP would be required as a result of the proposed project. Primary access to all major roads would be maintained during construction of the proposed project. Additionally, during the building permit stage, the project would be reviewed for conformance with all applicable Fire Code and Building Code requirements.

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

No Impact. CAL FIRE identifies Fire Hazard Severity Zones (FHSZ) and designates State of Local Responsibility Areas within the state of California. New developments located in 'Very High' Fire Hazard Severity Zones are required to comply with exterior wildfire design and construction codes as well as vegetation clearance and other wildland fire safety practices for structures. As discussed above, the project is zoned as a "Non-Very High Fire Hazard Safety Zone" on the Very High Hazard Severity Zones on CAL FIRE's FHSZ Viewer.

The City's General Plan FEIR contains development Wildland and Urban Fire policies specific to development within "Very High" hazard zones or near urban/wildlife interfaces. The proposed project is not located in a "Very High" zone and would not conflict with the wildland fire hazard policies identified in the General Plan FEIR. The project site is in a developed urban area and it is not a wildland interface area or directly adjacent to a wildland interface area. Therefore, there would be no impact.

4.10 Hydrology and Water Quality

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

Existing Setting

The project site is located in an urban area with connections to the City's water and sewer infrastructure. The Flood Insurance Rate Map (FIRM) shows the project site outside of any flood hazard zone.[23] The closest waterway to the project site is San Tomas Aquino Creek, which is located approximately 0.72-mile west of the project site, and ultimately flows into the San Francisco Bay.

The project site is approximately 84 percent impervious (20,150 square feet).

Applicable Plans, Policies, and Regulations

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 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).

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 project disturbs less than one acre of soil and, therefore, would not require permit coverage under the CGP.

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 the site is under construction. Prior to issuance of a permit for grading activity occurring during the rainy season (October 1 to April 30), the project will submit to the Director of Public Works an Erosion Control Plan detailing BMPs that will prevent the discharge of stormwater pollutants.

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

The San Francisco Bay RWQCB also has issued a Municipal Regional Stormwater NPDES Permit (MRP) [Permit Number CAS612008]. In an effort 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.

[23] Federal Emergency Management Agency. FEMA Flood Map Service Center: Search by Address. Accessed at https://msc.fema.gov/portal/search#searchresultsanchor. Accessed on August 27, 2019.

The MRP allows certain types of smart growth, high density, and transit-oriented development to use alternative means of treatment depending on specific criteria. Qualifying projects may apply for reduction credits based on location and density criteria that allow non-LID treatment for a portion of the project's runoff, but only after the applicant demonstrates why LID is infeasible for the project. The LID reduction credits are intended to allow Smart Growth projects greater flexibility in meeting stormwater treatment requirements, based on the inherent environmental benefits of Smart Growth and potential technical challenges of implementing LID treatment exclusively on high-density sites in urban areas.

Council Policy 6-29 Post-Construction Urban Runoff Management and Council Policy 8-14 Post-Construction Hydromodification Management

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 (Council Policy 6-29) implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. Policy 6-29 requires all new development and redevelopment project to implement post-construction Best Management Practices (BMP) and Treatment Control Measures (TCM) to the maximum extent practicable. This policy also established specific design standards for post-construction TCM for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

The City's Post-Construction Hydromodification Management Policy (Council 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 located 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. The project is 0.42 acres in size. Therefore, the project will not be required to comply with the hydromodification requirements of Council Policy 8-14.

City of San José Envision San José 2040 General Plan

The 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 onsite.

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

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

Discussion

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

Less than Significant Impact. The proposed project must comply with the C.3 Provision "New Development and Redevelopment" of the Municipal Regional Stormwater Permit (MRP) (NPDES Permit No. CAS612008) which aims to include appropriate source control, site design, and stormwater treatment measures in new development and redevelopment projects to address soluble and insoluble stormwater runoff pollutant discharges and prevent increases in runoff from projects. The provision requires regulated projects to include LID practices, such as pollutant source control measures and stormwater treatment features aimed to maintain or restore the site's natural hydrologic functions. The MRP also requires that stormwater treatment measures are properly installed, operated and maintained.

Construction Impacts

Construction of the proposed project would require compliance with the City's standard permit conditions to prevent stormwater pollution and minimize potential sedimentation during construction. Measures include, but are not limited to the following:

Standard Permit Conditions

- Utilize on-site sediment control BMPs to retain sediment on the project site such as perimeter silt fences, placement of hay bales, and sediment basins;
- Utilize stabilized construction entrances and/or wash racks;
- Implement damp street sweeping;
- Provide temporary cover of disturbed surfaces to help control erosion during construction; and
- Provide permanent cover to stabilize the disturbed surfaces after construction has been completed.

Implementation of these standard permit conditions would prevent stormwater pollution and minimize potential sedimentation during construction. Thus, impacts would be less than significant.

Post Construction Impacts

Stormwater runoff would drain into the treatment areas prior to entering the storm drainage system. The on-site treatment facilities include flow through planters and would be numerically sized and required, as a condition of project approval, to have sufficient capacity to treat the roof and parking lot runoff entering the storm drainage system, consistent with the NPDES requirements.

The General Plan FEIR as supplemented, concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on stormwater quality. With implementation of a Stormwater Control Plan consistent with RWQCB and compliance with

the City's regulatory policies pertaining to stormwater runoff, operation of the proposed project would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality and impacts would be less than significant

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

No Impact. The project site is located within the Santa Clara Valley Groundwater Basin which spans from Diablo Mountains in the east, Santa Cruz Mountains in the west, and the San Francisco Bay in the north. The project site is currently supplied water by the San Jose Water Company. The proposed project would continue to be served by the San Jose Water Company, which utilizes groundwater as one of their water supply sources. As discussed further in Section 4.19, Utilities and Service Systems, the project would not decrease groundwater supplies in a manner that impedes with the sustainable groundwater management.

Further, the project site is not located within a natural or facility groundwater recharge area. Therefore, there would be no impact.

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

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

Less than Significant Impact. The project site does not include any streams or rivers, which could be altered by the proposed project. The closest waterway to the project site is San Tomas Aquino Creek, which is located approximately 0.72-mile west of the project site. In addition, the proposed on-site flow through planters would limit the release of storm water from the project site; therefore, minimizing the potential for substantial erosion or siltation to occur on site or off site. Thus, impacts would be less than significant.

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

Less than Significant Impact. As shown in Table 4-16, the project site currently has approximately 20,150 square feet of impervious surface area. Development of the proposed project would result in approximately 22,451 square feet of impervious surface area, for a net addition of approximately 720 square feet of impervious surface area.

The City has developed policies that implement Provision C.3, consistent with the Municipal Regional Permit. The City's Post-Construction Urban Runoff Management Policy (6-29) establishes specific requirements to minimize and treat stormwater runoff from new and redevelopment projects. The City's Post-Construction Hydromodification Management Policy (8-14) establishes an implementation framework for incorporating measures to control hydromodification impacts from development projects, including the rate or amount of surface runoff.

Table 4-16: Impervious and Pervious On-Site Surface Area

Site Surface	Existing Surface Area SF	Proposed Surface Area SF
Impervious Surfaces Total	0	22,451
Pervious Surfaces Total	3,904	1,603
Note: Impervious Surface Area represents site specific conditions, including public streets Source: C2K Architecture, 2020		

As described in the proposed project's stormwater control plan, runoff from roofs, sidewalks, patios, and paved areas would be directed via gravity to landscaped areas to above ground bioretention areas and above- and below-grade flow-through planters, sized to control the off-site stormwater flow rate consistent with City's C.3 requirements. Per City review for compliance with these requirements, the proposed project would not substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite, and impacts would be less than significant.

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

Less than Significant Impact. Where development or redevelopment results in an increase in impervious surfaces, increased runoff could exceed the capacity of local storm drain systems. As discussed above, 84 percent of the project site is currently impervious. The proposed project would increase this to 87 percent, with an increase of 720 square feet of impervious surface area.

The project would be required to comply with the C.3 Provision of the MRP which provides specific design requirements for capacity including: the implementation of stormwater BMPs, volume control design, flow hydraulic design, and combination flow and volume design. As required by the C.3 Provision of the MRP, a Storm Water Management Plan (SWMP) would be reviewed and approved by the City of San José Public Works Department, Environmental Programs Division.

The project includes site design measures such as directing runoff from roofs, sidewalks, patios to landscaped areas and planting trees adjacent to impervious areas. Source control measures include beneficial landscaping, efficient use of water in irrigation systems, good housekeeping, labeling storm drains, connecting to the sanitary sewer with covered trash enclosures, interior parking structures, and covered loading docks.

Compliance with the C.3 Provision of the MRP would ensure that the proposed project would not exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff and impacts would be less than significant.

iv. Impede or redirect flood flows?

No Impact. Per the Santa Clara Valley Habitat Plan, the project is not located within a stream setback zone and would not alter the course of a stream or river, and therefore there would be no impacts.

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

Less than Significant Impact. The project site is located outside of any flood hazard zone. The nearest flood hazard, Zone AO, is located approximately 0.21-mile southeast of the project site. Areas in Flood Zone AO are subject to inundation by 1 percent annual chance shallow flooding where average depths are between one and three feet.

In addition, the project is located outside of the tsunami inundation area mapped by the Association of Bay Area Governments.[24] Furthermore, the General Plan FEIR concludes that the City of San José would avoid substantial effects from a possible seiche due to the location of salt restoration areas proximate to the San Francisco Bay. These salt ponds would minimize the effects of a potential seiche, limiting the impacts from a seiche within areas proposed for development within the General Plan, including the project site. The project site is relatively flat so the potential for risk release of pollutants due to project inundation is unlikely. Therefore, due to the geographic location of the project, minimal impacts are likely to occur due to flood hazard, tsunami, or seiche zones. Thus, a less than significant impact would occur.

vi. Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

No Impact. Water quality impacts other than those described in response 4.10(a) above are not anticipated with implementation of the proposed project. The project site is under one acre and therefore is not required to obtain an NPDES General Permit for Construction Activities. Project construction would require compliance with Santa Clara County's water quality guidelines and the City's Grading Ordinance and water quality guidelines to protect water quality through the use of erosion and sediment controls and therefore there would be no impact.

[24] Association of Bay Area Governments, Resilience Program data. Available at http://gis.abag.ca.gov/website/Hazards/?hlyr=tsunami. Accessed August 28, 2019.

4.12 Land Use and Planning

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Physically divide an established community?			X	
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?			X	

Existing Setting

The 0.55-acre project site is an existing gas station that is still in operation. The project site is adjacent to a two-story commercial building and single-family residential uses along Spar Avenue. Immediately to the north of the project site is a vacant single-story building that previously operated as retail. Smaller existing commercial uses surround the project site to the north, east, and south. Immediately south of the project site, across Olin Avenue, would be a new office/retail development that is currently under construction. The movie theater buildings on this property closed in March 2014, and the restaurant onsite is currently vacant.

Existing Land Use Designation and Zoning

The project site is designated as Mixed-Use Commercial (MUC) by the General Plan and is located within the City of San José Santana Row/Valley Fair Urban Village Plan area. This urban village area is characterized by a wide range of commercial, residential, retail, and restaurant uses.

The project site is zoned Commercial General (CG), consistent with the General Plan. The CG Zoning District allows for mixed-use residential/commercial in an urban village area.

Applicable Plans, Policies, and Regulations

Santa Clara Valley Habitat Plan

The City is under the jurisdiction of the Santa Clara Valley Habitat Plan (Habitat Plan), a collaborative effort intended to protect and enhance ecological diversity and function within a large section of Santa Clara County, while allowing for currently planned development and growth. The Habitat Plan provides a framework for the protection of natural resources while streamlining and improving the environmental permitting process for both private and public development, including activities such as road, water, and other infrastructure construction and maintenance work. The Habitat Plan is intended to provide

environmental benefit by resulting in the creation of a number of new habitat reserves larger in scale and more ecologically valuable than the fragmented, piecemeal habitats yielded by mitigating projects on an individual basis.

City of San José General Plan

The following policies in the General Plan have been adopted for the purpose of avoiding or mitigating land use impacts resulting from planned development within the City.

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

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

Policy CD-1.24: Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.

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

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

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

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

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

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

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

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

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

Santana Row Valley Fair Urban Village Plan Policies

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

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

DS-8 Projects must comply with the Santana Row/Valley Fair Urban Village Plan Height Limits.

DS-10 Projects must comply with the Building Placement Standards

Discussion

a) Physically divide an established community?

Less than Significant Impact. The project site is developed with an existing one-story structure and associated gas station in an urbanized area that is currently developed. The project would be located in an urban area with similar surrounding land uses and would generally blend in with the mix of surrounding uses and would not physical divide an established community.

The proposed project would include residential and commercial uses and is consistent with the General Plan land use designation, and would comply with all applicable Santana Row/Valley Fair Urban Village Plan guidelines, City policies, actions, and ordinances. The proposed building would not result in the physical division of the established community. Therefore, the proposed project would have a less than significant impact on surrounding land uses.

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

Less than Significant Impact. The City's General Plan and Urban Village land use designation for the project site is Mixed Use Commercial (MUC). The MUC land use designation in the Santana Row/Valley Fair Urban Village Plan allows for a FAR range of 0.25 to 4.5, an allowed density of up to 50 dwelling units/acre, a minimum 0.5 commercial use FAR, and an allowed height of 65 feet (5 stories). The project has a FAR of 2.8, a density of 49 dwelling units/acre and is a total of 5 stories. Consistent with the mixed use residential/commercial projects in the Santana Row/Valley Fair Urban Village Plan area, the project includes 0.52 FAR of ground floor retail, provides a strong pedestrian environment at the ground floor level, and includes quality architectural design. The proposed project is located within the SCVHP study area, however it is not designated as a natural community area or identified as an important habitat for endangered and threatened species and native vegetation has been cleared for residential, commercial, industrial, transportation, and recreational structures. Thus, the project would comply with the General Plan, Urban Village Plan's land use designation and SCVHP.

The City's Development standards for the Commercial General zoning designation applies to the proposed project site and allows up to a height of 65 feet[25] and a setback of 15 feet from the west boundary of the project site. Per the City's Zoning Ordinance, one space per unit would be required for residential dwelling units, one space per 200 square feet would be required for retail space, and one space per 250 square feet would be required for office space. As such, the proposed project would comply with the Commercial General zoning designation. Impacts would be less than significant.

[25] The proposed building would have height of 65 feet to the parapet with up to 10 feet of building projections, consistent with the allowable height limitations of the Santana Row/Valley Fair Urban Village Plan.

4.13 Mineral Resources

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
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?				X

Existing Setting

Mineral resources known to exist in and near the Santa Clara Valley include cement, sand, gravel, crushed rock, clay, and limestone. Santa Clara County has also supplied a significant portion of the nation's mercury over the past century. According to the Surface Mining and Reclamation Act of 1975 (SMARA), the State Mining and Geology Board has designated the Communications Hill Area, bounded generally by the Union Pacific Railroad, Curtner Avenue, State Route 87, and Hillsdale Avenue as containing mineral deposits which are of regional significance as a source of construction aggregate materials. The project is not located within the Communications Hill area.

Neither the State Geologist nor the State Mining and Geology Board has classified any other areas in San José as containing mineral deposits which are either of statewide significance or the significance of which requires further evaluation. Therefore, other than the Communications Hill area cited above, San José does not have mineral deposits subject to SMARA.

Applicable Plans, Policies, and Regulations

Surface Mining and Reclamation Act

The Surface Mining and Reclamation Act (SMARA) was enacted by the California Legislature in 1975 to address the need for a continuing supply of mineral resources, and to prevent or minimize the negative impacts of surface mining to public health, property and the environment. As mandated under SMARA, the State Geologist has designated mineral land classifications in order to help identify and protect mineral resources in areas within the state subject to urban expansion or other irreversible land uses which would preclude mineral extraction. SMARA also allowed the State Mining and Geology Board, after receiving classification information from the State Geologist, to designate lands containing mineral deposits of regional or statewide significance.

