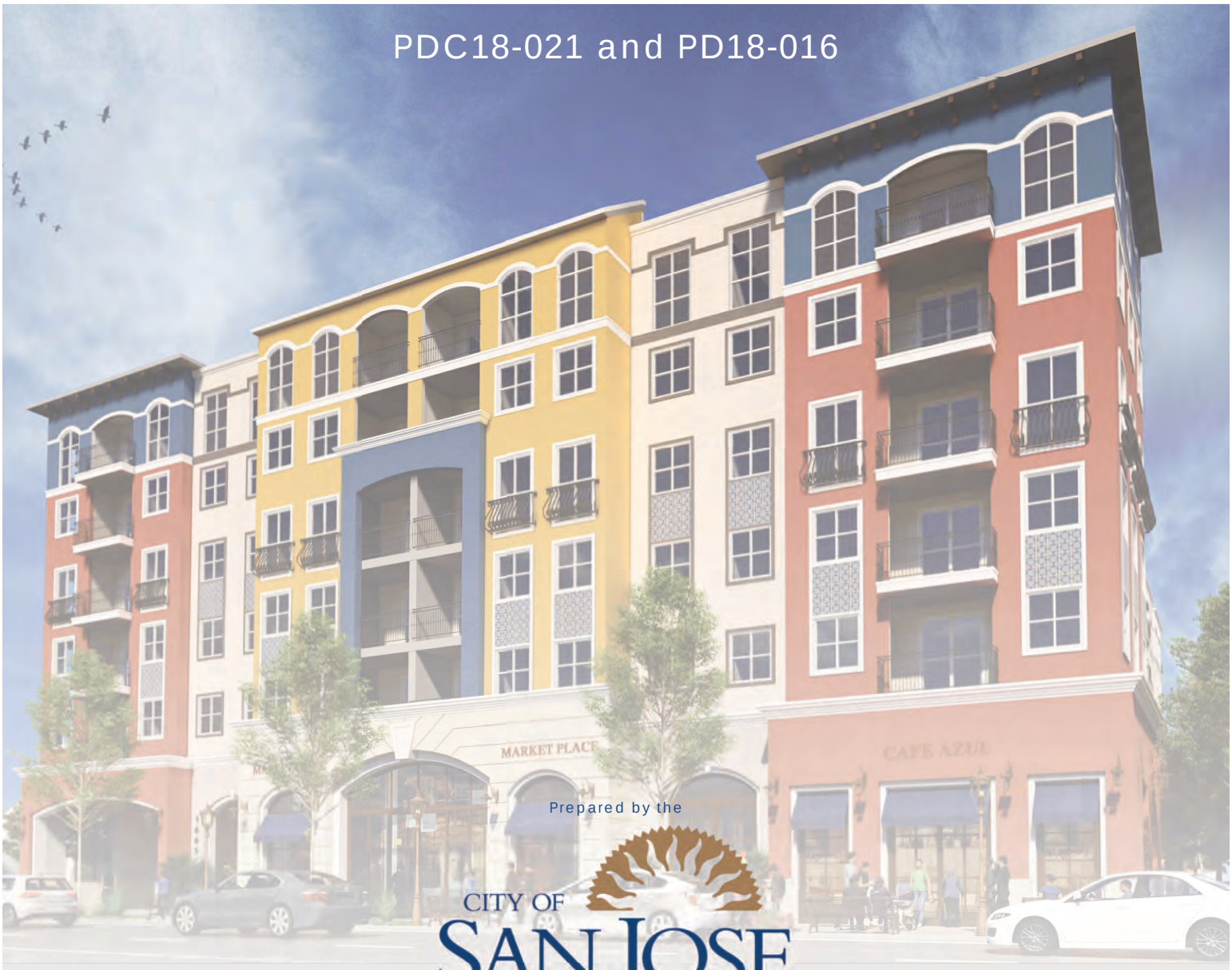
Initial Study/Mitigated Negative Declaration

Little Portugal Gateway Mixed-Use Project

PDC18-021 and PD18-016



Prepared by the

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

In Consultation with

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

July 2020

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: Little Portugal Gateway Mixed-Use Project, File Numbers PDC18-021 and PD18-016

PROJECT FILE NUMBERS: PDC18-021 and PD18-016

PROJECT DESCRIPTION:
Planned Development (PDC) Rezoning and a Planned Development (PD) Permit to allow the demolition of three commercial buildings, a seven-unit apartment building and carport, and three ancillary structures, the removal of six ordinance-size trees, and the construction of a six-story, mixed-use development with 123 apartment units and 13,650 square feet of retail space with two underground parking levels on a 0.9-acre project site. The project site is located at 1661, 1663, and 1665 Alum Rock Avenue in the City of San José.

PROJECT LOCATION:
The project site is located at 1661, 1663, and 1665 Alum Rock Avenue, approximately 300 feet west of the Alum Rock Avenue and King Road intersection.

ASSESSORS PARCEL NOS.: 481-12-069, 481-12-070, and 481-12-109 **COUNCIL DISTRICT:** 5

APPLICANT CONTACT INFORMATION: Shaivali Desai, SiliconSage Builders, 560 South Mathilda Avenue Sunnyvale, CA 94086 Phone: (408) 630-0923 Email: Shaivali@siliconsage.com

FINDING

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

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

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

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

C. AIR QUALITY.

Impact AIR-1: The project would result in a maximum residential infant/child cancer risk during construction activities that would exceed the BAAQMD significance threshold of 10 in one million.

MM AIR-1.1: Prior to issuance of any demolition, grading, or building permits (whichever occurs earliest) the project applicant shall submit a construction operations plan to the Director or Director's designee of the City of San José Department of Planning, Building and Code Enforcement that includes specifications of the equipment to be used during construction. The construction operations plan shall demonstrate that the off-road equipment used for construction of the project would achieve a fleet-wide average of at least 60 percent reduction in diesel particulate matter (DPM) emissions. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that equipment included in the plan meets the standards set forth in this mitigation measure.

The following construction operations plan shall be implemented by the project applicant. Implementation of the plan would reduce DPM emissions by 60 percent and the infant cancer risk at the maximally exposed individual (MEI) to below 10 in one million.

All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet U.S. EPA particulate matter emissions standards for Tier 4 engines. Exceptions could be made for equipment that includes CARB-certified Level 3 Diesel Particulate Filters or equivalent. Equipment that is electrically powered or uses non-diesel fuels would also meet this requirement.

D. BIOLOGICAL RESOURCES.

Impact BIO-1: Demolition, grading, and construction activities and tree removal during the nesting season could impact nearby migratory birds.

MM-BIO-1.1: Avoidance: The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 15th (inclusive), as amended.

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.

MM BIO-1.2: Nesting Bird Surveys If demolition and construction activities cannot be scheduled to occur between August 16th and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 15th inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.

MM BIO-1.3: Buffer Zones If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction. The no-disturbance buffer shall remain in place until the biologist determines the nest is no longer active or the nesting season ends. If construction ceases for two days or more and then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be present.

MM BIO-1.4: Reporting: Prior to any tree removal, or approval of any grading permits (whichever occurs first), the project applicant shall submit the ornithologist's report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement, or the Director's designee, prior to issuance of any grading or building permits.

Impact BIO-2: Project construction activities could result in physical damage to the coast live oak Tree #17 resulting in a significant impact.

MM BIO-2.1: The project applicant shall contract with a qualified arborist to monitor construction activities near the coast live oak Tree #17. The Critical Root Zone (CRZ) is six multiplied by the diameter (18 inches); therefore, the distance of construction activities shall be at least nine feet away from the trunk edge of the tree where possible. Construction activities within the CRZ shall adhere to the following construction techniques:

- Prior to construction, exploratory trenching shall be completed to determine which roots would be encountered where the basement level and parking walkway are proposed. Exploratory trenching includes excavation by air knife and hand tools while leaving all roots exposed and as damage free as possible.
- The proposed development's basement levels shall be shored during construction to maintain the nine-foot clearance from the roots of the tree.
- The walkway along the eastern border of the site, which is adjacent to the tree, shall be constructed on top of the existing grade and shall not require more than four to six inches of excavation.
- The project applicant shall construct the retaining wall so that it is at least nine feet north of the coast live oak tree. Alternatively, within nine feet of the tree, a fence that has small post holes and no continuous footing can be constructed.
- Grade changes shall not be more than four to six inches within nine feet of the coast live oak tree. Vegetation within nine feet of the tree shall be planted by hand while retaining encountered roots.

If the coast live oak tree does not survive construction activities, the project applicant shall be required to replace the tree pursuant to San José Municipal Code Chapter 13.32 The tree shall be replaced by five trees in accordance with the City's tree replacement ratio requirements. The species of the tree to be planted shall be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

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-1: Construction of the proposed mixed-use development could result in the exposure of construction workers and adjacent residences to soils contaminated with total petroleum hydrocarbons, semi-volatile organic compounds (SVOCs), lead, and arsenic above regulatory screening levels or background concentrations.

MM HAZ-1.1: The project applicant shall obtain regulatory oversight from Santa Clara Department of Environmental Health (DEH) regarding the next steps and appropriate actions. Any further investigation and remedial actions must be performed under regulatory oversight to mitigate the contamination.

The project applicant shall enter the Santa Clara County Department of Environmental Health Site Cleanup Program to assess the petroleum levels and potential presence of a closed Underground Storage Tank. The project applicant will provide the SCCDEH with the most recent Phase I and soil sampling results. Any further investigation and/or remedial actions must be performed under regulatory oversight to mitigate the contamination and make the site suitable for the proposed residential development.

MM HAZ-1.2: A Site Management Plan (SMP) and Health and Safety Plan (HSP) shall be prepared by a qualified environmental professional and implemented during project construction activities. The SMP shall characterize the soil, establish appropriate construction activities, and evaluate potential disposal options if excess soil is generated that will require off-haul and describe methods of segregating impacted and non-impacted soil during excavation activities. The HSP shall establish soil management practices to ensure construction worker safety and the health of future workers, residents, and the environment.

If naturally occurring asbestos is identified during soil sampling or if it is determined that it is likely to be encountered during excavation and trenching activities, the SMP shall include asbestos dust mitigation measures and protocols to perform personnel and perimeter air and dust monitoring to evaluate the effectiveness of dust-control measures.

If groundwater dewatering is to be conducted, the SMP shall describe methods for groundwater extraction. The SMP shall outline protocols for pumping groundwater into appropriate storage containers, as well as sampling and analysis. The SMP shall also establish appropriate disposal options for the groundwater.

The SMP and evidence of regulatory oversight, shall be provided to the Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement and the Environmental Compliance Officer in the City of San José's Environmental Services Department.

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.

Impact NOI-1: Noise levels from construction activities would substantially exceed ambient conditions at residences and commercial businesses (within 50 feet) for a period exceeding 12 months.

MM NOI-1.1: The project applicant shall implement a construction noise logistics plan. The logistics plan shall include, but not be limited to, the following measures to reduce construction noise levels:

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

Impact NOI-2: Implementation of the proposed project would result in construction vibration levels that exceed the construction related groundborne vibration threshold of 0.2 in/sec peak particle velocity (PPV) at the nearest structures.

MM NOI-2.1: The project applicant shall implement a construction vibration monitoring plan to document conditions prior to, during, and after vibration generating activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. The construction vibration monitoring plan shall include, but not be limited to, the following measures:

- The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations.
- A list of all heavy construction equipment to be used for this project known to produce high vibration levels (tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.) shall be submitted by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort required for continuous vibration monitoring. Where possible, use of the heavy vibration-generating construction equipment shall be prohibited within 25 feet of any adjacent building.
- Place operating equipment on the construction site as far as possible from vibration-sensitive receptors.
- Use smaller equipment to minimize vibration levels below the limits.
- Avoid using vibratory rollers and tampers near sensitive areas.
- Select demolition methods not involving impact tools.
- Modify/design or identify alternative construction methods to reduce vibration levels below the limits.
- Avoid dropping heavy objects or materials.
- A construction vibration-monitoring plan shall be implemented to document conditions conventional properties within 30 feet of the project site prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry accepted standard methods. The construction vibration monitoring plan should be implemented to include the following tasks:
    - Identification of sensitivity to ground-borne vibration of the property. A vibration survey (generally described below) would need to be performed.
    - Performance of a photo survey, elevation survey, and crack monitoring survey for the structures within 30 feet of the site. Surveys shall be performed prior to, in regular intervals during, and after completion of vibration generating construction activities and shall include internal and external crack monitoring in the structure, settlement, and distress and shall document the condition of the foundation, walls and other structural elements in the interior and exterior of said structure.
    - Development of a vibration monitoring and construction contingency plan to identify where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction. Construction contingencies would be identified for when vibration levels approach the limits.
    - If vibration levels approach limits, suspend construction and implement contingencies to either lower vibration levels or secure the affected structure.

- Conduct a post-survey on the structure where either monitoring has indicated high levels or complaints of damage. Make appropriate repairs where damage has occurred as a result of construction activities.
- The results of all vibration monitoring shall be summarized and submitted in a report shortly after substantial completion of each phase identified in the project schedule. The report will include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. An explanation of all events that exceeded vibration limits will be included together with proper documentation supporting any such claims.
- Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.

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 **Monday August 17, 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

7/24/2020
Date

Deputy

Maira Blanco
Environmental Project Manager

Circulation period: July 28, 2020 to August 17, 2020

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SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE INITIAL STUDY

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

The project applicant proposes to remove the existing on-site commercial and residential buildings and construct a six-story, mixed-use development with 123 apartment units, 13,650 square feet of retail space, and two underground parking levels. This Initial Study evaluates the environmental impacts that might reasonably be anticipated to result from implementation of the proposed project.

1.2 PUBLIC REVIEW PERIOD

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

Maira Blanco, Planner
City of San José
Department of Planning, Building, and
Code Enforcement, Planning Division
200 East Santa Clara Street
Tower, Third Floor
San José, California 95113
Maira.Blanco@sanjoseca.gov

1.3 CONSIDERATION OF THE INITIAL STUDY AND PROJECT

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

1.4 NOTICE OF DETERMINATION

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

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

Little Portugal Gateway Mixed-Use Project, File Numbers PDC18-021 and PD18-016

2.2 LEAD AGENCY CONTACT

Maira Blanco, Planner
City of San José
Department of Planning, Building, and
Code Enforcement, Planning Division
200 East Santa Clara Street
Tower, Third Floor
San José, California 95113
Phone: (408) 535-7837
Email: Maira.Blanco@sanjoseca.gov

2.3 PROJECT APPLICANT

Shaivali Desai
SiliconSage Builders
560 South Mathilda Avenue
Sunnyvale, CA 94086
Phone: (408) 630-0923
Email: Shaivali@siliconsage.com

2.4 PROJECT LOCATION

The project site is located at 1661, 1663, and 1665 Alum Rock Avenue, approximately 300 feet west of the Alum Rock Avenue and King Road intersection. Figures 2.4-1, 2.4-2 and 2.4-3 show the location of the project site and surrounding uses.

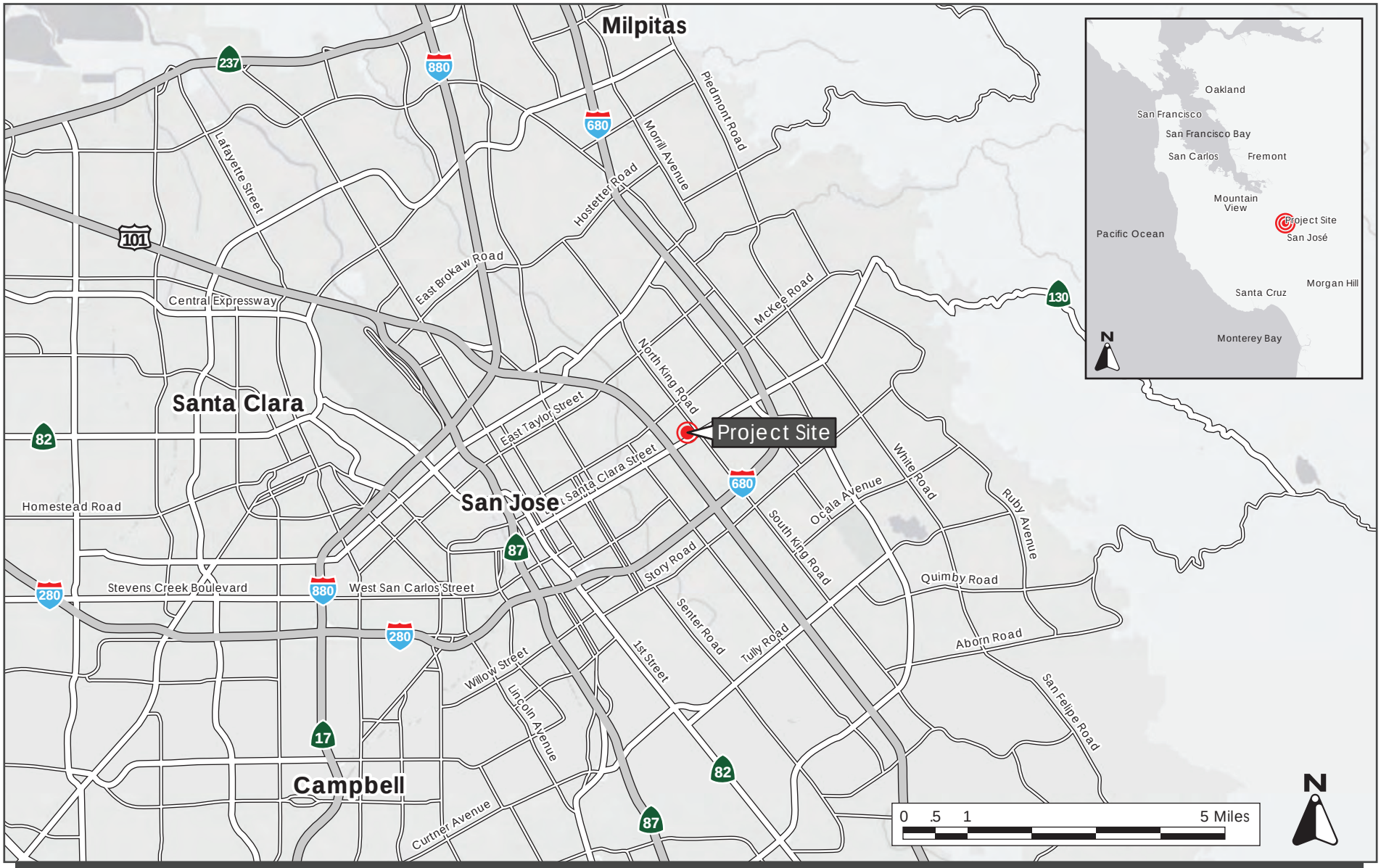
2.5 ASSESSOR'S PARCEL NUMBER

The Assessor's Parcel Numbers (APNs) for the project site are 481-12-069, 481-12-070, and 481-12-109.

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

The project site is zoned Commercial General (CG), Commercial Pedestrian (CP), and Two-Family Residence(R-2).

The site is designated as Urban Village in the Envision San José 2040 General Plan (General Plan).



REGIONAL MAP | FIGURE 2.4-1

VICINITY MAP

FIGURE 2.4-2

AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.4-3

2.7 HABITAT PLAN DESIGNATION

The project site is within an *Urban Private Development Area* under the Santa Clara Valley Habitat Plan. The project site's land cover type is *Urban – Suburban*.

2.8 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

The City-approvals required for the project include:

- Planned Development Rezoning to a CP (PD) Planned Development Zoning District
- Planned Development Permit
- Public Works Clearance, including grading permit
- Building and Demolition Permits
- Lot Line Adjustment

SECTION 3.0 PROJECT DESCRIPTION

3.1 PROJECT OVERVIEW

This Initial Study provides a project-level CEQA analysis for a Planned Development (PDC) Rezoning \ and a Planned Development (PD) Permit to allow the demolition of three commercial buildings, a seven-unit apartment building and carport, and three ancillary structures, the removal of six ordinance-sized trees, and the construction of a six-story, mixed-use development with 123 apartment units and 13,650 square feet of retail space with two underground parking levels. The 0.9-acre project site is located at 1661, 1663, and 1665 Alum Rock Avenue in the City of San José.

3.1.1 Existing Setting

The project site is bordered by residences to the north, commercial buildings and residences to the west, Alum Rock Avenue, residential, and commercial buildings to the south, and a church with a surface parking lot to the east. The project site is comprised of three lots. The site is currently developed with six, one- and one half-story buildings including a 2,120-square foot restaurant, a 1,900-square foot tire store, a 1,475-square foot automobile sales and repair business and two attached additions, a detached garage, a seven-unit apartment building, and a carport used by residents of the apartment units.

The project site is zoned Commercial General (CG), Commercial Pedestrian (CP), and Two-Family Residence (R-2). The site is designated as Urban Village in the General Plan and Little Portugal Urban Village Plan.

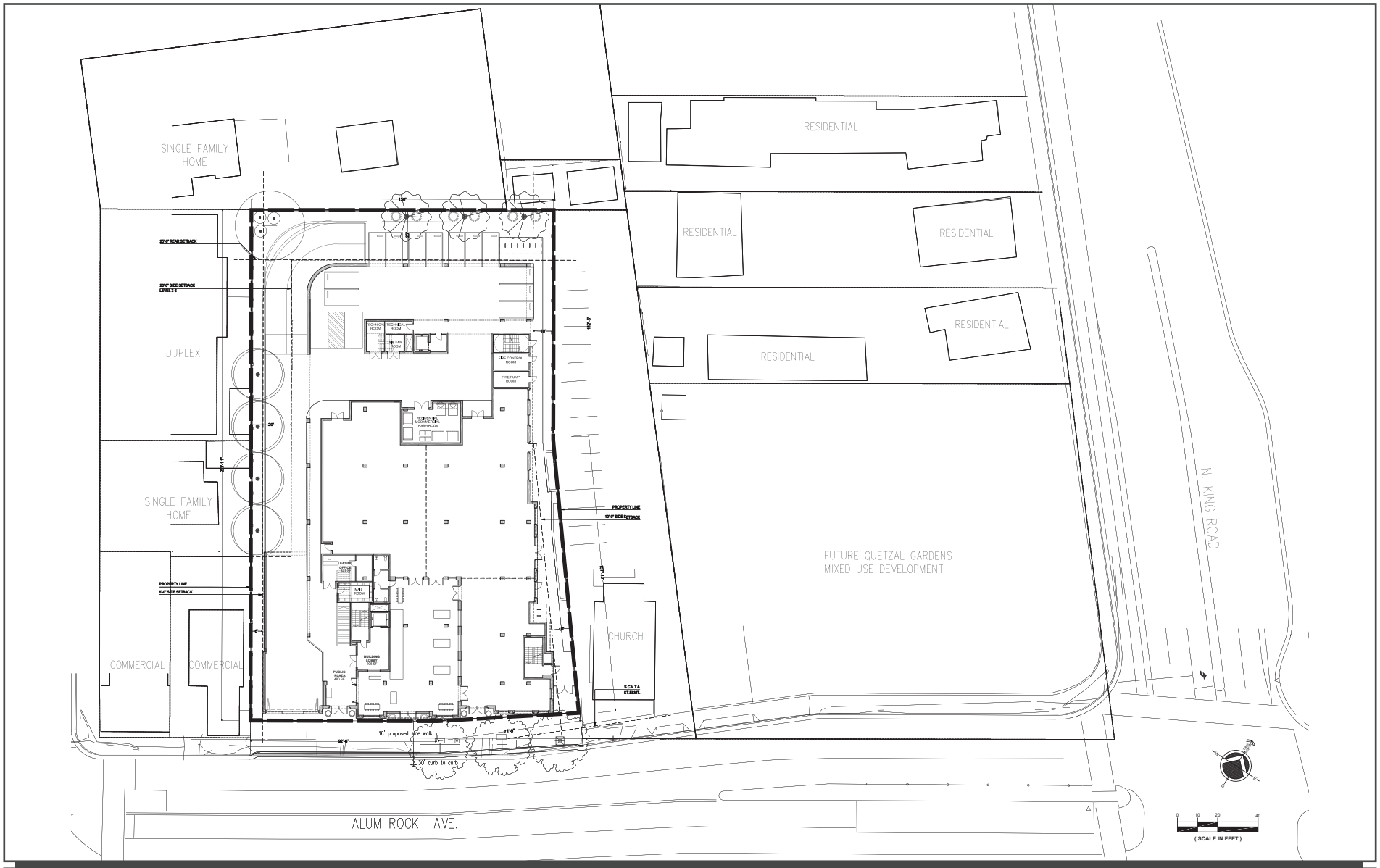
3.2 PROPOSED DEVELOPMENT

3.2.1 Site Design

The project applicant proposes to remove the existing on-site buildings and construct a six-story, mixed-use development with 123 apartment units, 13,650 square feet of retail space, and two underground parking levels (refer to Figures, 3.2-1, 3.2-2, 3.2-3, and 3.2-4 for the project site plan, first floor plan, and building elevations). The proposed development would include retail space, leasing office, and a lobby on the ground floor; the development would also include a community room, gym, and residential units on the second through sixth floors. The building would include 11,144 square feet of residential open space area including an outdoor kitchen, lounge seating, shuffleboard court, and group dining areas on the second and rooftop levels. The maximum height of the proposed building would be 70 feet above the ground surface at the top of the roof and 80 feet above the ground surface at the top of the gable roofs on the southeastern and southwestern corners of the building.