Pursuant to the mandate of the SMARA, the State Mining and Geology Board (SMGB) has designated the Communications Hill Area (Sector EE), bounded generally by the Southern Pacific Railroad, Curtner Avenue, SR 87, and Hillsdale Avenue as containing mineral deposits that are of regional significance as a source of construction aggregate materials. Neither the State Geologist nor the SMGB have classified any other areas in San José as containing mineral deposits of statewide significance or requiring further evaluation.

Discussion

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

No Impact. The General Plan identifies the area around Communications Hill as the only area in the City containing mineral deposits of regional significance by the State Mining and Geology Board under SMARA. The proposed project site is located more than 5.8 miles northwest of Communication Hill. The proposed project is not located in an area known to contain regionally significant mineral resources and would not result in the loss of the availability of a known mineral resource of regional value. Thus, no impacts would occur.

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

No Impact. The project site is not located in an area that has been identified by the City of San José as a locally important mineral resource recovery site. Thus, no impacts would occur

4.14 Noise

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

Existing Setting

The City of San José is impacted by various noise sources. Mobile sources of noise, especially cars and trucks, are the most common and significant sources of noise in most communities. Other sources of noise are the various land uses (i.e., residential, commercial, institutional, and recreational and parks activities) throughout the City that generate stationary-source noise.

Noise Measurements

To determine ambient noise levels in the project area, three 10-minute noise measurements were taken using a 3M SoundPro DL-1 Type I integrating sound level meter between 10:12 a.m. and 10:47 a.m. on October 3, 2019; refer to Appendix F for existing noise measurement data and *Figure 4-1, Noise Measurement Locations.* Noise Measurement 1 and 2 were taken to represent the ambient noise level in the existing residential neighborhood on Spar Avenue northwest of the proposed project site while Noise Measurement 3 was taken to represent the ambient noise level east of the site, on South Winchester Boulevard. The primary noise sources during all three measurements was traffic on South Winchester Boulevard or other roadways, landscape equipment in the residential neighborhoods, and a large construction operation south of the proposed project site. Table 4-17: Noise Measurements, provides the ambient noise levels measured at these locations.

Table 4-17: Noise Measurements

Site No.	Location	L_{eq} (dBA)	L_{min} (dBA)	L_{max} (dBA)	Time
1	366-375 Spar Avenue	51.8	46.3	65.4	10:12 a.m.
2	338-351 Spar Avenue	51.2	45.4	64.8	10:26 a.m.
3	334-337 South Winchester Avenue	73.1	59.1	87.7	10:47 a.m.
Source: Noise Measurements taken by Kimley-Horn on October 3, 2019.					

Existing Mobile Noise

Existing roadway noise levels were calculated for the roadway segments in the proposed project vicinity. This task was accomplished using the Federal Highway Administration (FHWA) Highway Traffic Noise Prediction Model (FHWA-RD-77-108) and existing traffic volumes from the proposed project Traffic Impact Analysis (Kimley-Horn 2019). The noise prediction model calculates the average noise level at specific locations based on traffic volumes, average speeds, roadway geometry, and site environmental conditions. The average vehicle noise rates (also referred to as energy rates) used in the FHWA model have been modified to reflect average vehicle noise rates identified for California by Caltrans. The Caltrans data indicates that California automobile noise is 0.8 to 1.0 dBA higher than national levels and that medium and heavy truck noise is 0.3 to 3.0 dBA lower than national levels. The average daily noise levels along roadway segments in proximity to the proposed project site are included in Table 4-18.

Table 4-18: Existing Traffic Noise

Roadway Segment	ADT	dBA L_{dn}[1]
South Winchester Boulevard		
Stevens Creek Boulevard to Olin Avenue	30,450	65.1
Olin Avenue to Olsen Drive	20,470	63.3
Stevens Creek Boulevard		
South Winchester Boulevard to Santana Row	28,220	64.9
Santana Row to Monroe Street	34,310	65.8
Olin Avenue		
Spar Avenue to South Winchester Boulevard	1,480	49.7
ADT = average daily trips; dBA = A-weighted decibels; Ldn = day-night noise level		
[1] Traffic noise levels are at 100 feet from the roadway centerline.		
Source: Based on traffic data provided by Kimley-Horn, 2019. Refer to Appendix F for traffic noise modeling assumptions and results.		

The proposed project site is primarily surrounded by mixed-use commercial and single-family residential neighborhoods. Residential uses exist west of the proposed project site. The existing mobile noise in the proposed project area are generated along South Winchester Boulevard, which is east of the proposed project site, and Stevens Creek Boulevard which is north of the proposed project site.

Existing Stationary Noise

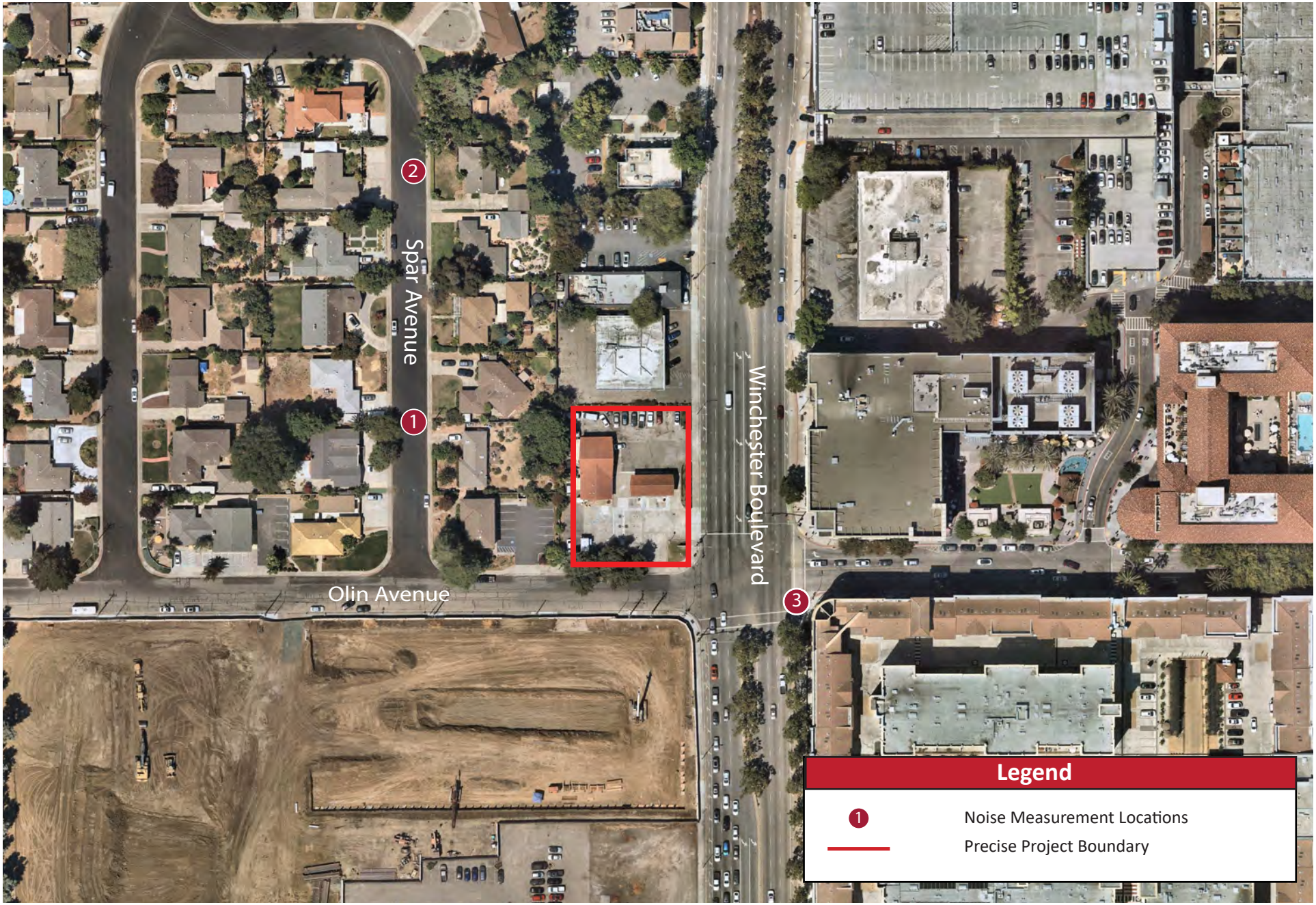
The primary sources of stationary noise in the proposed project vicinity are those associated with the operations of nearby residential uses to the west of the site and existing mixed-used commercial east of the proposed project site. The noise associated with these sources may represent a single-event noise occurrence, short-term noise, or long-term/continuous noise.

Sensitive Receptors

Noise exposure standards and guidelines for various types of land uses reflect the varying noise sensitivities associated with each of these uses. Residences, hospitals, schools, guest lodging, libraries, and churches are treated as the most sensitive to noise intrusion and therefore have more stringent noise exposure targets than do other uses, such as manufacturing or agricultural uses that are not subject to impacts such as sleep disturbance. As shown in Table 4-19: Sensitive Receptors, sensitive receptors near the proposed project site include single-family residences adjacent to the western boundary, approximately 20 feet from the proposed project site property line. Across South Winchester Boulevard, approximately 30 feet south of the proposed project site, is a large mixed-use commercial area. These distances are from the proposed project site to the sensitive receptor property line.

Table 4-19: Sensitive Receptors

Receptor Description	Distance and Direction from the Project Site
Single-family residential community	20 feet west
Mixed- use commercial	30 feet south
Hotel Valencia Santana Row	150 feet east
Assisted Living/Senior Housing	750 feet south
Winchester Mystery House (Historic Resource)	800 feet south
National University – San José	1,300 feet southeast
Single-family residential community	1,400 feet east
Santana Park	1,600 feet southeast
West Valley Alliance Church	1,800 feet southeast
Orion Montessori School	0.5 miles west



Source: Nearmap, 2019

Figure 4-1: Noise Measurements

425 Winchester Project
Initial Study/Mitigated Negative Declaration

Not to scale

Kimley»Horn
Expect More. Experience Better.

Applicable Plans, Policies, and Regulations

US Environmental Protection Agency

The U.S. Environmental Protection Agency (EPA) offers guidelines for community noise exposure in the publication Noise Effects Handbook – A Desk Reference to Health and Welfare Effects of Noise. These guidelines consider occupational noise exposure as well as noise exposure in homes. The EPA recognizes an exterior noise level of 55 decibels day-night level (dB Ldn) as a general goal to protect the public from hearing loss, activity interference, sleep disturbance, and annoyance. The EPA and other Federal agencies have adopted suggested land use compatibility guidelines that indicate that residential noise exposures of 55 to 65 dB Ldn are acceptable. However, the EPA notes that these levels are not regulatory goals, but are levels defined by a negotiated scientific consensus, without concern for economic and technological feasibility or the needs and desires of any particular community.

California Environmental Quality Act

The State Office of Planning and Research Noise Element Guidelines include recommended exterior and interior noise level standards for local jurisdictions to identify and prevent the creation of incompatible land uses due to noise. The Noise Element Guidelines contain a land use compatibility table that describes the compatibility of various land uses with a range of environmental noise levels in terms of the CNEL. The guidelines also present adjustment factors that may be used to arrive at noise acceptability standards that reflect the noise control goals of the community, the particular community's sensitivity to noise, and the community's assessment of the relative importance of noise pollution.

California Noise Insulation Standards

The State of California establishes minimum noise insulation performance standards for hotels, motels, dormitories, apartment houses, and dwellings other than detached single-family dwellings as set forth in the 2007 California Building Code (Chapter 12, Section 1207.11.2). The noise limit is a maximum interior noise level of 45 dBA DNL. Where exterior noise levels exceed 60 dBA DNL, a report must be submitted with the building plans describing the noise control measures that have been incorporated into the design of the project to meet the noise limit. The General Plan facilitates the implementation of the Building Code noise insulation standards.

City of San José General Plan

The Noise Element of the General Plan, adopted November 1, 2011, establishes noise standards for planning purposes needed to examine outdoor and indoor noise levels acceptable for different uses. The standards relate to existing conditions in the City so that they are realistically enforceable and consistent with other General Plan policies. The Noise Element seeks to limit the impacts of noise on residents and employees in two ways. The Noise Element contains standards to determine the suitability of new land uses depending upon the extent of noise exposure in the area. The Noise Element's policies limit the extent of new noise sources that proposed development can add to existing noise levels in the surrounding area and through implementation of the City's Noise Ordinance, which limits what is commonly described as "nuisance noise."

The following lists applicable noise goals and targets that apply to the project obtained from the General Plan:

Goal EC-1: Community Noise Levels and Land Use Compatibility. Minimize the impact of noise on people through noise reduction and suppression techniques, and through appropriate land use policies.

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

Interior Noise Levels

The City's standard for interior noise Levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA Day/Night Average Sound Level (DNL). Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected Envision San José 2040 General Plan traffic volumes to ensure land use compatibility and consistency over the life of this plan.

Exterior Noise Levels

The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (Table EC-1 in the General Plan, Table 4-20 below). The acceptable exterior noise level objective is established for the City, except in the environs of the Mineta San José International Airport and the Downtown, as described below:

For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standards for noise from sources other than aircraft and elevated roadway segments.

Table 4-20 provides the range of acceptable noise levels for various land uses in the City, as established by the General Plan.

Table 4-20: Land Use Compatibility Guidelines for Community Noise in San José

Land Use Category	Exterior Noise Exposure (DNL in dBA)		
	Normally Acceptable	Conditionally Acceptable	Clearly Unacceptable
Residential, Hotels and Motels, Hospitals and Residential Care[1]	50 – 60	60 – 75	75 – 85
Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds	50 – 65	65 – 80	80 – 85
Schools, Libraries, Museums, Meeting Halls, Churches	50 – 60	60 – 75	75 – 85
Office Buildings, Business Commercial, and Professional Offices	50 – 70	70 – 80	80 – 85
Sports Arena, Outdoor Spectator Sports	50 – 70	70 – 80	80 – 85
Public and Quasi-Public Auditoriums, Concert Halls, Amphitheaters	NA	50 – 70	70 – 85

[1] Noise mitigation to reduce interior noise levels pursuant to Policy EC-1.1 is required.
NA: Not Applicable; Ldn/DNL: average day/night sound level.

Notes:
Normally Acceptable – Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.
Conditionally Acceptable – Specific land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features included in the design.
Clearly Unacceptable – New construction or development should not be undertaken.

Source: City of San José, *Envision San José 2040 General Plan Noise and Vibration*, amended November 1, 2011.

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

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

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

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

- Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.
- For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.

Policy EC-1.9: Require noise studies for land use proposals where known or suspected loud intermittent noise sources occur which may impact adjacent existing or planned land uses. For new residential development affected by noise from heavy rail, light rail, BART or other single-event noise sources, implement mitigation so that recurring maximum instantaneous noise levels do not exceed 50 dBA Lmax in bedrooms and 55 dBA Lmax in other rooms.

Policy EC-1.1:1 Require safe and compatible land uses within the Mineta International Airport noise zone (defined by the 65 CNEL contour as set forth in State law) and encourage aircraft operating procedures that minimize noise.

Policy EC-1.14: Require acoustical analyses for proposed sensitive land uses in areas with exterior noise levels exceeding the City's noise and land use compatibility standards to base noise attenuation techniques on expected Envision San José 2040 General Plan traffic volumes to ensure land use compatibility and General Plan consistency.

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.

City of San José Municipal Code

Section 20.100.450, Hours of Construction within 500 Feet of a Residential Unit, of the San José Municipal Code (Municipal Code), specifies the following standard exceptions to the provisions of Section 20.100.450.

A. Unless otherwise expressly allowed in a Development Permit or other planning approval, no applicant or agent of an applicant shall suffer or allow any construction activity on a site located within 500 feet of a residential unit before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends.

Discussion

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

Less than Significant Impact.

Construction

Construction noise typically occurs intermittently and varies depending on the nature or phase of construction (e.g. land clearing, grading, excavation, paving). Noise generated by construction equipment, including earth movers, material handlers, and portable generators, can reach high levels. During construction, exterior noise levels could affect the residential neighborhoods surrounding the construction site. Project construction would occur approximately 20 feet from existing single-family residences to the west on Spar Avenue. However, construction activities would occur throughout the proposed project site and would not be concentrated at a single point near sensitive receptors. Noise levels typically attenuate (or drop off) at a rate of 6 dB per doubling of distance from point sources, such as industrial machinery. During construction, exterior noise levels could affect the residential neighborhoods near the construction site.

Construction activities associated with development of the proposed project would include demolition, site preparation, grading, paving, building construction, and architectural coating. Such activities would require graders, scrapers, and tractors during site preparation; graders, dozers, and tractors during grading; cranes, forklifts, generators, tractors, and welders during building construction; pavers, rollers, mixers, tractors, and paving equipment during paving; and air compressors during architectural coating. Grading and excavation phases of project construction tend to be the shortest in duration and create the highest construction noise levels due to the operation of heavy equipment required to complete these activities. It should be noted that only a limited amount of equipment can operate near a given location at a particular time. Equipment typically used during this stage includes heavy-duty trucks, backhoes, bulldozers, excavators, front-end loaders, and scrapers. Operating cycles for these types of construction equipment may involve one or two minutes of full-power operation followed by three to four minutes at lower power settings. Other primary sources of noise would be shorter-duration incidents, such as dropping large pieces of equipment or the hydraulic movement of machinery lifts, which would last less than one minute. According to the applicant, no pile-driving would be required during construction and as such a project condition of approval will be included in the project permit to reflect the project's proposed construction.

Project Condition of Approval:

The project would not include pile-driving activities during the construction phase.

Noise generated by construction equipment, including earth movers, material handlers, and portable generators, can reach high levels. Typical noise levels associated with individual construction equipment are listed in Table 4-21: Typical Construction Noise Levels.

The City of San José does not have construction noise standards. As shown in Figure 4-1, Noise Measurement Locations noise levels at the sensitive receptor are below 90 dBA at 50 feet. The nearest sensitive receptor to the proposed project site is located approximately 20 feet west of the site. Per the highest anticipated construction noise level of 109.0 dBA at 20 feet is expected to occur during the demolition phase (jack hammer) and building construction phase (derrick crane). Additionally, the majority of construction would occur throughout the proposed project site and would not be concentrated at a single point near sensitive receptors. The proposed project construction would comply with San José Municipal Code, Section 20.100.450, limiting construction hours within 500 feet of a residential unit to the hours of 7:00 a.m. to 7:00 p.m. on Monday through Friday as described in the Standard Permit Conditions below.

Table 4-21: Typical Construction Noise Levels

Equipment	Typical Noise Level (dBA) at 50 feet from Source[1]	Typical Noise Level (dBA) at 20 feet from Source[1]	Typical Noise Level (dBA) at 150 feet from Source[1]
Air Compressor	80.0	88.0	70.0
Backhoe	80.0	88.0	70.0
Compactor	82.0	90.0	72.0
Concrete Mixer	85.0	93.0	75.0
Concrete Pump	82.0	90.0	72.0
Concrete Vibrator	76.0	84.0.	66.0
Crane, Derrick	88.0	96.0	78.0
Crane, Mobile	83.0	91.0	73.0
Dozer	85.0	93.0	75.0
Generator	82.0	90.0	72.0
Grader	85.0	93.0	75.0
Impact Wrench	85.0	93.0	75.0
Jack Hammer	88.0	96.0	78.0
Loader	80.0	88.0	70.0
Paver	85.0	93.0	75.0
Pneumatic Tool	85.0	109.0	75.0
Pump	77.0	103.0	67.0
Roller	85.0	93.0	75.0
Saw	83.0	85.0	66.0
Scraper	85.0	93.0	75.0
Shovel	82.0	84.0	72.0
Truck	84.0	93.0	74.0

Note:
[1] Calculated using the inverse square law formula for sound attenuation: $dBA_2 = dBA_1+20Log(d_1/d_2)$
Where: dBA_2 = estimated noise level at receptor; dBA_1 = reference noise level; d_1 = reference distance; d_2 = receptor location distance
Source: Federal Transit Administration, *Transit Noise and Vibration Impact Assessment Manual*, September 2018.

Sensitive receptors near the proposed project site include: residences approximately 20 feet west of the site, assisted living facility approximately 750 feet south, and single-family community approximately 1,400 feet east. These distances are from the proposed project site to the sensitive receptor property line. These sensitive uses may be exposed to elevated noise levels during project construction. Construction activities would be limited to daytime hours when people would be out of their houses and would conform to the time-of-day restrictions of the City's Municipal Code. The proposed project would

be required to adhere to the Standard Permit Conditions which would ensure that all construction equipment is equipped with properly operating and maintained mufflers and other state required noise attenuation devices, helping to reduce noise at the source. The Standard Permit Conditions are required to ensure that construction noise levels do not exceed the City's standards and that time-of-day restrictions are adhered to. With implementation of these conditions, construction noise impacts to nearby receptors would be less than significant.

Construction Traffic Noise

Construction noise may be generated by large trucks moving materials to and from the proposed project site. Large trucks would be necessary to deliver building materials as well as remove dump materials. Excavation and cut and fill would be required. Soil hauling would be required as approximately 25,000 cubic yards (cy) of soil would be exported during grading for the underground parking garage. Based on the California Emissions Estimator Model (CalEEMod) default assumptions for this Project, as analyzed in 425 South Winchester Air Quality Assessment, the proposed project would generate the highest number of daily trips during the building construction and grading phases. The model estimates that the proposed project would generate up to 46 worker trips and 14 vendor trips per day for building construction. For grading, the model estimates approximately 3,125 hauling trips over 40 days which would result in approximately 78 daily hauling trips. During the Grading phase there would be approximately 10 daily worker trips. Therefore, a total of 88 daily trips would occur during the grading phase Because of the logarithmic nature of noise levels, a doubling of the traffic volume (assuming that the speed and vehicle mix do not also change) would result in a noise level increase of 3 dBA. South Winchester Boulevard between Olin Avenue to Stevens Creek Boulevard has an average daily trip volume of 30,450 vehicles (Table 4-23). The 88 daily construction trips would not double the existing traffic volume per day. Construction related traffic noise would not be noticeable and would not create a significant noise impact.

California establishes noise limits for vehicles licensed to operate on public roads using a pass-by test procedure. Pass-by noise refers to the noise level produced by an individual vehicle as it travels past a fixed location. The pass-by procedure measures the total noise emissions of a moving vehicle with a microphone. When the vehicle reaches the microphone, the vehicle is at full throttle acceleration at an engine speed calculated for its displacement.

For heavy trucks, the State pass-by standard is consistent with the federal limit of 80 dB. The State pass-by standard for light trucks and passenger cars (less than 4.5 tons gross vehicle rating) is also 80 dB at 15 meters from the centerline. According to the FHWA, dump trucks typically generate noise levels of 77 dBA and flatbed trucks typically generate noise levels of 74 dBA, at a distance of 50 feet from the truck (FHWA, Roadway Construction Noise Model, 2006).

Standard Permit Conditions

Construction-Related Noise. Noise minimization measures include, but are not limited to, the following:

i. Limit construction hours to between 7:00 a.m. and 7:00 p.m., 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.
ii. Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.

iii. Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
iv. Prohibit unnecessary idling of internal combustion engines.
v. 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.
vi. Utilize "quiet" air compressors and other stationary noise sources where technology exists.
vii. Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
viii. 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.
ix. If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
x. Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.
xi. Limit construction to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

Operations

Implementation of the proposed project would create new sources of noise in the project vicinity. The major noise sources associated with the proposed project that would potentially impact existing and future nearby residences include the following:

- Off-site traffic noise;
- Mechanical equipment (i.e., trash compactors, air conditioners, etc.);
- Delivery trucks on the project site, and approaching and leaving the loading areas;
- Activities at the loading areas (i.e., maneuvering and idling trucks, loading/unloading, and equipment noise);
- Parking areas (i.e., car door slamming, car radios, engine start-up, and car pass-by); and
- Landscape maintenance activities.

As discussed above, the closest sensitive receptors are single-family residences located 20 feet to the west on Spar Avenue. The City of San José stationary source exterior Zoning Ordinance Noise Standards for residential areas is 55 dBA L_{eq}. The land use compatibility standard for residential areas is also 55 dBA DNL (L_{dn}) to 60 dBA DNL (L_{dn}) for normally acceptable conditions.

Traffic Noise

Implementation of the proposed project would generate increased traffic volumes along study roadway segments. The project is expected to generate 501 average daily trips, which would result in noise increases on project area roadways. In general, a traffic noise increase of less than 3 dBA is barely perceptible to people, while a 5-dBA increase is readily noticeable (Caltrans, 2013). Generally, traffic volumes on project area roadways would have to approximately double for the resulting traffic noise levels to increase by 3 dBA. Therefore, permanent increases in ambient noise levels of less than 3 dBA are considered to be less than significant.

As shown in Table 4-22, the existing traffic-generated noise level on project area roadways is between 49.7 dBA L_{dn} and 65.9 dBA L_{dn} at 100 feet from the centerline. As previously described, L_{dn} is 24-hour average noise level with a 10 dBA "weighting" added to noise during the hours of 10:00 p.m. to 7:00 a.m. to account for noise sensitivity in the evening and nighttime, respectively.

Traffic noise levels for roadways primarily affected by the project were calculated using the FHWA's Highway Noise Prediction Model (FHWA-RD-77-108). Traffic noise modeling was conducted for conditions with and without the project, based on traffic volumes (Kimley-Horn, 2019). As noted in Table 4-22, project noise levels 100 feet from the centerline would range from 50.2 dBA to 65.9 dBA. The project would have the highest increase of 0.5 dBA on Olin Avenue between Spar Avenue and South Winchester Boulevard. However, the 0.5 dBA increase is under the perceptible 3.0 dBA noise level increase. Additionally, the resulting 50.2 dBA noise level is under the City's normally acceptable 55 dBA threshold for residential uses. Therefore, the proposed project would not have a significant impact on existing traffic noise levels.

Table 4-22: Existing and Project Traffic Noise

Roadway Segment	Existing Conditions		With Project		Project Change from Existing Conditions	Significant Impact?
	ADT	dBA L_{dn}[1]	ADT	dBA L_{dn}[1]		
South Winchester Boulevard						
Stevens Creek Boulevard to Olin Avenue	30,450	65.3	30,582	65.4	0.1	**No**
Olin Avenue to Olsen Drive	20,470	63.6	20,564	63.6	0.0	**No**
Stevens Creek Boulevard						
South Winchester Boulevard to Santana Row	28,220	65.0	28,332	65.0	0.0	**No**
Santana Row to Monroe Street	34,310	65.9	34,422	65.9	0.0	**No**
Olin Avenue						
Spar Avenue to South Winchester Boulevard	1,480	49.7	1,668	50.2	0.5	**No**

ADT = average daily trips; dBA = A-weighted decibels; Ldn= day-night noise levels
1.Traffic noise levels are at 100 feet from the roadway centerline.
Source: Based on traffic data provided by Kimley-Horn, 2019. Refer to Appendix F for traffic noise modeling assumptions and results.

Table 4-23, shows the Opening Year and Opening Year Plus Project traffic conditions. Per the Transportation Analysis, Opening Year includes nine approved/pending projects that were added to the existing 2019 volumes.

As shown in Table 4-23, opening year roadway noise levels with the proposed project would range from 55.6 dBA to 67.3 dBA. The highest increase in noise levels would occur on Olin Avenue between Spar Avenue and South Winchester Boulevard. Noise levels along Olin Avenue would increase by 0.2 dBA with the proposed project. This level is below the perceptible noise level change of 3.0 dBA. Therefore, impacts would be less than significant.

Table 4-23: Opening Year and Opening Year Plus Project Traffic Noise

Roadway Segment	Opening Year		With Project		Project Change from Existing Conditions	Significant Impact?
	ADT	dBA L_{dn}[1]	ADT	dBA L_{dn}[1]		
South Winchester Boulevard						
Stevens Creek Boulevard to Olin Avenue	42,590	66.8	42,722	66.8	0.0	**No**
Olin Avenue to Olsen Drive	31,660	65.5	31,754	65.5	0.0	**No**
Stevens Creek Boulevard						
South Winchester Boulevard to Santana Row	41,000	66.6	41,112	66.6	0.0	
Santana Row to Monroe Street	47,660	67.3	47,772	67.3	0.0	**No**
Olin Avenue						
Spar Avenue to South Winchester Boulevard	5,570	55.4	5,758	55.6	0.2	**No**

ADT = average daily trips; dBA = A-weighted decibels; Ldn= day-night noise levels
1. Traffic noise levels are at 100 feet from the roadway centerline.
Source: Based on traffic data provided by Kimley-Horn, 2019. Refer to Appendix F for traffic noise modeling results.

Project traffic would traverse and disperse over project area roadways, where existing ambient noise levels already exist. Future development associated with the proposed project would result in additional traffic on adjacent roadways, thereby increasing vehicular noise near existing and proposed land uses. This level is below the perceptible noise level change of 3.0 dBA. Therefore, impacts would be less than significant.

Stationary Noise Sources

Implementation of the proposed project would create new sources of noise in the project vicinity from residential sources, mechanical equipment, truck loading areas, parking lot noise, and landscape maintenance.

Residential Areas

Noise that is typical of lodging areas includes group conversations, pet noise, vehicle noise (see discussion below) and general maintenance activities. Noise from residential stationary sources would primarily occur during the "daytime" activity hours of 7:00 a.m. to 7:00 p.m. Furthermore, the residences would be required to comply with the noise standards set forth in the City's General Plan and Municipal Code.

Mechanical Equipment

Regarding mechanical equipment, the proposed project would generate stationary-source noise associated with heating, ventilation, and air conditioning (HVAC) units. HVAC units typically generate noise levels of approximately 50 to 60 dBA at 50 feet. The nearest existing sensitive receptor's property lines are located approximately 20 feet from the closest potential proposed living area of the site. At 20 feet, mechanical equipment noise levels would be 58.0 dBA. This noise level is below the City's 60 dBA exterior standard. The proposed project would not place mechanical equipment near residential uses, and noise from this equipment would not be perceptible at the closest sensitive receptor (existing single-family residences 20 feet from the proposed project site). Impacts from mechanical equipment would be less than significant.

Loading Area Noise

The proposed project is a mixed-use development that would necessitate occasional deliveries. The primary noise associated with deliveries is the arrival and departure of trucks. Operations of proposed mixed-use projects would potentially require deliveries of vans and light trucks and not heavy-duty trucks. Normal deliveries typically occur during daytime hours. During loading and unloading activities, noise would be generated by the trucks' diesel engines, exhaust systems, and brakes during low gear shifting braking activities; backing up toward the docks/loading areas; dropping down the dock ramps; and maneuvering away from the docks. The proposed project is not anticipated to require a significant number of truck deliveries. The majority of deliveries for the commercial uses would consist of vendor deliveries in vans and would be infrequent and irregular. The closest that the proposed project could be located to sensitive receptors would be approximately 20 feet away. However, the proposed truck activities would occur approximately 80 feet from the sensitive receptors. While there would be temporary noise increases during truck maneuvering and engine idling, these impacts would be of short duration and infrequent. Typically, heavy truck operations generate a noise level of 68 dBA at a distance of 30 feet. At 20 feet, noise levels would attenuate to 71.5 dBA however at 80 feet noise levels would be 59.5 dBA. Noise levels would be further attenuated by intervening terrain and structures. As noise levels associated with trucks and loading/unloading activities would be infrequent and irregular, impacts would be less than significant.

Parking Areas

Traffic associated with parking areas is typically not of sufficient volume to exceed community noise standards, which are based on a time-averaged scale such as the CNEL scale. However, the instantaneous maximum sound levels generated by a car door slamming, engine starting up and car pass-bys may be an annoyance to adjacent noise-sensitive receptors. Parking lot noise can also be considered a "stationary" noise source.

The instantaneous maximum sound levels generated by a car door slamming, engine starting up, and car pass-bys range from 60 to 63 dBA at 50 feet and may be an annoyance to noise-sensitive receptors. Conversations in parking areas may also be an annoyance to sensitive receptors. Sound levels of speech

typically range from 33 dBA at 48 feet for normal speech to 50 dBA at 50 feet for very loud speech. It should be noted that parking lot noise are instantaneous noise levels compared to noise standards in the DNL scale, which are averaged over time. As a result, actual noise levels over time resulting from parking lot activities would be far lower.