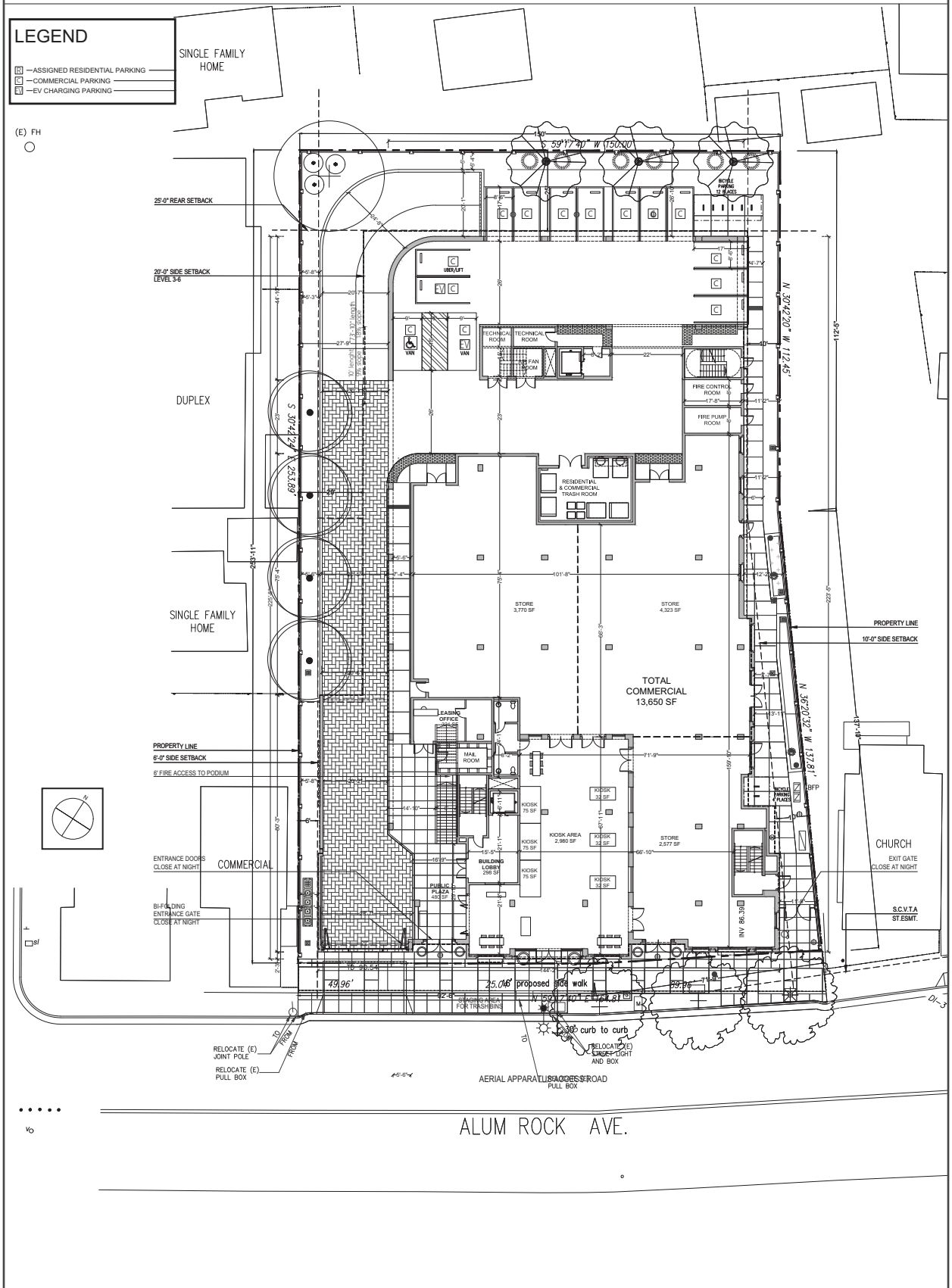
The proposed development would have landscaping, including trees and shrubs. Trees would be planted along the northern and western perimeter of the building and along the project frontage on Alum Rock Avenue. Planters would be located in the residential common outdoor areas on the second and rooftop levels.

The existing 10-foot wide sidewalk would be widened to 16 feet. The proposed building would front Alum Rock Avenue and would be set back 10 feet from the church property line to the east, 25



SITE PLAN

FIGURE 3.2-1



LEVEL 1 FLOOR PLAN | FIGURE 3.2-2

NORTH AND EAST BUILDING ELEVATIONS | FIGURE 3.2-3

South Elevation

West Elevation

SOUTH AND WEST BUILDING ELEVATIONS | FIGURE 3.2-4

feet from the residential property line to the north, six feet from the commercial property line to the west, and 16 feet from the edge of the sidewalk on Alum Rock Avenue. The project would construct a six-foot retaining wall along the western, northern, and eastern property lines at the site.

3.2.1.1 *Site Access and Parking*

Vehicles would access the ground level and two underground parking levels via a new 26-foot wide driveway at the western end of the building on Alum Rock Avenue. The proposed development would include 170 parking spaces, with 122 designated for residential parking and 48 spaces designated for retail parking. Fourteen of the parking spaces would be located at a small surface parking lot proposed to be located to the rear of the proposed building (site access and parking lot is shown on Figure 3.2-2) and would also be accessed by the driveway on Alum Rock Avenue. Bicycle parking, a total of 36 spaces, would be located to the rear of the building on the ground floor and in the basement parking level 1.

3.2.1.2 *Utilities*

Stormwater runoff from the site would be directed to on-site media filter systems for stormwater treatment. Stormwater would then be directed to a new 12-inch storm drain, which would connect to the City's existing 12-inch storm drain on Alum Rock Avenue.

The project applicant would construct new sanitary sewer and water lines which would connect to an existing six-inch sewer line and an existing 16-inch water line on Alum Rock Avenue, respectively.

Electricity would be provided by San José Clean Energy; natural gas would be provided by Pacific Gas & Electric; and solid waste would be collected by Green Team of San José.

3.2.2 **Demolition and Construction**

The duration of demolition of the existing buildings and construction of the proposed development would take approximately 18 months. The project would require excavation and off-haul of approximately 36,645 cubic yards of soil. Equipment would be staged on-site. The types of equipment that would be used for construction include bulldozers, loaders, compactors, backhoes, cranes, pavers, and other small earthmoving equipment.

SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND IMPACT DISCUSSION

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

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

The discussion for each environmental subject includes the following subsections:

- **Environmental Setting** – This subsection 1) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project and 2) describes the existing, physical environmental conditions at the project site and in the surrounding area, as relevant.
- **Impact Discussion** – This subsection 1) includes the recommended checklist questions from Appendix G of the CEQA Guidelines to assess impacts and 2) discusses the project's impact on the environmental subject as related to the checklist questions. For significant impacts, feasible mitigation measures are identified. "Mitigation measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Each impact is numbered to correspond to the checklist question being answered. For example, Impact BIO-1 answers the first checklist question in the Biological Resources section. Mitigation measures are also numbered to correspond to the impact they address. For example, MM BIO-1.3 refers to the third mitigation measure for the first impact in the Biological Resources section.

4.1 AESTHETICS

4.1.1 Environmental Setting

4.1.1.1 *Regulatory Framework*

State

Senate Bill 743

Senate Bill (SB) 743 was adopted in 2013 and requires lead agencies to use alternatives to Level of Service (LOS) for evaluating transportation impacts, specifically vehicle miles traveled (VMT). SB 743 also included changes to CEQA that apply to transit-oriented developments, as related to aesthetics and parking impacts. Under SB 743, a project's aesthetic impacts will no longer be considered significant impacts on the environment if:

- The project is a residential, mixed-use residential, or employment center project, and
- The project is located on an infill site within a transit priority area.[1]

SB 743 also clarifies that local governments retain their ability to regulate a project's aesthetics impacts outside of the CEQA process.

Streets and Highway Code Sections 260 through 263

The California Scenic Highway Program (Streets and Highway Code, Sections 260 through 263) is managed by the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. There are no state-designated scenic highways in San José. Interstate 280 from the San Mateo County line to State Route (SR) 17, which includes segments in San José, is an eligible, but not officially designated, State Scenic Highway.[2]

In Santa Clara County, the one state-designated scenic highway is SR 9 from the Santa Cruz County line to the Los Gatos City Limit. The nearest eligible state scenic highway (not officially designated)

[1] An "infill site" is defined as "a lot located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses." A "transit priority area" is defined as "an area within 0.5 mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program adopted pursuant to Section 450.216 or 450.322 of Title 23 of the Code of Federal Regulations." A "major transit stop" means "a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods." Source: Office of Planning and Research. "Changes to CEQA for Transit Oriented Development – FAQ." October 14, 2014. Accessed January 18, 2020. http://www.opr.ca.gov/ceqa/updates/sb-743/transit-oriented.html.

[2] California Department of Transportation. California Scenic Highways. January 11, 2020. https://www.arcgis.com/home/item.html?id=f0259b1ad0fe4093a5604c9b838a486a.

is Interstate 280 from the San Mateo County line to SR 17, which is approximately five miles west of the site and Interstate 680 .[3]

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

Suitability for designation as a State Scenic Highway is based on vividness, intactness, and unity. Caltrans' California Scenic Highway Mapping System lists one Officially Designated Scenic Highway in Santa Clara County.[4] The nearest State scenic highway is State Route 9, which is approximately eight miles southwest of the project site.

City of San José General Plan

The Envision San José 2040 General Plan includes policies applicable to all development projects in San José. The following policies are specific to visual character and scenic resources and would be applicable to the proposed project:

Envision San José 2040 General Plan Relevant Aesthetics Policies

Policy	Description
Policy CD-1.1	Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
Policy CD-1.8	Create an attractive street presence with pedestrian-scaled building and landscaping elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity throughout the City.
Policy CD-1.12	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
Policy CD-1.13	Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.
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

[3] California Department of Transportation. *California State Scenic Highway System Map*. Accessed April 9, 2020. https://www.arcgis.com/home/webmap/viewer.html?webmap=35053095d5404952ac5d5a0a5b784827.
[4] California Department of Transportation. "Scenic Highway Guidelines." Accessed January 18, 2020. https://dot.ca.gov/-/media/dot-media/programs/design/documents/scenic-hwy-guidelines-04-12-2012.pdf.

Envision San José 2040 General Plan Relevant Aesthetics Policies

Policy	Description
	realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.
Policy CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.

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

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

4.1.1.2 *Existing Conditions*

Project Site

The project site is flat and primarily consists of paved surfaces. The site contains a one-story restaurant, a one-story tire store, a one-story apartment building, a one and one-half story automobile sales and repair business (a former residential structure), and ancillary structures. The restaurant and tire store are located along the project site's frontage on Alum Rock Avenue. Both buildings are made of stucco with front façades that feature a recessed glazed storefront. The two buildings are rectangular shaped buildings with flat roofs. A paved driveway that leads to the apartment building to the rear of the restaurant is located between the restaurant and tire store buildings (refer to Photo 1).

The one-story apartment building is made of stucco and has a gable roof covered with shingles. A landscaping strip with trees is located along the eastern side of the apartment building, between the concrete walkway and the parking area. A carport associated with the apartment building and located to the rear of the tire store, is also made of stucco and has an asymmetrical gable roof (refer to Photo 2).

The one and one-half story automobile sales and repair business is located on the eastern end of the property. The building is a Craftsman style bungalow made of stucco and has a gable roof with exposed rafter tails. The front façade includes a partially enclosed recessed front porch made of concrete. There are two small additions to the rear of this building. The first addition is made of horizontal wood lap siding and has a vertical window facing west; the second addition is a garage with vertical siding.

A detached two-car garage is located to the rear of the parcel and is made of horizontal board siding with a gable roof (refer to Photo 3 for views of the automobile sales and repair building and ancillary structures). Landscaping on the site is well maintained. Trees are located along the western and eastern borders of the automobile sales and repair business property.