The proposed project includes two levels of underground parking and five above ground parking spaces. Noise impacts associated with parking would be considered minimal since the parking area would be enclosed within a structure. In addition, parking lot noise would also be partially masked by the background noise from traffic along, Stevens Creek Boulevard and South Winchester Boulevard. Noise associated with parking lot activities is not anticipated to exceed the City's Noise Standards or the California Land Use Compatibility Standards during operation. Therefore, noise impacts from parking lots would be less than significant.

Landscape Maintenance Activities

Development and operation of the proposed project includes new landscaping that would require periodic maintenance. Noise generated by a gasoline-powered lawnmower is estimated to be approximately 70 dBA at a distance of 5 feet. Landscape Maintenance activities would be 58.0 dBA at the closest sensitive receptor approximately 20 feet away. Maintenance activities would operate during daytime hours for brief periods of time as allowed by the City Municipal Code and would not permanently increase ambient noise levels in the project vicinity and would be consistent with activities that currently occur at the surrounding uses. Therefore, with adherence to the City's Municipal Code, impacts associated with landscape maintenance would be less than significant.

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

Less than Significant Impact.

Construction

Increases in groundborne vibration levels attributable to the proposed project would be primarily associated with construction-related activities. Construction on the proposed project site would have the potential to result in varying degrees of temporary groundborne vibration, depending on the specific construction equipment used and the operations involved. Ground vibration generated by construction equipment spreads through the ground and diminishes in magnitude with increases in distance. The effect on buildings located in the vicinity of the construction site often varies depending on soil type, ground strata, and construction characteristics of the receiver building(s). The results from vibration can range from no perceptible effects at the lowest vibration levels, to low rumbling sounds and perceptible vibration at moderate levels, to slight damage at the highest levels. Groundborne vibrations from construction activities rarely reach levels that damage structures.

The FTA has published standard vibration velocities for construction equipment operations. In general, depending on the building category of the nearest buildings adjacent to the potential pile driving area, the potential construction vibration damage criteria vary. For example, for a building constructed with reinforced concrete with no plaster, the FTA guidelines show that a vibration level of up to 0.50 inch per second (in/sec) peak particle velocity (PPV) is considered safe and would not result in any construction vibration damage. In general, the FTA architectural damage criterion for continuous vibrations (i.e. 0.2 in/sec) appears to be conservative. The types of construction vibration impacts include human annoyance

and building damage. Human annoyance occurs when construction vibration rises significantly above the threshold of human perception for extended periods of time. Building damage can be cosmetic or structural. Ordinary buildings that are not particularly fragile would not experience cosmetic damage (e.g. plaster cracks) at distances beyond 30 feet. This distance can vary substantially depending on soil composition and underground geological layer between vibration source and receiver.

Table 4-24, lists vibration levels at 25 feet for typical construction equipment. Groundborne vibration generated by construction equipment spreads through the ground and diminishes in magnitude with increases in distance. As indicated in Table 4-24, based on FTA data, vibration velocities from typical heavy construction equipment operations that would be used during project construction range from 0.003 to 0.089 in/sec PPV at 25 feet from the source of activity. The nearest sensitive receptors are the single-family residences on Spar Avenue approximately 20 feet from the active construction zone.

Table 4-24: Typical Construction Equipment Vibration Levels

Equipment	Peak Particle Velocity at 25 Feet (in/sec)	Peak Particle Velocity at 20 Feet (in/sec) [1]
Large Bulldozer	0.089	0.124
Loaded Trucks	0.076	0.106
Rock Breaker	0.059	0.082
Jackhammer	0.035	0.048
Small Bulldozer/Tractors	0.003	0.004

1. Calculated using the following formula: $PPV_{equip} = PPV_{ref} \times (25/D)^{1.5}$, where: PPV_{equip} = the peak particle velocity in in/sec of the equipment adjusted for the distance; PPV_{ref} = the reference vibration level in in/sec from Table 7-4 of the Federal Transit Administration, *Transit Noise and Vibration Impact Assessment Manual*, 2018; D = the distance from the equipment to the receiver.
Source: Federal Transit Administration, *Transit Noise and Vibration Impact Assessment Manual*, September 2018.

As shown in Table 4-24, the highest vibration levels are achieved with the large bulldozer operations. This construction activity is expected to take place during grading. Project construction would be more than 20 feet from the closest structure. Therefore, construction equipment vibration velocities would not exceed the FTA's 0.20 PPV threshold. In general, other construction activities would occur throughout the proposed project site and would not be concentrated at the point closest to the nearest residential structure. Therefore, vibration impacts associated with the proposed project would be less than significant.

Operations

The proposed project would not generate groundborne vibration that could be felt at surrounding uses. Project operations would not involve railroads or substantial heavy truck operations, and therefore would not result in vibration impacts at surrounding uses. As a result, impacts from vibration associated with project operation would be less than significant.

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

No Impact. The nearest airports to the proposed project site are the Norman Y. Mineta San José International Airport located approximately three miles northeast of the proposed project and Reid-Hillview Airport located approximately 7 miles east of the site. The proposed project is not within 2.0 miles of a public airport or within an airport influence zone. Additionally, there are no private airstrips located within the proposed project vicinity. According to the City's aircraft noise contour projections, the project site is located well outside the noise impact area of San José International Airport. Therefore, the proposed project would not expose people residing or working in the proposed project area to excessive airport- or airstrip-related noise levels and there would be no impact.

4.15 Population and Housing

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				X
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?				X

Existing Setting

The population of the City of San José is approximately 1,042,900 persons as of January 1, 2018.[26] The California Department of Finance estimates 3.21 residents per household in San José. According to the General Plan FEIR, the City estimates approximately 138,442 additional households in San José by 2035 to a total of 429,350 households. The unemployment rate for the City of as of July 2019 was 2.9 percent.[27]

To meet the current and projected housing needs in the City, the General Plan identifies areas for mixed-use and residential development to accommodate 120,000 new dwelling units by 2035 and 382,000 new jobs within San José and 10,360 new dwelling units and 48,500 jobs in the General Plan Land Use designation area.

The project site is within the Santana Row/Valley Fair Urban Village Plan, which was included in the Horizon 3 Growth Area of the General Plan. The General Plan identifies the Santana Row/Valley Fair and Vicinity to accommodate 8,500 new jobs and 2,635 new dwelling units by 2035. On November 14, 2018, City Council amend Appendix 5 of the *Envision San José 2040 General Plan and the Housing Growth Areas by Horizon Map* to shift certain Horizon 2 and 3 Urban Villages into Horizon 1 as directed by the Housing Crisis Workplan. The San José Santana Row/Valley Fair Urban Village Plan was shifted from Horizon 3 into Horizon 1.

[26] California Department of Finance. Table 2: E-5 City/County Population and Housing Estimates, 1/1/2018. Available at: http://www.dof.ca.gov/Forecasting/Demographics/Estimates/e-5/. Accessed August 29, 2019.
[27] State of California Employment Development Department. Available at: http://www.labormarketinfo.edd.ca.gov/data/labor-force-and-unemployment-for-cities-and-census-areas.html, accessed August 29, 2019.

Applicable Plans, Policies, and Regulations

California Government Code Sections 65580–65589

California Government Code Sections 65580–65589.8 include provisions related to the requirements for housing elements of local government general plans. Among these requirements, some of the necessary elements include an assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. Additionally, to assure that counties and cities recognize their responsibilities in contributing to the attainment of the state housing goals, the statute calls for local jurisdictions to plan for, and allow the construction of, a share of the region's projected housing needs.

Regional Transportation Plan/ Sustainable Community Strategy

The Regional Transportation Plan (RTP)/ Sustainable Community Strategy (SCS) for the Bay Area region was adopted on July 18, 2013. This regional plan sets integrated development, housing and transportation goals with the aim of reducing greenhouse gas (GHG) emissions.

Affordable Housing Programs

The City of San José has demonstrated a commitment to ensuring that affordable housing is available to moderate, low, and very-low income households by adopting an Inclusionary Housing Ordinance (IHO) and a Housing Impact Fee (AHIF) resolution (collectively, the Affordable Housing Programs). The Inclusionary Ordinance requires that 15 percent of all new market-rate developments of 20 or more units include an affordable housing component. The Housing Impact Fee requires that developers of new market-rate rental housing pay $17-per-square foot to fund additional affordable housing projects in the City.

Municipal Code

The City's Municipal Code, Chapter 5.08, Inclusionary Housing Requirements, provides specific requirements for on-site inclusionary housing for new residential developments. This requires that 15 percent of the total dwelling units in the residential development shall be made available for purchase at an affordable housing cost to those households earning no more than 110 percent of the area median income. These units cannot be sold to those earning more than 120 percent of the area median income. Rental developments are required to provide 9 percent of the total dwelling units in the residential development at an affordable rental housing cost to moderate income households, and 6 percent of the total dwelling units in the residential development shall be made available for rent at an affordable housing cost to very low-income households.

City of San José Envision San José 2040 General Plan

The City's General Plan includes the following housing policies applicable to the project:

Policy H-2.1: Facilitate the production of extremely low-, very low-, low-, and moderate-income housing by maximizing use of appropriate policies and financial resources at the federal, state, and local levels; and various other programs.

Policy H-2.2: Integrate affordable housing in identified growth locations and where other housing opportunities may exist, consistent with the Envision General Plan.

Discussion

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

No Impact. The project proposes a five-story mixed-use building with retail/commercial, office, and residential uses. As discussed above, the California Department of Finance estimates 3.21 residents per household in San José. The project proposes an additional 27 residential units, which would result in an increase of approximately 86 residents. The Mixed-Use Commercial land use designation aims to accommodate a mix of residential and commercial uses with an emphasis on commercial activity as the primary use and residential activity allowed in a secondary role. The retail use proposed as part of the project would create 43 jobs within the City.[28] As identified in the General Plan FEIR, the City currently has an existing ratio of jobs per resident of 0.8. The General Plan FEIR identified that at full buildout of the General Plan, the existing ratio of jobs per employed resident would be increased to a job per employed resident ratio of 1.3. The increase in jobs will incrementally decrease the overall jobs/housing imbalance within the City. In addition, the proposed project is part of planned growth in the City.

The 27 residential units proposed would contribute to a portion of the new housing included in the General Plan growth capacity. Thus, the project would slightly induce growth in the project vicinity, however, the additional housing units would be in accordance with the population and housing growth planned for in the General Plan. Because the project would not induce substantial unplanned population growth, there would be no impact.

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

No Impact. The 0.55-acre project site is an existing gas station that is still in operation. Implementation of the project would not result in the removal of any residential units or displacement of people such that construction of replacement housing would be required. Thus, no impacts would occur.

[28] The City calculates one job per 300 SF of retail/commercial/office space. (City of San José Envision 2040, 2011) ((7,937 SF retail/commercial + 5,000 SF office) / 300 SF = 43.12 jobs)

4.16 Public Services

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project result in:				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
i) Fire protection?			X	
ii) Police protection?			X	
iii) Schools?			X	
iv) Parks?				X
v) Other public facilities?				X

Existing Setting

Fire Protection Services

Fire protection services in the City are provided by the San José Fire Department (SJFD). The City has 34 fire stations.[29] The nearest fire station to the project site is Station 10 located at 511 South Monroe Street, approximately 0.4-mile southeast of the project site. The next closest fire station to the project site is Station 4, located at 710 Leigh Avenue, approximately 1.6 miles southeast of the project site.

SJFD had 17,343 fire and other incidents in the City in 2018. The average travel time in 2018 was 14 minutes and 39 seconds for fire and other incidences and just over nine minutes for medical incident.[30] According to current SJFD protocols, fires in structures that are four stories or taller in height require responses from more than one fire station.

[29] San José Fire Department. Stations. Available at: http://www.sanjoseca.gov/index.aspx?NID=755. Accessed on August 29, 2019.
[30] City of San José San José Fire Department. City-Wide Response Metrics. Available at: http://www.sanjoseca.gov/DocumentCenter/View/36885. Accessed on January 14, 2019.

Police Protection

Police protection services are provided to the project site by the San José Police Department (SJPD). Headquarters are located at 201 West Mission Street, approximately 1.8 miles north of the project site.

Schools

The project is located within the Campbell Unified School District (CUSD) and Campbell Unified High School District boundaries. Students in the project area would attend Lynhaven Elementary School (grades K-5), Monroe Middle School (grades 5-8), and Del Mar High (grades 9-12).[31] [32]

Other Public Facilities, Libraries

The San José Public Library System consists of one main library and 23 branch libraries. The main library, Dr. Martin Luther King, Jr. Library, is located at 150 East San Fernando Street, approximately 3.7 miles northeast of the project site. The nearest library branches to the project site are listed below.[33]

- Rose Garden Branch Library located at 1580 Naglee Avenue, approximately 1.5 miles northeast of the project site.
- West Valley located at 1243 San Tomas Aquino Road, approximately 1.9 miles southwest of the project site.

Applicable Plans, Policies, and Regulations

Police Services

All law enforcement agencies within California are organized and operate in accordance with the applicable provisions of the California Penal Code. This code sets forth the authority, rules of conduct, and training for police officers.

Fire Protection

The California Fire Code contains regulations relating to construction and maintenance of buildings and the use of premises. Fire hazards are addressed mainly through the application of the State Fire Code that addresses access, including roads, and vegetation removal in high fire hazard areas, fire hydrants, automatic sprinkler systems, fire alarm systems, fire and explosion hazards safety, and many other general and specialized fire safety requirements for new and existing buildings and premises.

California Occupational Safety and Health Administration

In accordance with California Code of Regulations Title 8 Sections 1270 "Fire Prevention" and 6773 "Fire Protection and Fire Equipment" the California Occupational Safety and Health Administration (Cal/OSHA) has established minimum standards for fire suppression and emergency medical services. The standards include, but are not limited to, guidelines on the handling of highly combustible materials, fire hose sizing requirements, restrictions on the use of compressed air, access roads, and the testing, maintenance, and use of all fire-fighting and emergency medical equipment.

[31] Campbell Union School District. Campbell Union Elementary School District SchoolFinder. Available at: http://www.schfinder.com/CampbellUnion/. Accessed on August 29, 2019.
[32] Campbell Union High School District. School Locator. Available at: http://www.schoolworksgis.com/SL/CampbellUHSD/schoollocator.html. Accessed on September 4, 2019.
[33] City of San José Public Library. Locations and Hours. Available at: https://www.sjpl.org/locations. Accessed on August 29, 2019.

California Health and Safety Code

State fire regulations are set forth in Sections 13000 et seq. of the California Health and Safety Code. This includes regulations for building standards (as also set forth in the California Building Code), fire protection and notification systems, fire protection devices such as extinguishers and smoke alarms, high-rise building and childcare facility standards, and fire suppression training.

Schools

Senate Bill 50

SB 50 (1998), which is funded by Proposition 1A, limits the power of cities and counties to require mitigation of developers as a condition of approving new development and provides instead for a standardized fee. SB 50 generally provides for a 50/50 state and local school facilities match. SB 50 also provides for three levels of statutory impact fees. The application level depends on whether state funding is available; whether the school district is eligible for state funding; and whether the school district meets certain additional criteria involving bonding capacity, year-round schools, and the percentage of moveable classrooms in use.

California Government Code sections 65995-65998 sets forth provisions to implement SB 50. Specifically, in accordance with Section 65995(h), the payment of statutory fees is "deemed to be full and complete mitigation of the impacts of any legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization…on the provision of adequate school facilities." The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code.

Pursuant to Government Code section 65995(i), "A state or local agency may not deny or refuse to approve a legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization as defined in Section 56021 or 56073 on the basis of a person's refusal to provide school facilities mitigation that exceeds the amounts authorized pursuant to this section or pursuant to Section 65995.5 or 65995.7, as applicable."

California Education Code Section 17620(a)(1) states that the governing board of any school district is authorized to levy a fee, charge, dedication, or other requirement against any construction within the boundaries of the district, for the purpose of funding the construction or reconstruction of school facilities.

California Government Code, Section 65995(b), and Education Code Section 17620

SB 50 amended California Government Code Section 65995, which contains limitations on Education Code Section 17620, the statute that authorizes school districts to assess development fees within school district boundaries. Government Code Section 65995(b)(3) requires the maximum square footage assessment for development to be increased every two years, according to inflation adjustments. On January 27, 2016, the State Allocation Board (SAB) approved increasing the allowable amount of statutory school facilities fees (Level I School Fees) from $3.36 to $3.39 per square foot of assessable space for residential development of 500 square feet or more, and from $0.54 to $0.55 per square foot of chargeable covered and enclosed space for commercial/industrial development (State Allocation Board, 2016). School districts may levy high fees if they apply to the SAB and meet certain conditions.

City of San José Envision San José 2040 General Plan

The City's 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-2.2: Construct and maintain architecturally attractive, durable, resource-efficient, and environmentally healthful library facilities to minimize operating costs, foster learning, and express in built form the significant civic functions and spaces that libraries provide for the San José community. Library design should anticipate and build in flexibility to accommodate evolving community needs and evolving methods for providing the community with access to information sources. Provide at least 0.59 square feet of space per capita in library facilities.

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

1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls.
2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.

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

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

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

Policy PR-2.6: Locate all new residential development over 200 units in size within 1/3 of a mile walking distance of an existing or new park, trail, open space or recreational school grounds open to the public after normal school hours or shall include one or more of these elements in its project design.

Discussion

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

i. Fire protection?

Less than Significant Impact. Development of the proposed project may incrementally increase the demand for fire protection services; however, not to a substantial level considering the site's urbanized location. Although the SJFD is not currently meeting response time objectives, it is anticipated that the planned construction and/or relocation of stations as described in the General Plan, will improve response times.

The General Plan found with implementation of Policy ES-3.1, there would be a less than significant impact to police and fire services. Furthermore, the proposed project is within the requirements of the General Plan designation and would be constructed in accordance with current Building codes, Fire Codes, and City policies to avoid unsafe building conditions and promote public safety. Thus, impacts would be less than significant.

ii. Police protection?

Less than Significant Impact. Police protection services would be provided by the SJPD. Although a new mixed-use building with retail/commercial, office, and residential uses would be constructed on the project site, the project would be located in an urbanized area and would not result in a substantial increase in demand on police services. It is not anticipated to increase response times to the project site or vicinity. The project does not propose or require new or physically altered police protection facilities. The project would be constructed in accordance with current building codes and City policies to avoid unsafe building conditions and promote public safety, consistent with General Plan Policy ES-3.9. Furthermore, the potential growth resulting from the proposed project is accounted for in the planned growth for the City. The project is only a small fraction of the total growth identified in the General Plan. Compliance with the General Plan policies would help to ensure that the SJPD meets and maintains the City's response time objectives over the long-term. Thus, impacts would be less than significant.

iii. Schools?

Less than Significant Impact. The project site is located within the CUSD and CUHSD boundaries. Buildout of the General Plan is estimated to generate 1,456 new students in the CUSD (includes Lynhaven Elementary School and Monroe Middle School), and 3,751 students in the CUHSD (includes Del Mar High School). The proposed project proposes the construction of 27 residential units, which could lead to an increase in demand for services within the CUSD. CUSD student generation rates for multi-family residential development are approximately 0.107 K-12 students per unit.[34] Based on this student generation rate, the proposed 27 residential units would generate an estimated three new students.

[34] Campbell Union High School District. Residential Development School Fee Justification Study. Available at: https://4.files.edl.io/54ce/06/29/18/002004-9d125a39-501a-44ba-8c86-a5021892d8e0.pdf. Accessed on September 4, 2019.

However, the proposed project is part of the planned growth in the City and would not increase students in the CUSD beyond what was anticipated in the General Plan. The General Plan FEIR identified CUSD would require two additional elementary/middle school facilities due to the planned growth under the General Plan. These additional facilities would be able to accommodate the potential growth resulting from the proposed project as identified in the General Plan FEIR.

State Law (Government Code Section 65996) specifies an acceptable method of offsetting a project's effect under CEQA on the adequacy of school facilities is the payment of a school impact fee prior to the issuance of a building permit. CUSD and CUHSD collects impact fees from new developments under the provisions of SB 50. Payment of the applicable impact fees by the project Applicant, and ongoing revenues that would come from property taxes, sales taxes, and other revenues generated by the project, would fund improvements associated with school services. Under the provisions of SB 50, a project's impacts on school facilities are fully mitigated via the payment of the requisite new school construction fees established pursuant to Government Code Section 65995. While the proposed project would increase the number of school children attending public schools in the project area, it would be consistent with the increases identified in the General Plan, and would mitigate its impact through compliance with state law regarding school impacts. Thus, impacts would be less than significant.

iv. Parks?

No Impact. The proposed project includes shared open space areas for the project residents. The residential portion (27 residential units) would not be required to dedicate parkland or payment of park impact fees in order to comply with the PIO and/or PDO because less than 1,000 new residents would be added. Therefore, the project would not require the construction of recreational facilities which might have an adverse physical effect on the environment and there would be no impact.

v. Other public facilities?

No Impact. The project proposes the construction of 27 residential units which could lead to a demand on other public facilities such as libraries within the City. The General Plan FEIR concluded that development and redevelopment allowed under the General Plan would be adequately served by existing and planned library facilities. Given that the existing and planned library facilities would adequately serve planned growth in the City, there would be no impact.

4.17 Recreation

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
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 would occur or be accelerated?				X
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?				X

Existing Setting

The City of San José manages a total of 3,435 acres of regional and neighborhood/community serving parkland. The City owns 180 neighborhood-serving parks and nine regional parks. The closest park to the project site is Frank M. Santana Park located at 511 South Monroe Street, approximately 0.3 mile southwest of the project site. The project site is located approximately 0.78 mile southeast of Parkway Park. The closest Regional Park is Kelley Park located 4.7 miles east of the project site.

Applicable Plans, Policies, and Regulations

The Quimby Act

The Quimby Act (California Government Code §66477) authorizes cities and counties to adopt ordinances requiring new development to dedicate land or pay fees or provide a combination of both for park improvements.

Parkland Dedication Ordinance and Park Impact Ordinance

The City of San José enacted the Parkland Dedication Ordinance (PDO)[35] (Municipal Code Chapter 19.38) in 1988 to help meet the demand for new neighborhood and community parkland generated by the development of new residential subdivisions. In 1992, the City Council adopted the Park Impact Ordinance (PIO)[36], which is similar to the PDO, but applies to new non-subdivided residential projects such as

[35] City of San José Municipal Code Title 19.38
[36] City of San José Municipal Code Title 14.25

apartment buildings. These ordinances are consistent with provisions of the California Quimby Act (GC § 66477), Mitigation Fee Act (GC § 66000), Subdivision Map Act (GC § 66410), and associated federal statutes.

Consistent with these ordinances, housing developers are required to dedicate land, improve parkland, and/or pay a parkland fee in lieu of land dedication for neighborhood and community parks under the PDO and PIO. Pursuant to these ordinances a residential project's parkland obligation under the PDO and PIO is equivalent in value or property to three acres for every 1,000 new residents added by the housing development, pay an in-lieu fee, construct new park facilities, or a provide combination of these.

City of San José Envision San José 2040 General Plan

The City's General Plan includes the following public services policies applicable to the project:

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

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

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

Policy PR-2.4: To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds.

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

Discussion

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 would occur or be accelerated?

No Impact. The proposed project would increase the City's population by approximately 86 persons, as discussed in Section 4.14, Population and Housing. This relatively few number of people, combined with the City's on-going park operation and maintenance plans (for which this proposed project would contribute to by way of property taxes) would not result in a substantial physical deterioration of parks or other recreation facilities. Therefore, there would be no impact. Although the project could increase the use of these recreational facilities, the increased use was accounted for in the General Plan FEIR. Therefore, there would be no impact.

b) Refer to Section 4.16 Public Services, Discussion Impact A(iii). 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?

No Impact. As discussed in Section 4.15, Recreation Response (a)(iv), the proposed project includes shared open space areas for the project residents. The residential portion of this project (27 residential units) would not be required to dedicate parkland or payment of park impact fees in order to comply with the PIO and/or PDO because less than 1,000 new residents would be added by the proposed project. Therefore, the project would not require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment and there would be no impact.

4.18 Transportation

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

Existing Setting

The project site is currently developed with a gas station and access is provided via South Winchester Boulevard. Existing traffic operations were evaluated at the study intersections during AM (7:00 – 9:00 AM) and PM (4:00 – 6:00 PM) peak hour turning movement counts collected for the Local Transportation Analysis (Appendix G).

Regional and Local Access

The following local and regional roadways provide access to the project site:

South Winchester Boulevard is an arterial road in the north-south direction, extending from Lincoln Street in Santa Clara to Highway 9 in Los Gatos. Near the project site, South Winchester Boulevard is a six-lane divided road with Class II bike lanes that provides direct access to major regional facilities and destinations including the Valley Fair Mall, Santana Row and I-280 freeway. On-street parking is restricted along South Winchester Boulevard, and the proposed 425 South Winchester project is located in the northwest corner of the South Winchester Boulevard / Olin Avenue signalized intersection.

South Winchester Boulevard is designated as a Grand Boulevard within the Envision San Jose 2040 General Plan. Grand Boulevards are designated as major transportation corridors that connect City neighborhoods. As a Grand Boulevard, the South Winchester Boulevard corridor is planned to provide a

minimum 15-foot sidewalk width along its frontage, minimize driveway cuts to minimize transit delay, and provide enhanced shelters for transit services.

Stevens Creek Boulevard is an arterial road in the east-west direction, extending from West San Carlos Street in San Jose to Permanente Road in Cupertino. East of South Winchester Boulevard and the project site, Stevens Creek Boulevard is a six-lane divided road that provides direct access to major regional facilities and destinations including the Valley Fair Mall, Santana Row and I-880 freeway. West of South Winchester Boulevard, Stevens Creek serves as a commercial frontage for retail and office uses with a center turn lane and on-street parking.

Stevens Creek Boulevard is designated as a Grand Boulevard within the Envision San Jose 2040 General Plan. Grand Boulevards are designated as major transportation corridors that connect City neighborhoods. As a Grand Boulevard, the Stevens Creek Boulevard/San Carlos Street corridor is planned to have a Bus Rapid Transit (BRT) system operating between De Anza College in Cupertino and the Berryessa BART station in San Jose.

Olin Avenue is a two lane, east-west collector road that provides access to the proposed project, Santana Row, and residential neighborhoods west of South Winchester Boulevard. The roadway is 40-feet wide, has a speed limit of 25 mph, and provides on-street parking west of Spar Avenue. On-street parking is prohibited between Spar Avenue and South Winchester Boulevard.

Moorpark Avenue is an undivided arterial road in the east-west direction, extending from Lawrence Expressway in the west to Southwest Expressway in the east. Near the project site, Moorpark Avenue is a four-lane road that provides direct access to the I-280 freeway.

Interstate 880 (I-880) is primarily a six-lane freeway that is aligned in a north-south orientation between Interstate 80 in Oakland and Interstate 280 in San Jose at which it transitions into Highway 17 to Santa Cruz. Access to the project site to and from I-880 is provided by nearby ramps at Stevens Creek Boulevard.

Interstate 280 (I-280) is an 8-lane freeway that connects with I-880 and travels in an east-west direction in the City of San José, even though the freeway is labeled as northbound and southbound. Access to and from the project site via the I-280 southbound direction is provided by ramp terminals at Moorpark Avenue while access for the I-280 northbound direction is provided via the Stevens Creek / I-880 ramp terminal. A future I-280 northbound off-ramp at South Winchester Boulevard is planned per the I-280/South Winchester Boulevard Interchange Area Transportation Development Policy.

Pedestrian and Bicycle Facilities

Pedestrian activity within the Santana Row / Valley Fair Urban Village area is substantial. Connected sidewalks at least six feet wide are available along all major roadways in the study area with adequate lighting and signing. At signalized intersections, marked crosswalks, Americans with Disabilities Act (ADA) standard curb ramps, and count down pedestrian signals provide improved pedestrian visibility and safety.

Bicycle facilities in the area include South Winchester Boulevard and Monroe Street which provide Class II bike lanes with buffered striping to separate the vehicle and bike travel way. South Winchester Boulevard features green paint markings in potential conflict areas in both directions between Stevens Creek Boulevard and Tisch Way. Bicycle parking in the Santana Row/Valley Fair Urban Village Plan area is

limited with few available storage areas. No existing bike facilities are provided along Stevens Creek Boulevard. Bicyclists either share the lane with traffic or ride on the sidewalk when travelling on Stevens Creek Boulevard.

At the project site frontage, pedestrian features including pedestrian count down signal heads, ADA curb ramps, and marked crosswalks are provided for all legs of the signalized South Winchester Blvd / Olin Avenue intersection. Overall, the existing sidewalks and pedestrian facilities adjacent to the project have good connectivity and provide pedestrians with routes to the surrounding land uses.

The San Jose Bike Plan 2020 indicates that a variety of bicycle facilities are planned in the project study area and the following Class II facility improvements would benefit the proposed project.

- Monroe Street from Newhall Street to Tisch Way
- Moorpark Avenue from Williams Road to College Drive
- South Winchester Boulevard from Moorpark Avenue to Payne Avenue
- Tisch Way from South Winchester Boulevard to Monroe Avenue

Transit Service

Transit services in the study area include shuttles and busses provided by the Santa Clara Valley Transportation Authority (VTA). The Santana Row / Valley Fair Urban Village area is served by three major bus routes. Most regular bus routes operate on weekdays from early in the morning (5:00 AM to 6:00 AM) until late in the evening (10:00 PM to midnight) and on weekends from early morning (5:00 AM to 6:00 AM) until mid-evening (8:00 PM to 10:00 PM). Bus headways during peak commute periods vary between 15 to 30 minutes. The study area is served by bus routes 23, 60, and 323 in the VTA system which provide local and regional bus service for commuters between San José downtown and major transit destinations in Santa Clara County. These bus routes also provide transit connections to Caltrain, VTA Light Rail, Altamont Corridor Express (ACE), and Amtrak. Bus stops with benches, shelters, and bus pullout amenities are provided within the project site and Santana Row/Valley Fair Urban Village Plan area. Transit stops are located within walking a 2,000-foot walking distance from the project site at the Stevens Creek Boulevard / South Winchester Boulevard and South Winchester Boulevard / Olsen Drive intersections.

Applicable Plans, Policies, and Regulations

Metropolitan Transportation Commission

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 the final Plan Bay Area in July 2013 which includes the region's Sustainable Communities Strategy and the most recently adopted Regional Transportation Plan (2040).

Santa Clara Valley Transportation Agency Congestion Management Program

In accordance with California Statute, Government Code 65088, Santa Clara County has established a CMP. The intent of the CMP legislation is to develop a comprehensive transportation improvement program among local jurisdictions that will reduce traffic congestion and improve land use decision-making and air quality. VTA serves as the Congestion Management Agency (CMA) for Santa Clara County and maintains the County's CMP. The CMP requires review of substantial individual projects, which might

on their own impact the CMP transportation system. Specifically, the CMP Traffic Impact Analysis measures impacts of a project on the CMP Highway System. Compliance with the CMP requirements ensures a city's eligibility to compete for State gas tax funds for local transportation projects.

San José Transportation Impact Policy 5-1

As established in City Council Policy 5-1 "Transportation Analysis Policy" (2018), the City of San José uses vehicle miles traveled (VMT) as the metric to assess transportation impacts from new development under CEQA, as suggested by SB 743. According to the policy, a residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average citywide per capita VMT. An employment (e.g., office, R&D) project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional per employee VMT. For industrial projects (e.g., warehouse, manufacturing, distribution), the impact would be less than significant if the project VMT is equal to or less than existing average regional per employee VMT. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible.

The policy also requires preparation of a Local Transportation Analysis (LTA) to analyze non-CEQA transportation issues, which may include local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access, and to recommend needed transportation improvements.