Photo 1 View of existing on-site restaurant and tire store and off-site salon, looking north.

Photo 2 View of on-site apartment building to the rear of the restaurant, looking north.

PHOTOS 1 & 2

Photo 3 View of on-site automobile sales and repair building and detached garage looking north.

Photo 4 View of commercial businesses, single-family and multi-family residences across Alum Rock Avenue, looking southeast.

PHOTOS 3 & 4

Surrounding Area

The project site is in an area developed with one- to three-story commercial and residential buildings constructed between 1920 and the 1980s.[5] The project site is bordered by residences to the north, commercial buildings and residences to the west, Alum Rock Avenue, residential and commercial buildings to the south, and a church with a surface parking lot to the east. A residence to the north of the site, located on North 34th Street, is a one-story single-family residence with wood siding, a hipped roof, and covered porch (refer to Photo 7). To the west of the site, there is a one-story single-family residence made of wood siding with a gable roof and a one-story duplex made of stucco with an attached two-car and one-car garage and paved driveway (refer to Photos 5 and 6). The residences have well-maintained landscaping in the front yard areas.

The project area is developed with a mix of land uses and architectural styles. As a result, no single design aesthetic is dominant (refer to Photos 4 through 8 for views of the surrounding properties). The one-story commercial salon to the west of the site is made of concrete, is rectangular-shaped, and has a flat roof. A residence with a gable-styled roof is located to the rear of the salon. A billboard with a metal base is located on the west side of the salon building (refer to Photo 1).

To the south of the site and Alum Rock Avenue are three, one- to two-story commercial buildings, a single-story, single-family residence, a residence to the rear of one of the commercial buildings, and a three-story multi-family residential building (refer Photo 4). The commercial buildings have flat roofs and are mostly made of concrete with glass windows and doors along the storefront. The one-story residence fronting Alum Rock Avenue has a hipped roof and is made of stucco and the residence to the rear of the commercial building has a gable roof. The three-story multi-family residential building is made of stucco, has a flat roof and two driveway entrances to the below grade garage along the front façade.

The one-story church to the east of the site is made of stucco and has a hipped roof. Metal security gates are located along the church frontage and a paved driveway, which leads to a surface parking lot to the rear of the building, is located to the east of the church building (refer to Photo 8).

Scenic Views and Resources

The City has many scenic resources including the hills and mountains that frame the valley floor, the baylands, and the urban skyline itself. There are no baylands visible from the project area. Hillsides visible in the City include the foothills of the Diablo Range and the Silver Creek Hills to the east, the Santa Cruz Mountains to the west, and the Santa Teresa Hills to the south.

The project site is relatively flat and is located in an urbanized area of San José. Views from the project site consist of development immediately surrounding the site, including commercial and residential buildings, landscaping and street trees, and local roadways. Prominent views of the mountains are limited and obscured by the surrounding buildings, trees, and infrastructure (e.g., utility lines).

[5] Archives & Architecture. *Historic Evaluation: Little Portugal Gateway Project*. January 24, 2020.

Photo 5 View of single-family residence to the west of the site, looking east from North 34th Street.

Photo 6 View of duplex on North 34th Street to the west of the site, looking east.

PHOTOS 5 & 6

Photo 7 View of single-family residence northwest of the site, looking east from North 34th Street.

Photo 8 View of the church building to east of the project site, looking north.

PHOTOS 7 & 8

The project area is developed, and no rock outcroppings are present on the site or in the project area. As further discussed in Section 3.5, Cultural Resources, the buildings on-site are not considered eligible for listing on the California Register of Historic Resources (California Register) or National Register of Historic Resources (National Register), and, therefore, are not considered historic resources.

Scenic Corridors

The project site is not located along a state-designated scenic highway. The nearest state-designated highway is State Route (SR) 9, approximately nine miles southwest of the site. The nearest eligible state scenic highways are Interstate 280 (at the Interstate 880 interchange), approximately 5.5 miles southwest of the site and SR 17 (at the SR 9 interchange), approximately 11 miles southwest of the site. The designated scenic and eligible state scenic highways are not visible from the project site.[6]

The City's General Plan identifies Gateways and Urban Corridors where preservation and enhancement of views of the natural and man-made environment are crucial. The nearest Urban Corridor to the project site is US 101, approximately 0.3 miles west of the site. Given the distance of the project site from the Urban Corridor and the existing development (including a retaining wall located along the eastern border of US 101) that blocks views of the site, the site is not visible from the Throughway. The nearest Gateway segment to the site is Alum Rock Avenue immediately to the south of the site. The Gateway's segment extends from the East Santa Clara Street (which changes to Alum Rock Avenue east of US 101)/South 24th Street to Alum Rock Avenue/King Road intersection.[7] The site is visible from this Gateway.

Transit Priority Area

The mixed-use residential project site is located within a transit priority area, as defined in SB 743. The project site is located approximately 400 feet walking distance from the Alum Rock/King Bus Rapid Transit (BRT) Station near the intersection of King Road and Alum Rock Avenue. The BRT Station is a major transit stop providing access to the Rapid 522 bus rapid transit service and Local Bus Routes 22 and 23 provided by Santa Clara Valley Transportation Authority (VTA). The station qualifies as a major transit stop because all three bus routes have headways of 15 minutes or less during the AM and PM peak commute periods (refer to Section 3.17 Transportation for additional details on existing transit facilities).

4.1.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Except as provided in Public Resources Code Section 21099, would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒

[6] Caltrans. *California Scenic Highways*. https://www.arcgis.com/home/item.html?id=f0259b1ad0fe4093a5604c9b838a486a. Accessed January 11, 2019.
[7] City of San José. *Envision San José 2040 General Plan: Scenic Corridors Diagram*. June 6, 2016.

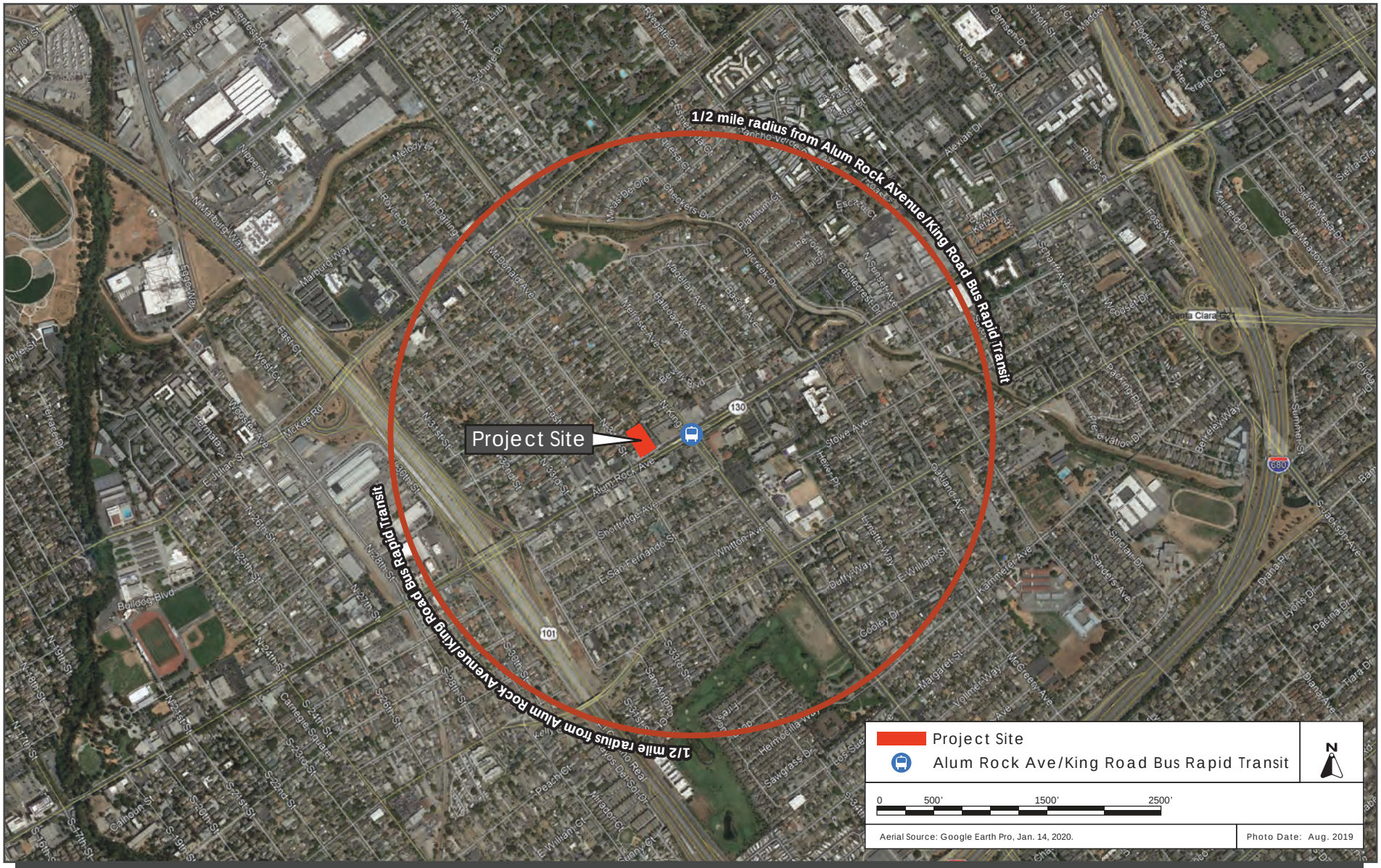
	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Except as provided in Public Resources Code Section 21099, would the project:				
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? [8] If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☐	☒
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	☒

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

The project site is located within a transit priority area designated by the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (refer to Figure 4.1-1).[9] The proposed project would be an infill development since the site is under-utilized and surrounded by urban development.

Pursuant to SB 743, Public Resources Code Section 21099 (d)(1) states (d)(1) aesthetic impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area shall not be considered significant impacts on the environment. Given the project would be an infill development and is located within a transit priority area, the project would not result in significant aesthetic impacts. The following discussion is provided for informational purposes only. **(No Impact)**

[8] Public views are those that are experienced from publicly accessible vantage points.
[9] Metropolitan Transportation Commission. *Transit Priority Areas (2017).* Accessed January 12, 2020. http://opendata.mtc.ca.gov/datasets/d97b4f72543a40b2b85d59ac085e01a0_0?geometry=-132.646%2C36.246%2C-121.451%2C39.285



TRANSIT PRIORITY AREA

FIGURE 4.1-1

a) **Would the project have a substantial adverse effect on a scenic vista?**

Due to surrounding development currently obstructing views of scenic vistas (such as hillsides), the proposed six-story mixed-use development would not block views of these vistas from the project area. Views of hillsides from vehicles traveling east on the Gateway segment of Alum Rock Avenue may be partially blocked by the proposed development. However, given that existing development currently blocks views of hillsides to the east, the project's impact on views of scenic vistas would not be significant. The project, therefore, would not have a significant impact scenic vistas or views of scenic vistas.

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

The project site is not located along a state-designated scenic highway. The project would, therefore, not result in significant damage to scenic resources within a state scenic highway.

c) **Would the project conflict with applicable zoning and other regulations governing scenic quality?**

The project applicant proposes to demolish the existing on-site structures and develop a six-story, mixed-use development primarily made of cement plaster, windows, decorative tile, steel railing, and stone veneer along the storefront. The roof would be a combination of flat- and gable-style made of tile. The maximum height of the proposed building at the roof level would be 70 feet above the ground surface and 80 feet above the ground surface at the eastern and western ends of the building along the Alum Rock Avenue frontage.

The project area is developed with residential and commercial land uses that range from one- to three-stories and has a mix of architectural styles. The existing buildings surrounding the site are made of materials similar to the proposed development including stucco (similar to cement plaster). Similar roof styles to the existing development in the area include gable and flat roofs. Development under the proposed project would be reviewed in accordance with the City's Little Portugal Urban Design Policies during the Planning Permit stage as part of the City's planning review process. For the above reasons, the proposed project would not substantially degrade the existing visual character of the site or its surroundings nor conflict with applicable regulations governing scenic quality.

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

The project site is currently developed with three commercial buildings, an apartment building, and ancillary structures. The existing uses result in minimal light and glare from the site's automobile sales lot and building lights.