City of San José Envision San José 2040 General Plan

The City's General Plan includes the following transportation policies applicable to the proposed project:

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

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

Policy TR-1.4: Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.

Policy TR-1.5: Design, construct, operate, and maintain public streets to enable safe, comfortable, and attractive access and travel for motorists and for pedestrians, bicyclists, and transit users of all ages, abilities, and preferences.

Policy TR-1.6: Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.

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

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

Policy TR-5.3: The minimum overall roadway performance during peak travel periods should be level of service "D" except for designated areas and specified exceptions identified in the General Plan including the Downtown Core Area. Mitigation measures for vehicular traffic should not compromise or minimize community livability by removing mature street trees, significantly reducing front or side yards, or creating other adverse neighborhood impacts.

Policy TR-8.4: Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.

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

Policy TR-8.7: Encourage private property owners to share their underutilized parking supplies with the general public and/or other adjacent private developments.

Policy TR-8.8: Promote use of unbundled private off-street parking associated with existing or new development, so that the sale or rental of a parking space is separated from the rental or sale price for a residential unit or for non-residential building square footage.

Policy TR-8.9: Consider adjacent on-street and City-owned off-street parking spaces in assessing need for additional parking required for a given land use or new development.

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

Action TR-10.4: In Tier II, require that a portion of adjacent on-street and City owned off-street parking spaces be counted towards meeting the zoning code's parking space requirements.

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

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

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

Policy CD-3.6: Encourage a street grid with lengths of 600 feet or less to facilitate walking and biking. Use design techniques such as multiple building entrances and pedestrian paseos to improve pedestrian and bicycle connections.

Discussion

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

No Impact. In accordance with General Plan policies, the proposed project will facilitate pedestrian and bicycle access and safety. Existing sidewalks along the project frontages on South Winchester Boulevard and Olin Avenue would be reconstructed to provide direct bicycle and pedestrian access. The sidewalk would be 22.25-feet wide to satisfy the Grand Boulevard design along South Winchester Boulevard as designated per the Envision San Jose 2040 General Plan. The proposed sidewalk along Olin Avenue would be 15-feet wide. The main residential lobby and associated areas (e.g., front desk, stairs, elevators), would be located along Olin Avenue, and one flight of emergency exit stairs is located on the north side of the building with access to South Winchester Boulevard.

The existing network of sidewalks and crosswalks in the project area have adequate connectivity and would provide residents with walkable routes to nearby bus stops, retail, and other points of interest in the immediate Santana Row/Valley Fair Urban Village Plan area. Many of the residential streets and South Winchester Grand Boulevard plan adjacent to the project frontage feature lighting, landscaping, and wide sidewalks, which improve pedestrian perceptions of comfort and safety and provide a positive pedestrian and bicycle experience.

The existing South Winchester Boulevard / Olin Avenue intersection has pedestrian crosswalks on the south, east, and west legs. The existing signal control at this intersection consist of split phase timings for the eastbound and westbound approach which is required to maintain simultaneous shared left-thru turn access with the current lane geometry configuration. To mitigate eastbound vehicle queue, development of the Santana Row West project would reconstruct the South Winchester / Olin intersection eastbound approach to provide one additional left-turn lane and convert of the shared right-through lane into a right-turn lane. These improvements would be required to maintain split phase signal control.

For these reasons, the proposed project is consistent with goals, policies, and programs adopted by the City and VTA for encouraging alternative transportation modes and increasing the safety and performance of transit, bicycle, and pedestrian facilities and would not conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities. Therefore, there would be no impact.

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

No Impact. A VMT analysis was used to evaluate the proposed project VMT levels against the appropriate thresholds of significance established in Council Policy 5-1.

To determine whether a project would result in CEQA transportation impacts related to VMT, the City has developed the San Jose VMT Evaluation Tool ("sketch tool") to streamline the analysis for residential, office, and industrial projects. Based on the sketch tool and the project's APN, the existing VMT for employment uses in the project vicinity is 12.22 per employee, and the existing VMT for residential uses in the project vicinity is 8.8 per capita. The current regional average VMT for employment uses is 14.37 per employee and the citywide average VMT for residential uses is 11.91 per capita. Thus, the VMT levels of existing employment and residential uses in the project vicinity are less than the average VMT levels.

For projects that would trigger a VMT impact, VMT reduction strategies such as introducing TDM or additional multimodal infrastructure can be used to mitigate the VMT impact which is estimated from research literature and case studies. The proposed project was evaluated in the VMT tool assuming development of 27 multi-family residential units on the 0.55-acre parcel. The retail and office project uses were omitted from the VMT tool since these components satisfy the City's screening criteria for exemption. The City's VMT per capita threshold for residential land uses is 10.12. For the surrounding land use area, the existing VMT is 8.8.

The proposed project is anticipated to generate a VMT per capita of 8.76. Therefore, the evaluation tool estimates that the project would generate per capita VMT below the City's threshold and would not trigger a VMT impact. Therefore, there would be no impact.

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

No Impact. A review of the project was prepared (see Appendix G) to determine if adequate site access and on-site circulation is provided and to identify any access issues that should be improved. The review, summarized below, was based on the current site plans, and in accordance with generally accepted traffic engineering standards and City of San José requirements.

Site Access

The proposed project provides on-site residential and commercial parking spaces at the basement level parking garage which is accessed by a 23-foot wide drive aisle and a driveway on Olin Avenue. The parking garage would provide reserved parking spaces for commercial users on level B1 while residential tenants have assigned parking spaces on level B2. It is assumed that residential visitors would need to park their vehicles at nearby parking lots or on-street spaces due to parking garage restrictions on-site. The proposed project driveway would be situated approximately 120-feet west of the South Winchester Blvd / Olin Ave intersection. Per City guidance, driveways should be a minimum of 150 feet from any intersection; however due to the location and size of the parcel, providing 150-feet of spacing for the driveway is not feasible and would require redesign of the entire site. The proposed driveway location optimizes sight distance and spacing for the proposed site plan.

Per City Municipal Code 20.90.100 and Table 20-220, the minimum width of a two-way drive aisle is 26-feet; however, the drive aisle width inside the parking garage ranges between 23 to 25-feet wide measured between the building columns and parking stalls while the driveway drive aisle width on the ground floor would be 22.9-feet wide. The proposed project is seeking a drive aisle width reduction to 20-feet minimum pursuant to Part C of Section 20.90.100 provided that the reduction will not impair the safe and convenient accessibility of the parking spaces affected and the safety of the site. On-site 90-degree uniform-size parking spaces are dimensioned 8.5-feet by 17-feet and satisfy City parking standards.

Full access for the project driveway is allowed on Olin Avenue. Vehicles accessing the driveway would be allowed to make left and right turns in and out the site when there are sufficient vehicle gaps in between the adjacent signal and stop control cycles at the South Winchester Blvd / Olin Ave intersection. From the queue analysis results summarized in Appendix G, inbound vehicle queues and delays are not expected to be significant issues. For outbound vehicles, on-site vehicle queues are expected during the PM peak due to a combination of eastbound left-turn queue at the South Winchester/Olin intersection, inherent unpredictability of vehicle arrivals at driveways, and the random occurrence of gaps in traffic; however, these conditions are typical of driveways in retail areas.

Vehicular On-Site Circulation

The parking garage for the project provides commercial and resident access with up to 93 total parking spaces. The internal parking garage layout consists of a single two-way drive aisle that spirals around the perimeter of the project site. Analysis using the American Association of State Highway and Transportation Officials (AASHTO) template revealed that passenger vehicles could adequately access the driveway, maneuver through the garage, and park in the stalls without conflicting into other vehicles or stationary objects. The project's reduced drive aisle width provides sufficient vehicle clearance.

For the purposes of this analysis, it is assumed that delivery and loading activity for the project would occur on Olin Avenue in areas where on-street parking is allowed. A delivery truck would be able to enter the project driveway to load/unload and back out of the driveway in reverse. Garbage and recycling bins are anticipated to be located on the ground level and moved outside for pickup along Olin Avenue. Waste collection vehicles would be able to enter the project driveway to pick up bins and back out of the driveway in reverse.

Based on the above analysis, the proposed project would not substantially increase hazards due to a geometric design feature.

d) Result in inadequate emergency access?

No Impact. In the event of an emergency, it is assumed that fire apparatus vehicles will stage adjacent to the project site on South Winchester Boulevard and Olin Avenue. Existing fire hydrants on the southwest and northeast corners of the South Winchester Boulevard / Olin Avenue intersection provides direct fire access for emergency personnel. The project driveway is 23-feet wide, at least 10-feet high, and satisfies the 20-foot horizontal and 10-foot- vertical minimum access clearances from the 2016 CA Fire Code. Because the project has been designed to provide adequate emergency access, there would be no impact.

Operational Transportation Issues Not Required Under CEQA

The following information is not required under CEQA, but is provided here for informational purposes to help the decision makers in their consideration of the proposed project.

Trip Generation

Trip generation rates for the proposed project land uses were calculated using trip generation rates from the Institute of Transportation Engineers (ITE) Trip Generation Manual, 10th Edition. A trip is defined as a single or one-directional vehicle movement in either the origin or destination at the project site. In other words, a trip can be either "to" or "from" the site. In addition, a single customer visit to a site is counted as two trips (i.e. one to and one from the site). Daily, AM, and PM peak hour trips for the project were calculated with average trip rates. Due to the unknown future tenants for the retail uses as mentioned in the project description, the following ITE land uses were conservatively applied to the proposed 425 South Winchester development:

- ITE 220 Multi-Family Housing (Low-Rise) – 27 proposed dwelling units (studio and 1-3 BM DU)
- ITE 712 Small Office Building – 4,737 square feet office use (tenant use to be determined)
- ITE 820 Shopping Center – 8,128 square feet retail use (tenant use to be determined)

Development of the proposed project with applicable trip reductions is anticipated to generate a net total of 187 additional daily trips, no additional AM peak hour trips, and 19 fewer PM peak hour vehicle trips to the roadway network. Of the AM peak hour trips, approximately one additional trip is inbound to the project and one fewer trip is outbound from the project. For the PM peak hour trips, approximately eight fewer trips are inbound while 11 fewer trips are outbound. Table 4-25 shows the estimated trip generation of the project.

Table 4-25: Estimated Project Trip Generation

LAND USE / DESCRIPTION	PROJECT SIZE	TOTAL DAILY TRIPS	AM PEAK TRIPS			PM PEAK TRIPS		
			TOTAL	IN	/ OUT	TOTAL	IN	/ OUT
Trip Generation Rates (ITE)								
Multi-Family Housing (Low-Rise) [ITE 220]	Per DU	7.32	0.46	23%	/ 77%	0.56	63%	/ 37%
Small Office Building [ITE 712]	Per KSF	16.19	1.92	83%	/ 17%	2.45	32%	/ 68%
Shopping Center [ITE 820]	Per KSF	37.75	0.94	62%	/ 38%	3.81	48%	/ 52%
1. Baseline Vehicle-Trips								
Residential - 425 South Winchester	27.00 DU	198	12	3	/ 9	15	10	/ 5
Office - 425 South Winchester	4.74 KSF	77	9	8	/ 1	12	4	/ 8
Retail - 425 South Winchester	8.13 KSF	307	8	5	/ 3	31	15	/ 16
Baseline Gross Project Vehicle-Trips		**582**	**29**	**16**	**/ 13**	**58**	**29**	**/ 29**
2. Internal Trip Adjustments								
Mixed-Use Reduction (VTA Internal Capture)	-3%	(5)	(2)	0	/ (2)	(2)	(1)	/ (1)
Project Vehicle-Trips After Reduction		**577**	**27**	**16**	**/ 11**	**56**	**28**	**/ 28**
3. Location-based Mode Share Adjustments								
Urban Low-Transit Reduction (Mode Share)	-13%	(76)	(4)	(3)	/ (1)	(8)	(4)	/ (4)
Project Vehicle-Trips After Reduction		**501**	**23**	**13**	**/ 10**	**48**	**24**	**/ 24**
4. Project Trip Adjustments								
VMT Vehicle-Trip Reduction (Model Sketch Tool)	0%	0	0	0	/ 0	0	0	/ 0
Project Vehicle-Trips After Reduction		**501**	**23**	**13**	**/ 10**	**48**	**24**	**/ 24**

LAND USE / DESCRIPTION	PROJECT SIZE	TOTAL DAILY TRIPS	AM PEAK TRIPS			PM PEAK TRIPS		
			TOTAL	IN	/ OUT	TOTAL	IN	/ OUT
5. Other Trip Adjustments								
Existing Use Credit – Gas Station Driveway Counts		(850)	(85)	(44)	/ (41)	(154)	(74)	/ (80)
A. Pass-by / Diverted Link Trips – Gas Station [ITE 944]	58% AM 42% PM	425	50	26	/ 24	66	32	/ 34
B. Urban Low-Transit Reduction – Gas Station	-13%	111	12	6	/ 6	21	10	/ 11
Other Trip Adjustment Subtotal		**(314)**	**(23)**	**(12)**	**/ (11)**	**(67)**	**(32)**	**/ (35)**
FINAL NET PROJECT VEHICLE TRIPS		**187**	**0**	**1**	**/ (1)**	**(19)**	**(8)**	**/ (11)**

Notes:

Proposed land uses based on latest site plan from C2K Architecture (5/15/2019)

Daily, AM, and PM trips based on average land use rates from the Institute of Traffic Engineers Trip Generation 10th Edition

A 13% Mode Share Reduction from San Jose Transportation Analysis Handbook 2018 was applied since the project is located in an "Urban Low-Transit" area.

A 3% VTA Mixed-Use reduction was applied off of smaller trip generator for the project with housing and employment components per Santa Clara VTA TIA Guidelines 2014. The same number of trips were subtracted from the larger generator to account for both trip ends.

Vehicle trip credit for gasoline/service station to be demolished based on existing driveway counts (8/27/2019). Pass-by/Diverted trip reduction applied to existing site per ITE 944 rates for Gasoline Service Station. Driveway counts are comparable to ITE 944 rates with 8 fueling positions.

Due to the nature of the proposed development, most residential, retail, and office vehicle project trips are anticipated to access the Santana Row / Valley Fair Urban Village area and the I-280 and I-880 regional freeways. Trip distribution and assignment for the 425 South Winchester project was assumed based on the project driveway location, the freeway ramp location, community characteristics, and professional engineering judgement. Project trips to and from the site are anticipated to access the following regional facilities and destinations:

- Santana Row
- I-280 South
- I-280 North
- Valley Fair Mall
- I-880 North
- I-880 South
- South Winchester Blvd North
- South Winchester Blvd South
- Stevens Creek Blvd East
- Stevens Creek Blvd West

The project trip assignment and distribution for the proposed project is presented in Appendix G. The study intersections are anticipated to operate at acceptable LOS during the AM and PM peak hour under Existing conditions and Background conditions. As shown in Table 4-26 below, the study intersections are anticipated to operate at acceptable LOS during the AM and PM peak hour, and the proposed project is not anticipated to create a significant traffic impact under project conditions. As shown in Table 4-27, the proposed project is not anticipated to create a significant traffic impact under Cumulative Plus Project conditions.