The proposed mixed-use development would include security lights and parking lot lights. The project would incrementally increase the amount of nighttime lighting on the project site. San José City Council Policy 4-3 requires private developments to use energy-efficient outdoor lighting that is fully shielded and not directed skyward. All lighting installed by the project would be full-cutoff lighting, designed in conformance with City Council Policy 4-3. Design and construction of the project in conformance with General Plan design and lighting policies would not create a new source of nighttime light that would adversely affect views.

The design of the proposed project would be subject to the City's design review process and would be required to utilize exterior materials that do not result in daytime glare, consistent with General Plan policies and the City's Residential and Commercial Design Guidelines.

4.2 AGRICULTURE AND FORESTRY RESOURCES

4.2.1 Environmental Setting

4.2.1.1 *Regulatory Framework*

State

California Resources Agency Farmland Mapping and Monitoring Program

The California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) assesses the location, quality, and quantity of agricultural land and conversion of these lands over time. Agricultural land is rated according to soil quality and irrigation status. The best quality land is called Prime Farmland. In CEQA analyses, the FMMP classifications and published county maps are used, in part, to identify whether agricultural resources that could be affected are present on-site or in the project area. [10]

California Land Conservation Act

The California Land Conservation Act (Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space uses. In return, landowners receive lower property tax assessments. In CEQA analyses, identification of properties that are under a Williamson Act contract is used to also identify sites that may contain agricultural resources or are zoned for agricultural uses.[11]

CAL FIRE and Resource Assessment Program

The California Department of Forestry and Fire Protection (CAL FIRE) identifies forest land, timberland, and lands zoned for timberland production that can (or do) support forestry resources.[12] Programs such as CAL FIRE's Fire and Resource Assessment Program and are used to identify whether forest land, timberland, or timberland production areas that could be affected are located on or adjacent to a project site.[13]

California Timberland Productivity Act

Title 5 of the California Government Code contains Chapter 6.7, known as the California Timberland Productivity Act, pertaining to the management of timberland resources in the state. Article 1 of the Timberland Productivity Act regulates the ability of counties, cities, and local agencies to manage natural resources including forest, agricultural or grazing lands. Under Article 1 (Government Code

[10] California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed December 30, 2019. http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx.
[11] California Department of Conservation. "Williamson Act." Accessed January 19, 2020. http://www.conservation.ca.gov/dlrp/lca.
[12] Forest Land is land that can support 10 percent native tree cover and allows for management of forest resources (California Public Resources Code Section 12220(g)); Timberland is land not owned by the federal government or designated as experimental forest land that is available for, and capable of, growing trees to produce lumber and other products, including Christmas trees (California Public Resources Code Section 4526); and Timberland Production is land used for growing and harvesting timber and compatible uses (Government Code Section 51104(g)).
[13] California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed December 20, 2019. http://frap.fire.ca.gov/.

section 51104(f-g)), timberland is defined as land used for producing at least 15 cubic feet of timber per acre of land per year; land that meets this definition can be zoned Timberland Production Zone or Timberland Preserve Zone.

Local

City of San José General Plan

The Envision San José 2040 General Plan includes policies applicable to all development projects in San José. The following policies are specific to agricultural resources and are applicable to the proposed project:

Envision San José 2040 General Plan Relevant Agricultural Resources Policies

Policy	Description
Policy LU-12.3	Protect and preserve the remaining farmlands within San José's sphere of influence that are not planned for urbanization in the timeframe of the Envision General Plan through the following means: • Limit residential uses in agricultural areas to those which are incidental to agriculture. • Restrict and discourage subdivision of agricultural lands. Encourage contractual protection for agricultural lands, such as Williamson Act contracts, agricultural conservation easements, and transfers of development rights. • Prohibit land uses within or adjacent to agricultural lands that would compromise the viability of these lands for agricultural uses. • Strictly maintain the Urban Growth Boundary in accordance with other goals and policies in this Plan.
Policy LU-12.4	Preserve agricultural lands and prime soils in non-urban areas in order to retain the aquifer recharge capacity of these lands.

4.2.1.2 *Existing Conditions*

The project site is located in a developed, urban area of the City of San José. The Santa Clara County Important Farmland 2016 Map designates the project site as Urban and Built-Up Land.[14] Urban and Built-Up Land is defined as land occupied by structures with a building density of at least one unit to 1.5 acres, or approximately six structures to a 10-acre parcel. The project site currently contains six one- to two-story buildings including a restaurant, an automobile repair business, an apartment building, and ancillary structures. The project site is not subject to a Williamson Act agreement.

The primary land uses are residential and commercial, with residential development surrounding and commercial development adjacent to the project site on the west and south. The project site is zoned Commercial General (CG), Commercial Pedestrian (CP), and Two-Family Residence (R-2).

[14] California Department of Conservation. "California Important Farmland Finder." Accessed: December 30, 2019. https://maps.conservation.ca.gov/DLRP/CIFF/.

4.2.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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?	☐	☐	☐	☒
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒
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))?	☐	☐	☐	☒
d) Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
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?	☐	☐	☐	☒

a) **Would the project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?**

The project site is designated as *Urban and Built-Up Land* pursuant to the California Resources Agency Farmland Mapping and Monitoring Program. The project site is currently developed, containing buildings for commercial and residential uses. For these reasons, the proposed project would not result in the conversion of designated farmland to a non-agricultural use. **(No Impact)**

b) **Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract?**

The project site and surrounding area are currently zoned for commercial and residential uses. The project site is not subject to a Williamson Act contract or other farmland preservation agreement. For these reasons, the proposed project would not conflict with existing zoning for agricultural use or result in a conflict with a Williamson Act contract. **(No Impact)**

c) **Would the project conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production?**

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

d) **Would the project result in a loss of forest land or conversion of forest land to non-forest use?**

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

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

According to the Santa Clara County Important Farmland 2016 map, the project site and surrounding area are designated as Urban and Built-Up Land. Therefore, development of the project site would not result in conversion of any forest land to a non-forest use or farmland to a non-agricultural use. **(No Impact)**

4.3 AIR QUALITY

This section is based in part upon an Air Quality and Greenhouse Gas Assessment completed by Illingworth & Rodkin, Inc. on December 18, 2019. The report is included in Appendix A of this Initial Study.

4.3.1 Environmental Setting

4.3.1.1 *Regulatory Framework*

Federal and State

Air Quality Overview

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

Regional and Local Criteria Pollutants

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

Toxic Air Contaminants

Toxic Air Contaminants (TACs) are a broad class of compounds known to cause morbidity or mortality, usually because they cause cancer. TACs are found in ambient air, especially in urban areas, and are released by industry, agriculture, fuel combustion, and commercial operations (e.g., dry cleaners). Because chronic exposure can result in adverse health effects, TACs are regulated at the regional, state, and federal level.

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs. Diesel exhaust is a complex mixture of gases, vapors, and fine particles. CARB has adopted regulations for stationary and mobile sources to reduce emissions of diesel exhaust and diesel particulate matter (DPM). Several of these regulatory programs affect medium and heavy-duty diesel trucks, which represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles

are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (most susceptible to injury).[15]

Fine Particulate Matter ($PM_{2.5}$) is a TAC composed of a mix of substances, such as carbon and metals, compounds such as nitrates, organics, and sulfates, and mixtures such as diesel exhaust and wood smoke. Because of their small size (particles are less than 2.5 micrometers in diameter), $PM_{2.5}$ can lodge deeply into the lungs. According to BAAQMD, $PM_{2.5}$ is the air pollutant most harmful to the health of Bay Area residents. Sources of $PM_{2.5}$ include gasoline stations, dry cleaners, diesel vehicles, and diesel backup generators.

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

Regional

2017 Clean Air Plan

BAAQMD is the agency primarily responsible for assuring that the federal and State ambient air quality standards are maintained in the San Francisco Bay Area. Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how State and federal air quality standards would be met. BAAQMD's most recently adopted plan is the *Bay Area 2017 Clean Air Plan* (2017 CAP). The 2017 CAP focuses on two related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 CAP describes how BAAQMD will continue its progress toward attaining state and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities. To protect the climate, the 2017 CAP includes control measures designed to reduce emissions of methane and other super-greenhouse gasses (GHGs) that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.[16]

CEQA Air Quality Guidelines

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

Envision San José 2040 General Plan

In connection with the implementation of BAAQMD's Bay Area 2017 Clean Air Plan (CAP), various policies in the General Plan have been adopted for the purpose of avoiding or mitigating air

[15] CARB. "Overview: Diesel Exhaust and Health". Accessed January 18, 2020. https://www.arb.ca.gov/research/diesel/diesel-health.htm.
[16] BAAQMD. *Final 2017 Clean Air Plan.* April 19, 2017. Accessed January 18, 2020. http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans.

quality impacts from development projects. The proposed project would be subject to the air quality policies listed in the General Plan, including the following:

Envision San José 2040 General Plan Relevant Air Quality Policies

Policy	Description
Policy MS-10.1	Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement air emissions reduction measures.
Policy MS-10.2	Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.
Policy MS-11.1	Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.
Policy MS-11.2	For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.
Policy MS-11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
Policy MS-11.7	Consult with BAAQMD to identify stationary and mobile TAC sources and determine the need for and requirements of a health risk assessment for proposed developments.
Policy MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.
Policy MS-13.3	Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.
Policy 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.
Policy TR-9.1	Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.

4.3.1.2 *Existing Conditions*

Climate and Topography

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

Regional and Local Air Pollutant Levels

BAAQMD monitors air pollution at various sites within the Bay Area. The nearest official monitoring station to the site is located at 158 East Jackson Street in San José, approximately two miles west of the site. Pollutant monitoring results for the years 2016 to 2018 at the San José monitoring station are shown in Table 4.3-1.

Table 4.3-1: Ambient Air Quality Standards Violations and Highest Concentrations

Pollutant	Standard	Days Exceeding Standard		
		2016	2017	2018
SAN JOSÉ STATION				
Ozone	State 1-hour	0	3	0
	Federal 8-hour	0	4	0
Carbon Monoxide	Federal 8-hour	0	0	0
	State 8-hour	0	0	0
Nitrogen Dioxide	State 1-hour	0	0	0
	Federal 1-hour	0	0	0
PM_{10}	Federal 24-hour	0	0	0
	State 24-hour	0	6	4
$PM_{2.5}$	Federal 24-hour	0	6	15

Source: BAAQMD. Air Pollution Summaries (2016-2018). Available at: http://www.baaqmd.gov/about-air-quality/air-quality-summaries.

The Bay Area does not meet state or federal ambient air quality standards for ground level O_3 and $PM_{2.5}$, nor does it meet state standards for PM_{10}. The Bay Area is considered in attainment or unclassified for all other pollutants.

Local Community Risks/Toxic Air Contaminants

The project area includes both roadway and stationary sources of TAC emissions within 1,000 feet of the site. Roadway TAC sources with traffic volumes of over 10,000 vehicles per day and within 1,000 feet of the site are Alum Rock Avenue, adjacent to the site, and King Road, approximately 300 feet east of the site. There is one BAAQMD-permitted stationary TAC source within 1,000 feet of

the site, located at the Shell Gas Station at 1598 Alum Rock Avenue (refer to Section 4.3.3, *Non-CEQA Effects* for a description of the stationary TAC sources).

Sensitive Receptors

BAAQMD defines sensitive receptors as facilities where sensitive receptor population groups (children, the elderly, the acutely ill, and the chronically ill) are likely to be located. These land uses include residences, school playgrounds, child-care centers, retirement homes, convalescent homes, hospitals, and medical clinics. The closest sensitive receptors to the project site are residents of a single-family house and duplex on North 34th Street, adjacent to the western boundary of the project. Other sensitive receptors surrounding the site are residences to the north, east, and south of the site (south of Alum Rock Avenue).

Odors

Common sources of odors and odor complaints include wastewater treatment plants, transfer stations, coffee roasters, painting/coating operations, and landfills. Significant sources of offending odors are typically identified based on complaint histories received and compiled by BAAQMD. Typical large sources of odors that result in complaints are wastewater treatment facilities, landfills including composting operations, food processing facilities, and chemical plants. Other sources, such as restaurants, paint or body shops, and coffee roasters typically result in localized sources of odors.

4.3.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☒
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?	☐	☐	☒	☐
c) Expose sensitive receptors to substantial pollutant concentrations?	☐	☒	☐	☐
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	☐	☐	☐	☒

Note: 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 determinations.

Thresholds of Significance

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of San José has

considered the air quality thresholds updated by BAAQMD in May 2017 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin and conservative in terms of the assessment of health effects associated with TACs and $PM_{2.5}$. The BAAQMD CEQA Air Quality thresholds used in this analysis are identified in Table 4.3-2.

Table 4.3-2: BAAQMD Air Quality Significance Thresholds

Pollutant	Construction Thresholds	Operation Thresholds	
	Average Daily Emissions (pounds/day)	Annual Daily Emissions (pounds/year)	Annual Average Emissions (tons/year)
Criteria Air Pollutants			
ROG, NO_x	54	54	10
PM_{10}	82 (exhaust)	82	15
$PM_{2.5}$	54 (exhaust)	54	10
CO	Not Applicable	9.0 ppm (eight-hour) or 20.0 ppm (one-hour)	
Fugitive Dust	Dust-Control Measures/Best Management Practices	Not Applicable	
Health Risks and Hazards for New Sources (within a 1,000-foot Zone of Influence)			
Health Hazard	**Single Source**	**Combined Cumulative Sources**	
Excess Cancer Risk	10 per one million	0.3 µg/m^3	
Hazard Index	1.0	10.0	
Incremental Annual $PM_{2.5}$	0.3 µg/m^3	0.8 µg/m3 (average)	

Notes: ROG = reactive organic gases, NO_x = nitrogen oxides, PM_{10} = course particulate matter with a diameter of 10 micrometers (µm) or less, and $PM_{2.5}$ = fine particulate matter with a diameter of 2.5 µm or less.

a) **Would the project conflict with or obstruct implementation of the applicable air quality plan?**

Consistency with Clean Air Plan

BAAQMD is the agency responsible for assuring the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. BAAQMD's most recent adopted plan is the Bay Area 2017 Clean Air Plan. Determining consistency with the 2017 CAP involves assessing whether applicable control measures in the 2017 Clean Air Plan are implemented. Implementation of control measures improve air quality and protect health. As shown in Table 4.3-3, the project is consistent with applicable control measures and with the San José General Plan by developing a high-density, transit-oriented infill development, installing energy efficient features, and planting new trees. In addition, the project would not exceed the BAAQMD thresholds for operational criteria air pollutant

emissions, as discussed below. For these reasons, the project would not conflict with or obstruct implementation of the CAP. **(No Impact)**

Table 4.3-3: Bay Area 2017 CAP Applicable Control Measures

Control Measures	Description	Project Consistency
Transportation Control Measures		
Trip Reduction Programs	Encourage trip reduction policies and programs in local plans, e.g., general and specific plans. Encourage local governments to require mitigation of vehicle travel as part of new development approval, to develop innovative ways to encourage rideshare, transit, cycling, and walking for work trips.	The project applicant proposes residential/mixed-use development at an infill, urban location in proximity to bus routes 22, 23, 64, 77 and rapid bus route 522, and the Alum Rock Bus Rapid Transit (BRT – major transit stop) is located within 400 feet of the project site. The project includes 36 bicycle parking spaces to promote automobile-alternative modes of transportation. The project, therefore, is consistent with this measure. The project includes transportation demand measures such as provision of transit subsidies (e.g., VTA Smart Pass) to all residences and bicycle parking for residents and employees.
Bicycle and Pedestrian Access and Facilities	Encourage planning for bicycle and pedestrian facilities in local plans, e.g., general and specific plans, fund bike lanes, routes, paths, and bicycle parking facilities.	The project would include 36 bicycle parking spaces. The project vicinity is well equipped with pedestrian facilities including sidewalks and crosswalks. The project, therefore, is consistent with this measure. The nearest crosswalks (which connect to all four corners of the intersection) are located at the Alum Rock Avenue and North 34th Street intersection, approximately 65 feet west of the site. The nearest bicycle route/facility is located on King Road, approximately 300 feet east of the site.
Land Use Strategies	Support implementation of Plan Bay Area, maintain and disseminate information on current climate action plans and other local best practices.	The project applicant proposes a mixed-use development with 123 residential units and 13,650 square feet of retail space at an infill, urban location in proximity to local bus routes. The project, therefore, is consistent with this measure.
Building Control Measures		
Green Building	Identify barriers to effective local implementation of the California Green Building Standards Code (CALGreen), Title 24 statewide building energy code; develop solutions to improve implementation/enforcement. Engage with additional partners to target reducing emissions from specific types of buildings.	The project would comply with the City's Green Building Program and CALGreen. The project, therefore, is consistent with this measure.

Table 4.3-3: Bay Area 2017 CAP Applicable Control Measures		
Control Measures	**Description**	**Project Consistency**
Urban Heat Island Mitigation	Develop and urge adoption of a model ordinance for "cool parking" that promotes the use of cool surface treatments for new parking facilities. Develop and promote adoption of model building code requirements for new construction or re-roofing/roofing upgrades for commercial and residential multi-family housing.	The project would provide enclosed parking at- and below-grade and limited surface parking (to the rear of the proposed building). In addition, the project would plant new landscaping and trees. These features would reduce the project's heat island effect.
Waste Management Control Measures		
Recycling and Waste Reduction	Develop or identify and promote model ordinances on community-wide zero waste goals and recycling of construction and demolition materials in commercial and public construction projects.	The project shall provide recycling services to project residents as mandated by Assembly Bill 341 and the City's Multi-family Recycling Program. The project, therefore, is consistent with this measure.
Water Control Measures		
Support Water Conservation	Develop a list of best practices that reduce water consumption and increase on-site water recycling in new and existing buildings; incorporate into local planning guidance.	The project would comply with CALGreen and reduce potable indoor water consumption and outdoor water use by including water efficient fixtures and planting drought tolerant non-invasive landscaping. The project, therefore, would be consistent with this measure.

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

As discussed previously in Section 4.3.1.3, the Bay Area is considered a non-attainment area for ground-level O_3 and $PM_{2.5}$ under both the federal Clean Air Act and the California Clean Air Act. The area is also considered non-attainment for PM_{10} under the California Clean Air Act. As part of an effort to attain and maintain ambient air quality standards for O_3 and PM_{10}, BAAQMD has established thresholds of significance for these air pollutants and their precursors. These thresholds are for O_3 precursor pollutants (ROG and NO_x), PM_{10}, and $PM_{2.5}$ and apply to both construction period and operational period impacts and are summarized in Table 4.3-1.

Regional Emissions

Construction Emissions

The construction duration for the project would be 18 months, an estimated 394 construction workdays. Average daily emissions were estimated by dividing the total construction emissions by the total number of construction days. The California Emissions Estimator Model (CalEEMod) was used to predict annual emissions from both on-site and off-site construction activities. On-site

construction activities would primarily be made up of construction equipment emissions, and off-site activities would include emissions from hauling and vendor traffic. The project land use types, size, and anticipated construction schedule were input to CalEEMod.

Construction period emissions were modeled based on construction schedule and phasing information. Refer to Appendix A for details about the modeling, data inputs, and assumptions. Table 4.3-4 summarizes the average daily construction emissions of ROG, NO_X, PM_{10} exhaust, and $PM_{2.5}$ exhaust during construction of the project.

Table 4.3-4: Summary of Daily Project Construction Emissions

	ROG	**NO_X**	**PM_{10} Exhaust**	**$PM_{2.5}$ Exhaust**
	(pounds per day)			
Average Daily Emissions	5.3	8.8	0.14	0.13
BAAQMD Thresholds	*54*	*54*	*82*	*54*
Exceeds Threshold?	**No**	**No**	**No**	**No**
Note: The above results are based on a project construction duration of 394 workdays.				

Based on the construction modeling results for estimated criteria pollutant and ozone precursor emissions, construction criteria pollutant emissions would be below BAAQMD thresholds.

Construction activities, particularly during site preparation and grading, would temporarily generate fugitive dust in the form of PM_{10} and $PM_{2.5}$. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying uncovered loads of soils. Unless properly controlled, vehicles leaving the site would deposit mud on local streets, which could be an additional source of airborne dust after it dries. BAAQMD considers construction emission impacts that are below the thresholds of significance (such as those of the project) less than significant if Best Management Practices (BMPs) are implemented. In accordance with the BMPs, the project would implement the following standard permit condition:

Standard Permit Condition*:* The project applicant/contractor shall implement the following measures (recommended by BAAQMD) during all phases of construction to control dust and exhaust at the project site:

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Pave new or improved roadways, driveways, and sidewalks as soon as possible.

- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Minimize idling times either by shutting off equipment when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
- Maintain and property tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

The project, with the implementation of the above standard permit conditions, would reduce fugitive dust emissions to a less than significant level by controlling dust and exhaust, limiting exposed soil surfaces, and reducing PM_{10} and $PM_{2.5}$ exhaust emissions from construction equipment. The project would, therefore, not result in a cumulatively considerable increase in regional criteria air pollutants from construction emissions**. (Less Than Significant Impact)**

Operational Emissions

Operational air emissions from the project would be generated primarily from vehicles driven by residents and employees of the proposed development. Evaporative emissions from architectural coatings and maintenance products (classified as consumer products) are other typical emissions from residential and commercial uses. CalEEMod was used to estimate emissions from operation of the proposed project. The project land use types and size and other project-specific information were input to the model (i.e., 123 apartment units, 13,897 square feet of retail/strip mall, 170 parking spaces).[17] This analysis assumed that the project would be built out and operating in the year 2023. Refer to Appendix A for more details about the modeling, data inputs, and assumptions.

Table 4.3-5 shows the estimated annual operational emissions of ROG, NO_x, PM_{10}, and $PM_{2.5}$.

Table 4.3-5: Summary of Project Operational Emissions

Scenario	ROG	NOx	PM_{10}	$PM_{2.5}$
2023 Project Operational Emissions (*tons/year*)	0.8 tons	0.7 tons	0.6 tons	0.2 tons
BAAQMD Thresholds (tons /year)	*10 tons*	*10 tons*	*15 tons*	*10 tons*
Exceed Threshold?	**No**	**No**	**No**	**No**
2023 Project Operational Emissions (*pounds [lbs.]/day)*	**4.4 lbs.**	**3.8 lbs.**	**3.5 lbs.**	**1.0 lbs.**

[17] 13,897 square feet of retail was evaluated in the air quality model. This provides a conservative estimate for emissions since the actual square footage of retail space proposed is 13,650 square which would generate fewer employees (and, therefore, less vehicle trips).

Table 4.3-5: Summary of Project Operational Emissions				
Scenario	**ROG**	**NOx**	**PM_{10}**	**$PM_{2.5}$**
BAAQMD Thresholds (pounds/day)	*54* lbs.	*54* lbs.	*82* lbs.	*54* lbs.
Exceed Threshold?	**No**	**No**	**No**	**No**
Notes: Analysis assumes that there are 365 operational days per year				

Table 4.3-5 shows that the project's operational emissions of ROG, NO_x, PM_{10}, and $PM_{2.5}$ would be below BAAQMD significance thresholds. The project would, therefore, not result in a cumulatively considerable increase in regional criteria air pollutants from operational emissions nor would it violate a regional criteria pollutant or precursor air quality standard. **(Less Than Significant Impact)**

c) **Would the project expose sensitive receptors to substantial pollutant concentrations?**

Project impacts related to increased community risk can occur either by introducing a new source of TACs with the potential to adversely affect existing sensitive receptors in the project vicinity or by significantly exacerbating existing cumulative TAC impacts. This project would introduce new sources of TACs during construction (i.e., temporary short-term construction emissions). The project would generate traffic from operations, consisting of mostly light-duty vehicles that would not be a source of substantial TACs or $PM_{2.5}$. A community risk assessment was completed to address the effects of project construction impacts on the surrounding off-site sensitive receptors. Community risk impacts are addressed by predicting increased lifetime cancer risk, the increase in annual $PM_{2.5}$ concentrations and calculating the Hazard Index (HI) for non-cancer health risks.

Construction TAC Impacts on Off-Site Sensitive Receptors

Construction equipment and associated heavy-duty truck traffic generate diesel exhaust, which is a known TAC. These exhaust air pollutant emissions would not substantially contribute to existing or projected regional air quality violations as shown in Table 4.3-4. Construction exhaust emissions, however, may pose health risks for off-site sensitive receptors such as surrounding residents. The primary community risk impact issue associated with construction emissions are cancer risk associated with DPM and exposure to $PM_{2.5}$. A health risk assessment of the project construction activities was completed to evaluate potential health effects to nearby sensitive receptors from construction emissions of DPM and $PM_{2.5}$. This assessment included dispersion modeling to predict the off-site concentrations resulting from project construction, so that lifetime cancer risks and non-cancer health effects could be evaluated.