Table 4-26: Intersection Operations Summary for Project Conditions

Intersection	LOS Criteria	Jurisdiction	Project Conditions															
			AM Peak								PM Peak							
			LOS	Delay (sec)[1]	Delay Var	v/c Ratio	v/c Var	Crit. Delay (sec)	Crit. Delay Var	Impact	LOS	Delay (sec)[1]	Delay Var	v/c Ratio	v/c Var	Crit. Delay (sec)	Crit. Delay Var	Impact
South Winchester Blvd / Stevens Creek Blvd	E	SJ/CMP	C	34.1	0.0	0.695	0.00	41.3	0.0	NO	E	63.2	-0.6	1.029	-0.004	86.4	-1.3	NO
South Winchester Blvd / Olin Ave	D	SJ	C	20.9	0.0	0.466	0.00	21.9	-0.1	NO	C	33.3	-0.4	0.594	-0.005	39.0	-0.3	NO
South Winchester Blvd / Olsen Dr	D	SJ	C	32.9	0.0	0.610	0.00	37.7	0.0	NO	D	46.2	-0.1	0.810	-0.001	53.4	0.0	NO
South Winchester Blvd / Tisch / I-280 NB On-Ramp	D	SJ	D	48.3	0.0	1.028	0.00	85.0	0.0	NO	D	47.4	0.0	0.910	-0.001	56.4	-0.1	NO
South Winchester Blvd / Moorpark Ave	E	SJ/CMP	D	47.4	0.0	0.918	0.00	56.0	0.0	NO	D	44.7	0.0	0.773	0.000	51.4	0.0	NO
Moorpark Ave / I-280 SB Off-Ramp	D	SJ	B	12.4	0.0	0.502	0.00	12.4	0.0	NO	B	13.6	0.0	0.509	0.000	13.5	0.0	NO
Stevens Creek Blvd / Santana Row	D	SJ	B	15.8	0.0	0.559	0.00	13.3	0.0	NO	C	27.1	0.0	0.673	-0.001	33.0	0.0	NO
Stevens Creek Blvd / Monroe St	D	SJ	C	26.7	0.0	0.767	0.00	29.0	0.0	NO	D	50.9	0.0	0.938	0.000	63.3	-0.1	NO
Stevens Creek Blvd / I-880 SB Ramps	D	SJ	C	26.8	0.0	0.743	0.00	25.7	0.0	NO	C	25.8	0.0	0.669	-0.001	36.7	0.0	NO

Table 4-27: Intersection Operations Summary for Cumulative Plus Project Conditions

Intersection	LOS Criteria	Jurisdiction	Cumulative Plus Project Conditions															
			AM Peak								PM Peak							
			LOS	Delay (sec)[1]	Delay Var	v/c Ratio	v/c Var	Crit. Delay (sec)	Crit. Delay Var	Impact	LOS	Delay (sec)[1]	Delay Var	v/c Ratio	v/c Var	Crit. Delay (sec)	Crit. Delay Var	Impact
South Winchester Blvd / Stevens Creek Blvd	E	SJ/CMP	C	34.6	0.0	0.733	0.000	42.7	0.0	NO	E	71.3	-0.7	1.080	-0.004	102.3	-1.5	NO
South Winchester Blvd / Olin Ave	D	SJ	C	20.6	0.0	0.472	0.000	21.8	-0.1	NO	C	33.2	-0.4	0.617	-0.005	39.6	-0.3	NO
South Winchester Blvd / Olsen Dr	D	SJ	D	35.9	0.0	0.693	0.000	42.1	0.0	NO	D	49.0	0.0	0.863	-0.001	57.0	-0.1	NO
South Winchester Blvd / Tisch / I-280 NB On-Ramp	D	SJ	D	51.5	0.0	1.052	0.000	92.3	0.0	NO	D	49.0	0.0	0.937	-0.001	60.2	-0.1	NO
South Winchester Blvd / Moorpark Ave	E	SJ/CMP	D	49.0	0.0	0.929	0.000	58.6	0.0	NO	D	44.9	0.0	0.775	0.000	51.6	0.0	NO
Moorpark Ave / I-280 SB Off-Ramp	D	SJ	B	12.5	0.0	0.508	0.000	12.5	0.0	NO	B	13.6	-0.1	0.518	0.000	13.6	0.0	NO
Stevens Creek Blvd / Santana Row	D	SJ	B	16.1	0.0	0.592	0.001	14.0	0.0	NO	C	26.9	0.0	0.698	-0.001	33.0	0.0	NO
Stevens Creek Blvd / Monroe St	D	SJ	C	28.7	0.0	0.807	0.000	32.3	0.0	NO	D	53.4	0.0	0.967	-0.001	68.1	-0.2	NO
Stevens Creek Blvd / I-880 SB Ramps	D	SJ	C	27.6	0.0	0.778	0.000	26.8	0.0	NO	C	26.2	0.0	0.693	-0.001	37.0	0.0	NO

4.19 Tribal Cultural Resources

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

Existing Setting

A records search for the project site was conducted by the Sonoma State University NWIC on August 2, 2019 (Appendix B). Based on an evaluation of the environmental setting and features associated with known sites, Native American resources in this part of Santa Clara County have been found near areas populated by oak, buckeye, laurel, and hazelnut, as well as near a variety of plant and animal resources. Typically, these sites are also found near watercourses and bodies of water. The project site is located on a flat terrace in an open area and approximately two miles from any major predevelopment watercourse.

The records search conducted by NWIC revealed no Native American resources within or adjacent to the proposed project area and determined a low potential for unrecorded Native American resources in the proposed project area.

Applicable Plans, Policies, and Regulations

The City's General Plan includes policies applicable to all development projects in San José. The following policies are specific to tribal cultural resources and are applicable to the proposed project.

Vibration

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 inches/second (in/sec) PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. For reference, a jackhammer has a PPV of 0.09 in/sec at a distance of 25 feet. 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.

Policy IP-12.3: Use the Environmental Clearance process to identify potential impacts and to develop and incorporate environmentally beneficial actions, particularly those dealing with the avoidance of natural and human-made hazards and the preservation of natural, historical, archaeological and cultural resources.

Discussion

a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: i) Listed or eligible for listing in the California:

i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k)?

ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?

Less than Significant Impact. Pursuant to Government Code Section 65352.3 (Senate Bill [SB] 18), the City has provided formal notification to California Native American tribal representatives that have previously requested notification from the City regarding projects within the geographic area traditionally and culturally affiliated with the tribe. Native American groups may have knowledge about cultural resources in the area and may have concerns about adverse effects from development on tribal cultural resources as defined in PRC Section 21074.

Given the archeological sensitivity of the project site, previously unknown unrecorded archeological deposits could be discovered during ground disturbing construction activities. Project implementation activities such as project site clearing, preparation, excavation, grading, trenching, boring etc. could potentially encounter buried tribal resources. Should this occur, the ability of the deposits to convey their significance, either as containing information about prehistory or history, as possessing traditional or cultural significance to the Native American or other descendant communities, would be materially impaired. The General Plan goals and policies include direction for the protection of such resources. However, future ground-disrupting activities within the project site could have the potential to uncover and damage or destroy unknown resources. Implementation of the following Standard Permit Conditions listed in the Cultural Resources Section 4.5, would reduce the proposed project's impact to potentially uncover and damage or destroy unknown tribal cultural resources to less than significant.

The proposed project, with implementation of the Standard Permit Conditions listed in the Cultural Resources Section to protect archaeological and tribal resources in the unlikely event they are discovered during construction grading and excavation activities, would result in a less than significant impact to tribal cultural resources.

Assembly Bill (AB) 52 requires lead agencies to conduct formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the lead agency. Notification was conducted by the City with applicable Santa Clara County tribal representatives identified by the NAHC in compliance with AB 52. At the time of preparation of this Initial Study, no Native American tribes that are or have been traditionally culturally affiliated with the project vicinity have requested notification from the City of San José except for projects within the Coyote Valley (approximately 22 miles southeast of the site) or in downtown San José (approximately five miles northeast of the site). Due to the distance of the project site from Coyote Valley and the Downtown Core, the project would not have a significant impact on tribal cultural resources.

4.20 Utilities and Service Systems

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?				X
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?			X	
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				X
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?				X
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?				X

Existing Setting

The project would comply with the City Municipal Code and permitting process for any modifications to the existing solid waste generation, sanitary sewer and stormwater infrastructure potentially required over the duration of the project. The project site is located within the Urban Service Area of the City of San José and is currently served by City services. Off-site facilities would not be required to be upgraded or expanded to serve the project. The project can be adequately served by existing utilities.

Utilities and services are furnished to the project site by the following providers:

Wastewater Treatment: Wastewater treatment and disposal is provided by the San José/Santa Clara Regional Wastewater Facility (RWF), formerly known as the San José /Santa Clara Water Pollution Control Plant (WPCP). Sanitary sewer lines are maintained by the City of San José.

Water Service: Water service in the City is provided by San José Water Company (SJWC).

Storm Drainage: City of San José.

Solid Waste: Garden City Sanitation (Garbage), California Waste Solutions (Recycling) and Green Waste Recovery (Yard Trimmings).

Natural Gas & Electricity: Pacific Gas and Electric (PG&E).

Telecommunications: AT&T, Comcast, Viasat, Frontier, and Spectrum

Applicable Plans, Policies, and Regulations

Assembly Bill 939

Assembly Bill 939 (AB 939) established the CIWMB (now CalRecycle) and required all California counties to prepare integrated waste management plans. AB 939 required all municipalities to divert 50 percent of the waste stream by the year 2000.

California Green Building Standards Code

In January 2010, the State of California adopted the California Green Building Standards Code that establishes mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality. These standards include a mandatory set of guidelines, as well as more rigorous voluntary measures, for new construction projects to achieve specific green building performance levels:

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

Urban Water Management Plan

Pursuant to The State Water Code, water suppliers providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet (approximately 980 million gallons) of water annually must prepare and adopt an urban water management plan (UWMP) and update it every five years. As part of a UWMP, water agencies are required to evaluate and describe their water resource supplies and projected needs over a 20-year planning horizon, water conservation, water service reliability, water recycling, and opportunities for water transfers, and contingency plans for drought events. The City of San José adopted its most recent UWMP in 2015. Water service to the downtown area is provided by the San José Water Company, which gets its water from a variety of sources including groundwater (approximately 40 percent), imported surface water (approximately 50 percent), and local mountain surface water (approximately 10 percent) (San Jose Water, 2019).

San José Zero Waste Strategic Plan/Green Vision

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

Private Sector Green Building Policy

The City of San José's Green Building Policy for private sector new construction encourages building owners, architects, developers, and contractors to incorporate meaningful sustainable building goals early in building design process. This policy establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. It is also intended to enhance the public health, safety, and welfare of San José residents, workers, and visitors by fostering practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water and other resources in the City of San José.

City of San José Envision San José 2040 General Plan

The City's General Plan includes the following utility and service policies applicable to the project:

Policy MS-1.4: Foster awareness in San José's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.

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

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

Policy IN-3.3: Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.

Policy IN-3.5: Require development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D", to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.

Policy IN-3.7: Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.

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

Discussion

a) *Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?*

Water Supply

No Impact. Water service to the project site is currently provided by SJWC. The proposed project would be consistent with planned growth in the General Plan, in that it would be consistent with the type of development planned for this area in the General Plan and Santana Row/Valley Fair Urban Village Plan. SJWC estimated that the total water demand for their service area could reach approximately 160,877 acre-feet per year (AFY) by 2040.[37]

The project would have a water demand of approximately 11,395 gpd.[38] This is equivalent to approximately 12.8 AFY. Water usage associated with the proposed project represent a 0.01 percent increase over the systems wide 2015 water production of 141,903 acre-feet. The increase in demand was accounted for in the 2015 Urban Water Management Plan, which projected a 13.4 percent increase between actual 2015 usage and estimated 2040 usage. Therefore, the project demand is within normal growth projections for water demand in the SJW system. In addition, implementation of the 2040 General Plan policies, existing regulations and local programs would ensure that the proposed project would reduce water consumption including expansion of the recycled water system and implementation of water conservation measures. Thus, relocation or construction of new or expanded water facilities would not be needed and there would be no impact.

Wastewater

No Impact. According to the General Plan FEIR, development under the General Plan is estimated to generate 30.8 mgd of average dry weather influent flow. Since the City has approximately 38.8 mgd of excess treatment capacity, planned growth in the City is not expected to exceed the City's allotted capacity. As discussed in the General Plan FEIR, the San José-Santa Clara Regional Wastewater Facility (RWF) in Alviso is the regional wastewater treatment facility that provides wastewater treatment services for the project area.

Implementation of the 2040 General Plan policies, existing regulations and local programs would ensure that the San José-Santa Clara RWF has sufficient treatment capacity to accommodate planned growth, as well as reduce the potential for future exceedances of the RWQCB effluent limit. In addition, the proposed project is not requesting a zone change that would increase wastewater generation that was previously analyzed in the General Plan FEIR, so the treatment capacity of the San José-Santa Clara RWF would not be exceeded as a result of the proposed project or the project's contribution to existing treatment commitments.

[37] SJWC Water Supply Assessment, July 2018.
[38] SJWC uses a residential water demand factor of 100 gallons per capita per day for all new residents, a commercial water demand factor of 0.25 gallons per day (gpd) per sf of commercial space, and an office water demand factor of 0.10 gpd per day per sf of office space. Total Water Demand = (100 gal/day*86 new residents) + (0.25 gal/day/sq ft *9,181 sq ft) + (0.10 gal/day/sf*5,000 sf) = 11,395 gpd

Environmental impacts from the construction of new or expanded facilities would be avoided by utilization of existing facilities, which are currently well below capacity. The projected wastewater demand of the project, by itself, would not result in an exceedance of capacity at the RWF. A determination of excess treatment capacity at the RWF takes into account current uses within the City of San José and within the treatment plant's service boundaries. Thus, the treatment capacity of the RWF as a result of the proposed project would be sufficient and would not require relocation or construction of new or expanded wastewater facilities and there would be no impact.

Stormwater

No Impact. As discussed in Section 4.10, Hydrology and Water Quality, implementation of the proposed project would increase impervious surfaces on-site. The General Plan FEIR as supplemented, concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on stormwater quality. With implementation of a Stormwater Control Plan consistent with RWQCB and compliance with the City's regulatory policies pertaining to stormwater runoff, operation of the proposed project would not require or result in the relocation or construction of new stormwater drainage and there would be no impact.

Electric Power, Natural Gas, and Telecommunications Facilities

No Impact. As the project site is currently operating as an existing gas station and is surrounded by urban uses, infrastructure on the project site is already established. As discussed above, PG&E is the main electricity and natural gas provider for the City of San José. PG&E would continue to provide these services for the proposed project. Telecommunications would continue to be provided by AT&T, Comcast, Viasat, Frontier, and Spectrum. Therefore, the proposed project would not require or result in the relocation or construction of new or expanded water, wastewater treatment or storm drainage, electric power, natural gas, or telecommunications facilities and there would be no impact.

b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

Less than Significant Impact. As discussed above, water service in the City is provided by SJWC. The proposed project would generate a water demand of 11,395 gpd. Water demand could exceed water supply with implementation of the General Plan during dry and multiple dry years after 2020. Implementation of the 2040 General Plan policies, existing regulations and local programs would ensure that the proposed project would reduce water consumption including expansion of the recycled water system and implementation of water conservation measures. Thus, impacts would be less-than-significant.

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

No Impact. As discussed above, development under the General Plan is estimated to generate 30.8 mgd of average dry weather influent flow. Since the City has approximately 38.8 mgd of excess treatment capacity, planned growth in the City is not expected to exceed the City's allotted capacity. As discussed in the General Plan FEIR, the San José-Santa Clara Regional Wastewater Facility (RWF) in Alviso is the regional wastewater treatment facility that provides wastewater treatment services for the project area.

Implementation of the 2040 General Plan policies, existing regulations and local programs would ensure that the San José-Santa Clara RWF has sufficient treatment capacity to accommodate planned growth, as well as reduce the potential for future exceedances of the RWQCB effluent limit. In addition, the proposed project is not requesting a zone change that would increase wastewater generation that was previously analyzed in the General Plan FEIR, so the treatment capacity of the San José-Santa Clara RWF would not be exceeded as a result of the proposed project or the project's contribution to existing treatment commitments.

Environmental impacts from the construction of new or expanded facilities would be avoided by utilization of existing facilities, which are currently well below capacity. The projected wastewater demand of the project, by itself, would not result in an exceedance of capacity at the RWF. A determination of excess treatment capacity at the RWF takes into account current uses within the City of San José and within the treatment plant's service boundaries. Thus, the treatment capacity of the RWF would not be exceeded as a result of the proposed project or the project's contribution to existing treatment commitments, and therefore there would be no impacts.

d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

And,

e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

No Impact. Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California IWMB in 1996 and was reviewed in 2004 and 2007. According to the IWMP, Santa Clara 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 landfilling capacity of the five operating landfills in the City is approximately 5.3 million tons per year.[39]

The proposed project would generate approximately 405.3[40] pounds per day (ppd) of solid waste, a net increase of 384.4[41] ppd over the existing development. The General Plan FEIR concluded that the increase in solid waste generated by full buildout under the General Plan would not cause the City to exceed the capacities of the operating landfills that serve the City. Solid waste generation from implementation of the proposed project would be avoided with the ongoing implementation of the City's Zero Waste Strategic Plan. Compliance with the General Plan policies, existing regulations, and local programs would ensure that the proposed project would not result in significant impacts to landfill capacities to accommodate the City's increased service population. Therefore, there would be no impact.