The maximum modeled DPM and $PM_{2.5}$ concentrations occurred 100 feet south of the project site at the three-story apartment building across Alum Rock Avenue. The maximally exposed individual (MEI) receptor would be at this location. The maximum modeled annual $PM_{2.5}$ concentration, which is based on combined exhaust and fugitive dust emissions, was estimated to be 0.25 $\mu g/m^3$ and the maximum computed hazard index based on the maximum DPM, was estimated to be 0.01, which are below the BAAQMD significant thresholds of 0.3 $\mu g/m^3$ for $PM_{2.5}$ and one for the hazard index.[18]

[18] Hazard index = DPM concentration/Reference Exposure Level. For DPM, the chronic inhalation Reference Exposure Level is 5 $\mu g/m^3$.

Therefore, project construction emissions would not result in a significant project-level impacts to off-site sensitive receptors from exposure to $PM_{2.5}$ and DPM. (See Table 4.3-6).

Results of the assessment for project construction impacts (See Table 4.3-6) show that the maximum incremental residential infant/child cancer risk at the maximally exposed individual (MEI) receptor would be 21.2 in one million, which would exceed the BAAQMD significance threshold of 10 in one million.

Impact AIR-1: The project would result in a maximum residential infant/child cancer risk during construction activities that would exceed the BAAQMD significance threshold of 10 in one million. **(Significant Impact)**

Mitigation Measure: The project applicant proposes to implement the following measure to reduce Construction related TACs at nearby sensitive receptors to a less than significant level:

MM AIR-1.1: Prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest), the project applicant shall submit a construction operations plan to the Director or Director's designee of the City of San José Department of Planning, Building and Code Enforcement that includes specifications of the equipment to be used during construction. The construction operations plan shall demonstrate that the off-road equipment used for construction of the project would achieve a fleet-wide average of at least 60 percent reduction in diesel particulate matter (DPM) emissions. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that equipment included in the plan meets the standards set forth in this mitigation measure.

The following construction operations plan shall be implemented by the project applicant. Implementation of the plan would reduce DPM emissions by 60 percent and the infant cancer risk at the maximally exposed individual (MEI) to below 10 in one million.:

- All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet U.S. EPA particulate matter emissions standards for Tier 4 engines. Exceptions could be made for equipment that includes CARB-certified Level 3 Diesel Particulate Filters or equivalent. Equipment that is electrically powered or uses non-diesel fuels would also meet this requirement.

Consistent with mitigation measure MM AIR-1.1, CalEEMod was used to recompute emissions assuming that all equipment will meet U.S. EPA Tier 4 interim standards or the equivalent (refer to Table 4.3-6).

Table 4.3-6: Construction Risk Impacts at the Off-Site Maximally Exposed Individual			
TAC Source	**Cancer Risk (per million)**	**Annual PM2.5 Concentration ($\mu g/m^3$)**	**Hazard Index**
Project Construction			
Unmitigated	**21.2 (infant)**	0.25	0.01
Mitigated	2.4	0.06	<0.01
BAAQMD Single Source Thresholds	*>10*	*>0.3*	*>0.1*
Exceeds Threshold?			
Unmitigated	**Yes**	**No**	**No**
Mitigated	**No**	**No**	**No**

As shown in Table 4.3-6, with implementation of mitigation measure MM AIR-1.1, TAC concentrations/risk levels would not exceed the BAAQMD significance thresholds. The estimated maximum increased lifetime residential cancer risk from construction, assuming infant exposure, would be 2.4 in one million or less. Therefore, the cancer risk for off-site sensitive receptors would be reduced to a less than significant impact. **(Less Than Significant Impact with Mitigation Incorporated)**

Operational TAC Impacts on Off-Site Sensitive Receptors

Operation of the project would not cause any localized emissions that would expose sensitive receptors to unhealthy air pollutant levels. The project would generate automobile traffic (primarily light-duty vehicles) and infrequent truck traffic, however, the project's operational vehicular traffic would result in low TAC or $PM_{2.5}$ exposure at off-site sensitive receptors. No stationary sources of TACs, such as diesel-powered emergency generators, are proposed as part of the project. As a result, operational TAC and $PM_{2.5}$ impacts on off-site sensitive receptors would be less than significant. **(Less Than Significant Impact)**

d) **Would the project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?**

Odors are generally considered an annoyance rather than a health hazard. Land uses that have the potential to be odor sources that generate complaints include, but are not limited to, wastewater treatment plants, landfills, composting operations, and food manufacturing facilities.

The project would include the demolition of existing buildings and the construction of a six-story mixed-use development. The project would generate localized emissions of diesel exhaust during construction equipment operation and truck activity. These emissions may be noticeable from time to time by adjacent receptors; however, the odors would be localized and temporary and would not affect people off-site.

Residential/mixed use developments (with retail space), such as the proposed project, do not typically generate objectionable odors. The project, therefore, would not create objectionable odors that would affect existing residents near the site. (**No Impact)**

4.3.3 Non-CEQA Effects

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

Community Risk Impacts

Based on BAAQMD recommendations, community health risk assessments should evaluate substantial sources of TACs that can affect sensitive receptors located within 1,000 feet of a project site. These sources can include freeways or highways, busy surface streets, and stationary sources identified by BAAQMD. Other nearby streets are assumed to have less than 10,000 vehicles per day. A review of BAAQMD's stationary source Google Earth map tool identified TAC sources with the potential to affect the project site. The project would locate new sensitive receptors (i.e., residents) near existing sources of TACs and $PM_{2.5}$.

Local Roadways – North King Road and Alum Rock Avenue

For local roadways, the BAAQMD-recommended Roadway Screening Analysis Calculator was used to assess whether roadways with traffic volumes of over 10,000 vehicles per day may have a significant effect on the proposed project.

The average daily trips (ADT) on North King Road was estimated to be 13,510 vehicles and the ADT on Alum Rock Avenue was estimated to be 12,860 vehicles. These estimates were based on the peak-hour traffic volumes included in the project's traffic analysis for background plus project conditions. The AM and PM peak-hour volumes were averaged and then multiplied by 10 to estimate the ADT.

The sensitive receptors introduced by the project would be a minimum of 20 feet north of Alum Rock Avenue and 300 feet west of North King Road.

Stationary Sources

Permitted stationary sources of air pollution within 1,000 feet of the project site were identified using BAAQMD's Stationary Source Risk and Hazard Analysis Tool. In addition, BAAQMD's Permitted Stationary Sources 2017 geographic information systems (GIS) website was used to locate updated nearby permitted stationary sources. BAAQMD emissions data was input into BAAQMD's Risk and Hazards Emissions Screening Calculator which computes the cancer risk, annual $PM_{2.5}$ concentrations, and hazard index using adjustments to account for new Office of Environmental Health Hazard Assessment (OEHHA) guidance and distance from the sources. One stationary source, the Shell Gas Station located at 1598 Alum Rock Avenue, was identified within 1,000 feet of the project site. The sensitive receptors introduced by the project would be located approximately a minimum of 750 feet northeast of the gas station.

Combined Community Risk Impacts to Future Sensitive Receptors of the Site

The cumulative effects of off-site TAC sources on future project residents were addressed by adding the contributions of each TAC source. A summary of these sources and the community risk levels are shown in Table 4.3-7.

Table 4.3-7: Mobile and Stationary Source Community Risk Levels

Source	Location from Project Site	Cancer Risk (per million)	Annual $PM_{2.5}$ Concentration (µg/m3)	Hazard Index
Roadway TAC Sources				
Alum Rock Avenue ADT – 12,860 vehicles	20 feet south of the project site	5.2	0.15	<0.03
North King Road ADT – 13,150 vehicles	300 feet east of the project site	1.2	0.03	<0.03
Stationary TAC Source				
Shell (Gas Station, Plant #111830)	1598 Alum Rock Avenue 750 feet west of the site	0.02	--	<0.01
BAAQMD Threshold – Single Sources		**>10**	**>0.3**	**>1.0**
Single-Source Threshold Exceeded?		*No*	*No*	*No*
Cumulative Total		6.42	0.1	<0.7
BAAQMD Thresholds - Cumulative Sources		**>100**	**>0.8**	**>10.0**
Threshold Exceeded?		*No*	*No*	*No*

Source: Illingworth & Rodkin Inc. *Little Portugal Gateway Air Quality & Greenhouse Gas Assessment, San José, California*. December 18, 2019.

The individual and combined effects of the above TAC sources within 1,000 feet of the project site would be below the BAAQMD thresholds of significance and, as a result, the proposed project would comply with General Plan Policy MS-11.1.

4.4 BIOLOGICAL RESOURCES

The following discussion is based in part upon the Tree Survey Report completed by *Kielty Arborist Services* on September 3, 2019.

4.4.1 Environmental Setting

4.4.1.1 *Regulatory Framework*

Federal and State

Endangered Species Act

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

In addition to species listed under state and federal Endangered Species Acts, Sections 15380(b) and (c) of the CEQA Guidelines provide that all potential rare or sensitive species, or habitats capable of supporting rare species, must be considered as part of the environmental review process. These may include plant species listed by the California Native Plant Society and CDFW-listed Species of Special Concern.

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, capture, possession, or trade of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. Hunting and poaching are also prohibited. The taking and killing of birds resulting from an activity is not prohibited by the MBTA when the underlying purpose of that activity is not to take birds.[19] Nesting birds are considered special-status species and are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

Sensitive Habitat Regulations

Wetland and riparian habitats are considered sensitive habitats under CEQA. They are also afforded protection under applicable federal, state, and local regulations, and are generally subject to regulation by the United States Army Corps of Engineers (USACE), Regional Water Quality Control

[19] United States Department of the Interior. "Memorandum M-37050. The Migratory Bird Treaty Act Does Not Prohibit Incidental Take." Accessed January 18, 2020. https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf.

Board (RWQCB), CDFW, and/or the USFWS under provisions of the federal Clean Water Act (e.g., Sections 303, 304, 404) and State of California Porter-Cologne Water Quality Control Act.

Fish and Game Code Section 1602

Streambeds and banks, as well as associated riparian habitat, are regulated by the CDFW per Section 1602 of the Fish and Game Code. Work within the bed or banks of a stream or the adjacent riparian habitat requires a Streambed Alteration Agreement from the CDFW.

Regional and Local

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (Habitat Plan) covers approximately 520,000 acres, or approximately 62 percent of Santa Clara County. It was developed and adopted through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (Valley Water), Santa Clara Valley Transportation Authority (VTA), USFWS, and CDFW. The Habitat Plan is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan.

City of San José Tree Ordinance

Ordinance-sized trees, heritage trees, and street trees make up the urban forest and are protected under the City of San José Tree Ordinance. The City of San José Tree Removal Controls (San José City Code, Sections 13.31.010 to 13.32.100) protect all trees having a trunk that measures 38 inches or more in circumference (approximately 12 inches in diameter) at the height of 54 inches above the natural grade. The ordinance protects both native and non-native species. A tree removal permit is required from the City for the removal of ordinance-size trees. In addition, any tree found by the City Council to have special significance due to history, girth, height, species, or unique quality can be designated as a Heritage Tree, regardless of tree size or species. It is illegal to prune or remove a heritage tree without first consulting the City Arborist and obtaining a permit.

Envision San José 2040 General Plan

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

Envision San José 2040 General Plan Relevant Biological Resources Policies

Policy	Description
Policy ER-5.1	Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
Policy ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds.

Policy MS-21.4	Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.
Policy MS-21.5	As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.
Policy MS-21.6	As a condition of new development, require the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.
Policy MS-21.8	For Capital Improvement Plan or other public development projects, or through the entitlement process for private development projects, require landscaping including the selection and planting of new trees to achieve the following goals: 1. Avoid conflicts with nearby power lines. 2. Avoid potential conflicts between tree roots and developed areas. 3. Avoid use of invasive, non-native trees. 4. Remove existing invasive, non-native trees. 5. Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species. 6. Plant native oak trees and native sycamores on sites which have adequately sized landscape areas, and which historically supported these species.
Policy CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.

4.4.1.2 *Existing Conditions*

The project site is located in an urbanized area in east San José and is currently developed with three commercial buildings, an apartment building, ancillary structures, and paved driveways/drive aisles. Vegetation on-site includes limited areas of grasses, trees, and shrubs. There are no wetlands or riparian areas on or adjacent to the site. The nearest waterway to the site is Lower Silver Creek, approximately 0.4 miles northeast of the project site.

Trees

Trees (both native and non-native) are valuable to the human environment for the benefits they provide including resistance to global climate change (i.e., carbon dioxide absorption), protection from weather, nesting and foraging habitat for raptors and other migratory birds, and as a visual enhancement to the urban environment.