[39] City of San José. Envision San José 2040 General Plan DEIR. Page 664
[40] Estimated solid waste generation rates were obtained from CalRecycle. Total ppd generated by proposed project = 9,181 SF of retail*(2.5 lb/100 sf/day)/100 + 5,000 SF of office space*(0.006 lbs/day/sq ft) + 27 residential units*(5.4 lbs/day/dwelling unit) = 405.3 ppd
[41] CalRecycle uses a solid generate rate of 0.9 lb/100 SF/day for auto dealers and service stations. Total ppd generated by existing project = 2,324 SF *(0.9 lb/100 SF/day)/100 = 20.9 ppd. Net increase = 405.3 ppd - 20.9 ppd = 384.4 ppd

4.21 Wildfire

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?				X
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?				X
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?				X
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?				X

Existing Setting

The 0.55-acre site is located within an urban area and is predominately surrounded by residential and commercial uses. The proposed project is zoned as "Non-Very High Fire Hazard Safety Zone" on the Very High Hazard Severity Zones in LRA Map dated October 2008 and "LRA Incorporated" on the Fire Hazard Severity Zones in LRA Map dated October 2007.[42] The proposed project is also outside of the Santa Clara County Wildland Urban Interface Fire Area.[43] The nearest Very High Fire Hazard Severity Zone is approximately six miles southwest of the project site. See Figure 4-2 and Figure 4-3.

[42] California Department of Forestry and Fire Protection. VHFHSZ in LRA. Available at: https://osfm.fire.ca.gov/media/5935/san_jose.pdf. Accessed on August 30, 2019.
[43] County of Santa Clara. Santa Clara County Wildland Urban Interface Fire Area. Available at: https://www.sccgov.org/sites/dpd/DocsForms/Documents/WUIFA_Adopted_Map.pdf. Accessed on August 30, 2019.

The City has participated in the development of a multi-jurisdictional hazard plan by ABAG. The hazard mitigation plan, Taming Natural Disasters, includes mitigation activities and strategies for dealing with hazards that are likely to impact the Bay Area, including wildfires. The City has also adopted an Emergency Operations and Evacuation Plan, which includes standard operating procedures for hazards, including urban/wildland interface fires. The Plan identifies the responsibilities of City personnel and coordination with other agencies to ensure the safety of San José citizens in the event of a fire, geologic, or other hazardous occurrence.

Applicable Plans, Policies, and Regulations

Wildland-Urban Interface Fire Area Standards in the California Building Code

The 2007 California Building Code requires that any new buildings proposed in State Responsibility Areas, Local Agency Very-High Fire Hazard Severity Zone, or Wildland-Urban Interface Area (as designated by the enforcing agency) be constructed to meet the Wildland-Urban Interface Fire Area Building Standards. The California Building Code establishes minimum standards for materials and material assemblies in order to provide a reasonable level of exterior wildfire exposure protection for buildings in wildland-urban interface areas.

City of San José Envision San José 2040 General Plan

The City's General Plan includes the following wildfire policies applicable to the project:

Policy EC-8.1: Minimize development in very high fire hazard zone areas. Plan and construct permitted development so as to reduce exposure to fire hazards and to facilitate fire suppression efforts in the event of a wildfire.

Policy EC-8.2: Avoid actions which increase fire risk, such as increasing public access roads in very high fire hazard areas, because of the great environmental damage and economic loss associated with a large wildfire.

Policy EC-8.3 For development proposed on parcels located within a very high fire hazard severity zone or wildland-urban interface area, continue to implement requirements for building materials and assemblies to provide a reasonable level of exterior wildfire exposure protection in accordance with City-adopted requirements in the California Building Code.

Discussion

a) Substantially impair an adopted emergency response plan or emergency evacuation plan?

No Impact. The City has adopted an Emergency Operations and Evacuation Plan, which includes standard operating procedures for hazards, including urban/wildland interface fires. Because the project site is zoned in the "Non-Very High Fire Hazard Safety Zone" and outside of the Wildland Urban Interface Fire Area, the proposed project would not substantially impair the City's Emergency Operations and Evacuation Plan. Thus, no impacts would occur.

b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?

No Impact. The project site is zoned in the "Non-Very High Fire Hazard Safety Zone" and outside of the Wildland Urban Interface Fire Area. In addition, the project site is relatively flat and in an urbanized area with residential and commercial buildings. The nearest Very High Fire Hazard Severity Zone is approximately six miles southwest of the project site. Thus, no impacts would occur.

c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

No Impact. As previously discussed, all proposed project components (including infrastructure, roads, etc.) would be located within the boundaries of the project site, and impacts associated with the development of the project within this footprint area analyzed throughout this document. Additionally, as part of the City's process, the City will review all plans for adequate fire suppression, fire access, and emergency evacuation. Adherence to standard City policies would result in no impacts.

d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

No Impact. As discussed above, the project site is zoned in the "Non-Very High Fire Hazard Safety Zone" and outside of the Wildland Urban Interface Fire Area. In addition, the project site is relatively flat and the proposed on-site detention/infiltration basins and facilities would limit the release of stormwater from the site; therefore, the proposed project site would not expose people to flooding or landslides as a result of runoff, post-fire slope instability or drainage changes. Thus, no impacts would occur.

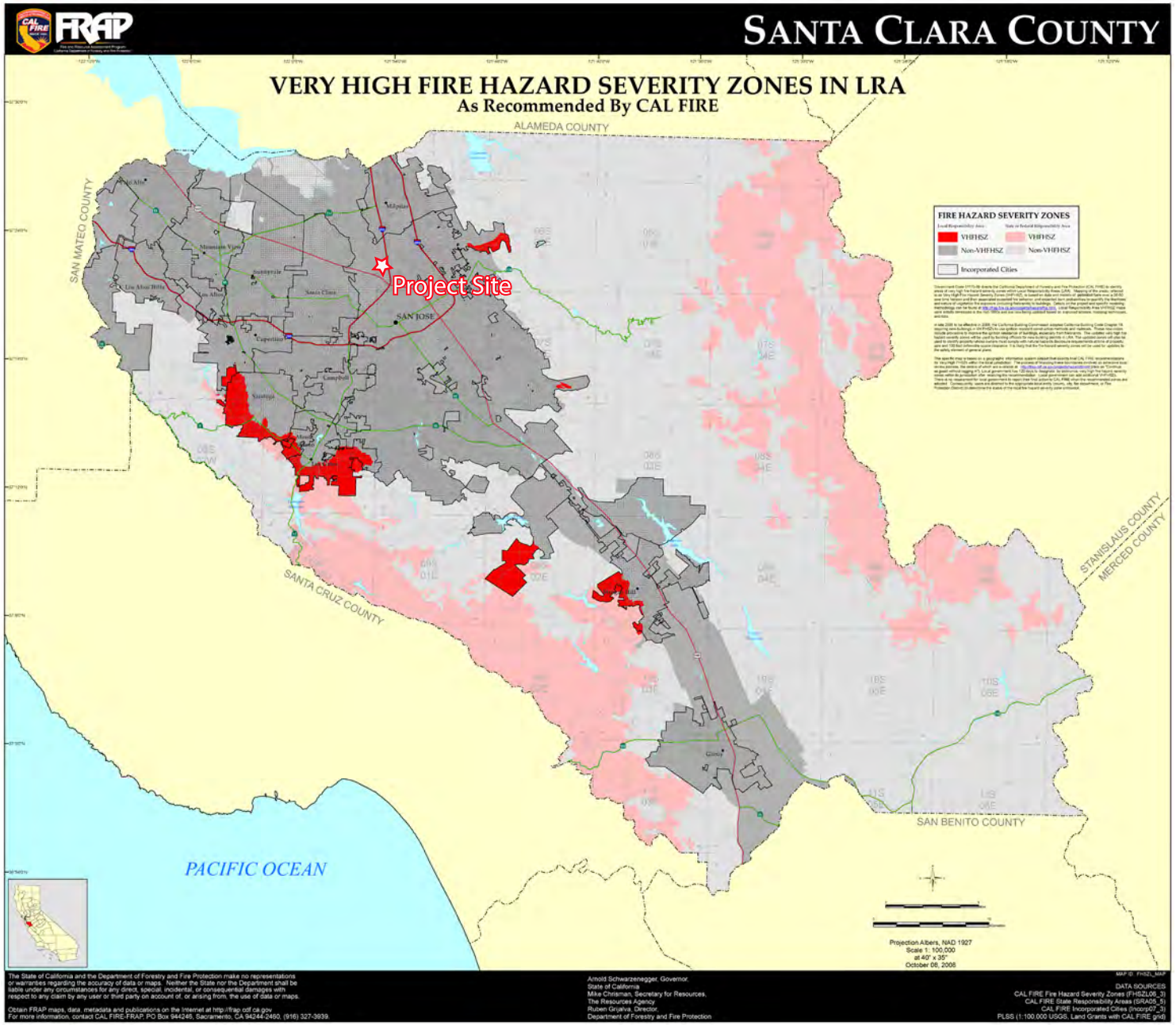


Figure 4-2: Fire Hazard Severity Zones

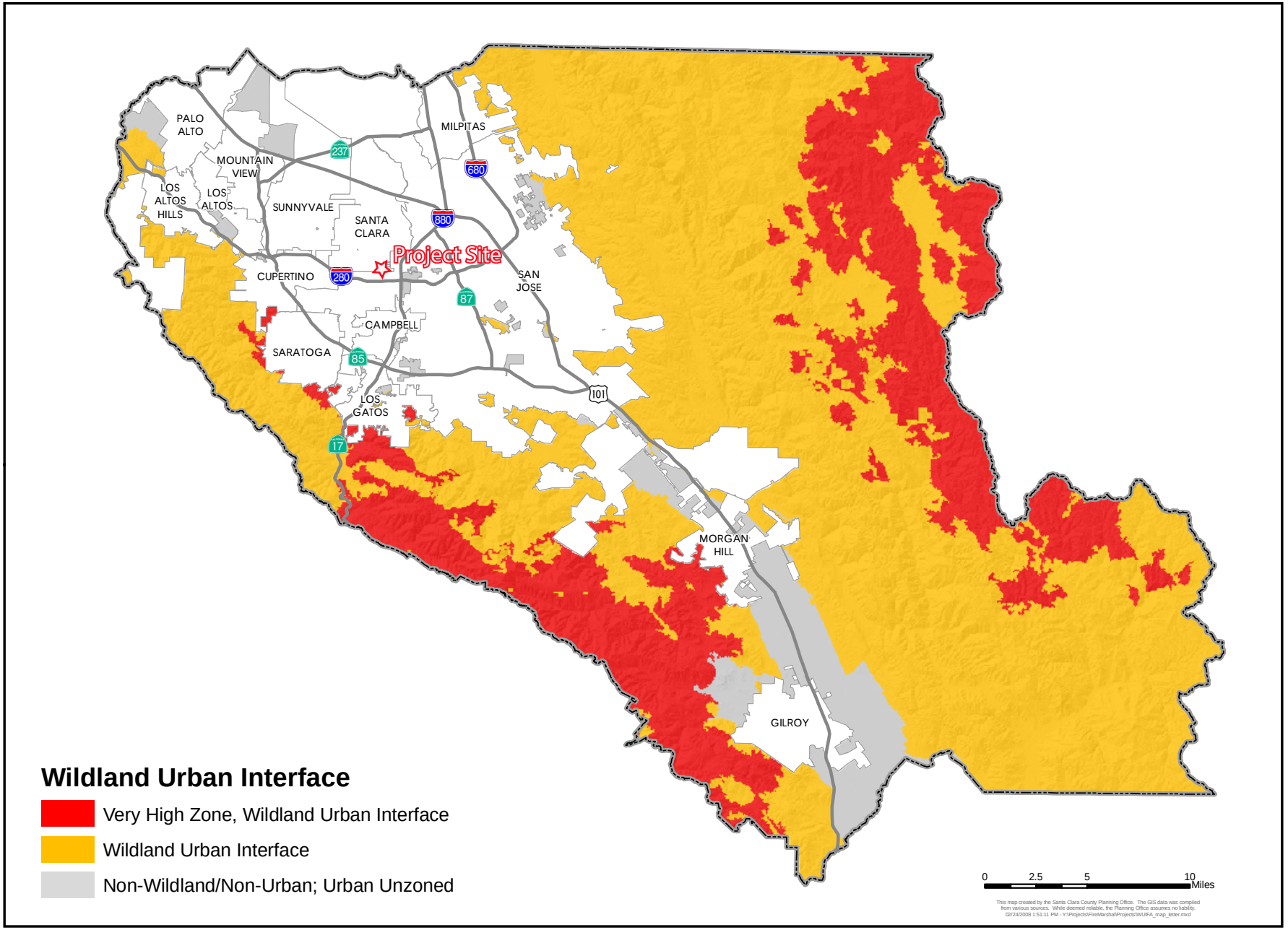


Figure 4-3: Santa Clara County Wildland Urban Interface Fire Area

425 Winchester Project
Initial Study/Mitigated Negative Declaration

Not to scale

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4.22 Mandatory Findings of Significance

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Does the project:				
a) Have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?			X	
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)?			X	
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?			X	

Discussion

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

Less than Significant Impact. As discussed in the individual sections, the proposed project would not degrade the quality of the environment with the implementation of identified Standard Permit Conditions and mitigation measures. As discussed in Section 4.4, Biological Resources, the proposed project would not have a significant impact sensitive habitat or species.

As identified Section 4.5, Cultural Resources would not have potentially significant impact on historic, cultural, or tribal cultural resources located on the project site. The proposed project would result in a less than significant impact on cultural resources.

As described in the environmental topic sections of this Initial Study, impacts were found to be less than significant, and the proposed project would not have environmental effects that would cause substantial adverse effects on human beings, either directly or indirectly.

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

Less than Significant Impact. Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects "that are individually limited, but cumulatively considerable." As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means "that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." In addition, under Section 15152(f) of the CEQA Guidelines, where a lead agency has determined that a cumulative effect has been adequately addressed in a prior EIR, the effect is not treated as significant for purposes of later environmental review and need not be discussed in detail.

The proposed project would result in temporary air quality, water quality, biology, and noise impacts during construction. With the implementation of the identified mitigation measures, Conditions of Project Approval, and Standard Permit Conditions, and consistency with adopted City policies, the construction impacts would be mitigated to a less than significant level. As the identified impacts are temporary and would be mitigated, the project would not have cumulatively considerable impacts on air quality, water quality, biology, and noise impacts in the project area.

Implementation of the proposed project would result in the demolition of the existing gas station on site. The project would also contribute to the continued urbanization of the project area.

The proposed project would have a less than significant impact on aesthetics, geology and soils, hazards and hazardous materials, hydrology and water quality, population and housing, recreation, and utilities, and would not contribute to cumulative impacts to these resources. The proposed project would not impact agricultural and forest resources or mineral resources. Therefore, the proposed project would not contribute to a significant cumulative impact on these resources.

The proposed project's contribution to a cumulative impact on public services and transportation were analyzed in the General Plan FEIR. The proposed project would not result in a more significant cumulative impact related to these issues than disclosed within these documents.

The project would contribute to the significant cumulative transportation impact that would occur under full buildout of the General Plan FEIR. The project would not, however, result in any new or more significant cumulative impacts than the approved projects. Mitigation measures were adopted where feasible and statements of overriding considerations have been adopted for both plans.

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

Less than Significant Impact. Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the proposed project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. While changes to the environment that could indirectly affect human beings would be represented by all of the designated CEQA issue areas, those that could directly affect human beings include construction impacts related to air quality, hazardous materials and noise. However, implementation of mitigation measures and General Plan policies would reduce these impacts to a less than significant level. No other direct or indirect adverse effects on human beings have been identified.

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