There are a total of 39 trees located on the project site; including one street tree. Of the 39 trees surveyed, six are ordinance-sized trees (one of which is a native coast live oak tree). All the trees on-site are in fair or poor condition with the exception of the ordinance-sized coast live oak tree and the

non-ordinance sized red oak tree (which are in good condition). Table 4.4-1 lists all trees identified on the project site. A map with the tree locations is shown on Figure 4.4-1.

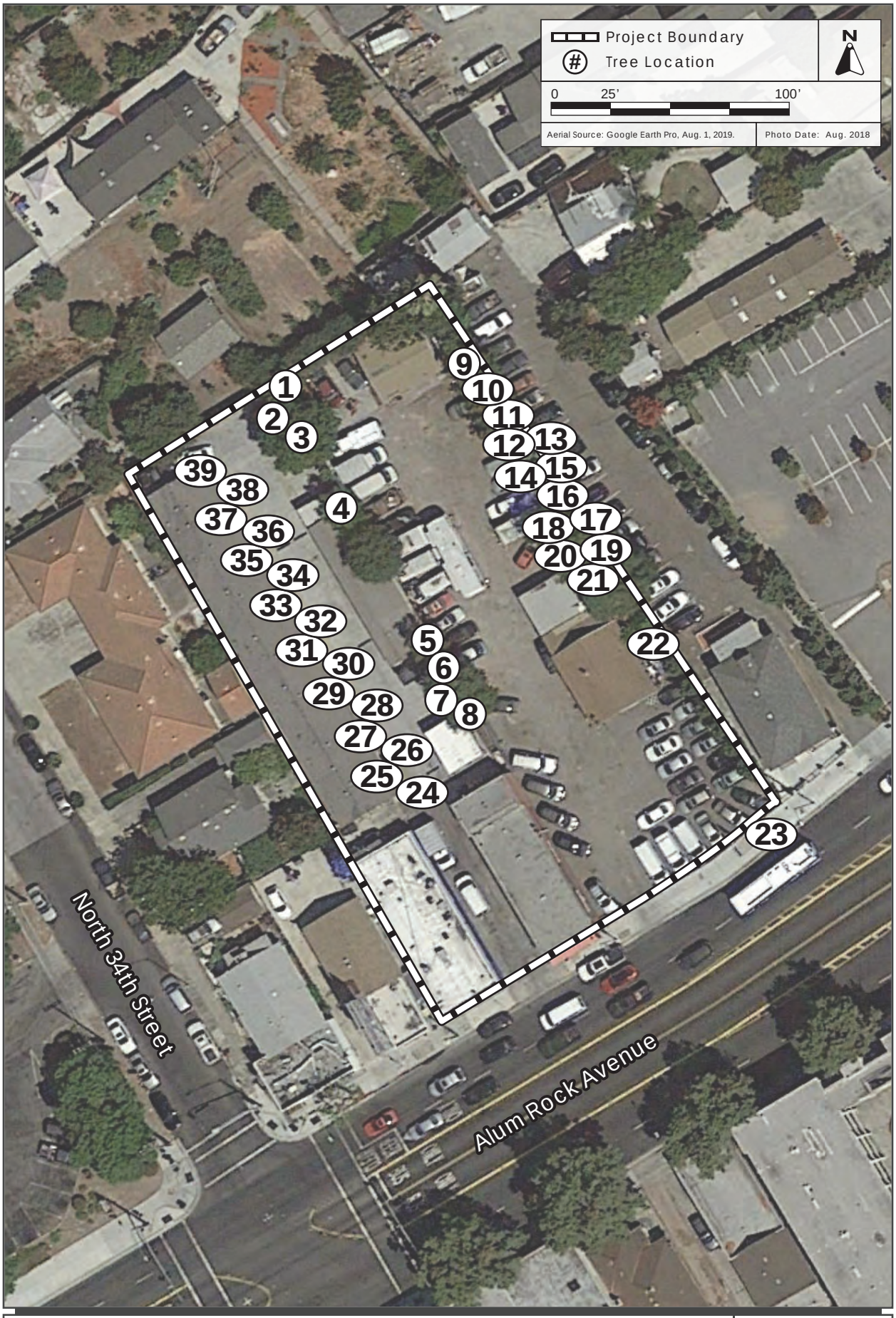
Table 4.4-1: Tree Species Observed On-Site

Tree #	Common Name	Scientific Name	Trunk Diameter[1]
1	Loquat	Eriobotrya japonica	8.0
2	Plum	Prunus sp.	6.0
3	**Privet**	***Ligustrum japonicum***	**36.0**
4	English walnut	*Juglans regia*	8.0
5	Tree of heaven	*Ailanthus altissima.*	8.5
6	**Tree of heaven**	***Ailanthus altissima.***	**24.0**
7	**Tree of heaven**	***Ailanthus altissima.***	**12.0**
8	Tree of heaven	*Ailanthus altissima.*	6.0
9	Tree of heaven	*Ailanthus altissima.*	8.0
10	Tree of heaven	*Ailanthus altissima.*	8.0
11	Tree of heaven	*Ailanthus altissima.*	8.0
12	Tree of heaven	*Ailanthus altissima.*	6.0
13	Tree of heaven	*Ailanthus altissima.*	6.0
14	**Tree of heaven**	***Ailanthus altissima.***	**14.0**
15	Tree of heaven	*Ailanthus altissima.*	6.0
16	Tree of heaven	*Ailanthus altissima.*	6.0
17	**Coast live oak**	***Quercus agrifolia***	**18.0**
18	Coast live oak	*Quercus agrifolia*	4.5
19	**Plum**	**Prunus sp.**	**18.0**
20	Tree of heaven	*Ailanthus altissima.*	6.0
21	Tree of heaven	*Ailanthus altissima.*	8.0
22	Tree of heaven	*Ailanthus altissima.*	10.0
23	Red oak	*Quercus rubrum*	2.0
24-39	Italian cypress	*Cupressus sempervirens*	6.0

Notes:
1. Ordinance sized trees are 12.1+ inches in trunk diameter.
Bold = Ordinance sized tree

Special Status Species

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



TREE LOCATION MAP | FIGURE 4.4-1

4.4.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with 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 Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?	☐	☐	☐	☒
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?	☐	☐	☐	☒
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 interruption, or other means?	☐	☐	☐	☒
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	☐	☒	☐	☐
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☒	☐	☐
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?	☐	☐	☒	☐

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

The existing commercial and residential buildings were constructed between 1920 and the 1950s. The site is in an urban area surrounded by residential and commercial development. Given the history of development and disturbance on-site and the urban environment, no natural sensitive habitats which would support endangered, threatened, or special status plant or wildlife species,

occur on or adjacent to the site. Development of the proposed project, therefore, would not impact special-status species. **(No Impact)**

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

The project site does not contain any riparian habitats or other sensitive natural communities. The nearest riparian corridor to the site is Lower Silver Creek, approximately 0.4 miles northeast of the project site. **(No Impact)**

c) **Would the project have a substantial adverse effect on state or federally protected wetlands through direct removal, filling, hydrological interruption, or other means?**

The project site is surrounded by urban uses and is devoid of wetlands, marshes, and vernal pools. The project would not impact any federally protected wetlands under the Clean Water Act. (**No Impact)**

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

The site does not support a watercourse or provide habitat that facilitates the movement of any native resident or migratory fish or wildlife species. Therefore, the site has limited potential to serve as a migratory corridor for wildlife.

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

The project proposes to remove the 39 existing trees on the project site, reducing available nesting and foraging habitat. Construction activities such as site grading that disturb a nesting bird or raptor on-site or immediately adjacent to the construction zone would also constitute an impact.

Impact BIO-1: Demolition, grading, and construction activities and tree removal during nesting season could impact migratory birds. **(Significant Impact)**

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

MM BIO-1.1: Avoidance. The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 15th (inclusive), as amended.

MM BIO-1.2: Nesting bird surveys. If demolition and construction activities cannot be scheduled to occur between August 16th and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 15th inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.

MM BIO-1.3: Buffer zones. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction. The no-disturbance buffer shall remain in place until the biologist determines the nest is no longer active or the nesting season ends. If construction ceases for two days or more and then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be present.

MM BIO-1.4: Reporting. Prior to any tree removal, or approval of any grading permits (whichever occurs first), the project applicant shall submit the ornithologist's report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement, or the Director's designee, prior to issuance of any grading or building permits.

Implementation of mitigation measures MM BIO-1.1 through MM BIO-1.4 would reduce potential impacts to migratory birds and raptors to a less than significant level. **(Less Than Significant Impact with Mitigation Incorporated)**

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

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

As discussed above, there are 39 trees located on the project site including one street tree. Of the 39 trees, six are ordinance-sized trees (one which of which is a native coast live oak tree). Thirty seven of the 39 trees would be removed from the site to allow for the proposed development. Except for the ordinance size coast live oak (Tree #17) and red oak (Tree #23), all the trees on-site are in fair to poor condition due to little maintenance. Fifteen of the trees (including three ordinance size trees) on-site are Tree of Heaven (Ailanthus altissima) trees which are extremely invasive and considered an unsuitable tree species by the City.

Trees Proposed for Preservation

Given the red oak tree (approximately two inches in diameter) is in good condition, is not an invasive species, and is a small tree(less than 10 inches in diameter), the tree can be relocated on-site. Trees smaller than 10 inches in diameter have a high probability of surviving since removal of these trees do not require substantial root cutting. The proposed project would widen the sidewalk along the site's frontage from 10 feet to 16 feet. The red oak street tree (Tree #23) would be relocated approximately five feet from its current location due to the improvements to the sidewalk on Alum Rock Avenue. The tree would be transplanted by a landscaping contractor.

Since the coast live oak tree (#17), which is 18 inches in diameter, is in good condition, is a native tree, and is located along the eastern property line of the site and not within the building footprint, the tree is proposed to be preserved.[20] The coast live oak tree could significantly be impacted during construction without mitigation to preserve the tree.

Impact BIO-2: Project construction activities could result in physical damage to the native coast live oak Tree #17 resulting in a significant impact. **(Significant Impact)**

Mitigation Measures: The project shall implement the following measures to reduce impacts to trees proposed for preservation. With the incorporation of these measures, the project would result in a less than significant impact.

MM BIO-2.1: The project applicant shall contract with a qualified arborist to monitor construction activities near the coast live oak Tree #17. The Critical Root Zone (CRZ) is six multiplied by the diameter (18 inches); therefore, the

[20] Personal Communications: Beckham, David, Kielty Arborist Services. *RE: 1661-1665 Alum Rock – Little Portugal*. April 10, 2020.

distance of construction activities shall be at least nine feet away from the trunk edge of the tree where possible. Construction activities within the CRZ shall adhere to the following construction techniques.

- Prior to construction, exploratory trenching shall be completed to determine which roots would be encountered where the basement level and parking walkway are proposed. Exploratory trenching includes excavation by air knife and hand tools while leaving all roots exposed and as damage free as possible.

- The proposed development's basement levels shall be shored during construction to maintain the nine-foot foot clearance from the roots of the tree.

- The walkway along the eastern border of the site, which is adjacent to the tree, shall be constructed on top of the existing grade and shall not require more than four to six inches of excavation.

- The project applicant shall construct the retaining wall so that it is at least nine feet north of the coast live oak tree. Alternatively, within nine feet of the tree, a fence that has small post holes and no continuous footing can be constructed.

- Grade changes shall not be more than four to six inches within nine feet of the coast live oak tree. Vegetation within nine feet of the tree shall be planted by hand while retaining encountered roots.

- If the coast live oak tree does not survive construction activities, the project applicant shall be required to replace the tree pursuant to San José Municipal Code Chapter 13.32. The tree shall be replaced by five trees in accordance with the City's tree replacement ratio requirements. The species of the tree to be planted shall be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

With the implementation of the above mitigation measures to protect the existing coast live oak tree (Tree #17) during construction, the project would not have a significant impact on trees proposed for preservation. **(Less Than Significant Impact with Mitigation Incorporated)**

Trees Proposed for Removal

As previously discussed, 37 trees would be removed from the site including 32 non-ordinance trees (including one native coast live oak) and five non-native ordinance trees. The proposed project would be required to offset the impact to the urban forest through compliance with the standard permit conditions below.

Standard Permit Condition: The trees removed by the proposed project would be replaced in accordance with all applicable laws, policies, or guidelines, including:

- City of San José Tree Protection Ordinance (see replacement ratios provided in Table 4.4-2 below)
- San José Municipal Code Section 13.28
- San José General Plan Policies MS-21.4, MS-21.5, and MS-21.6

Table 4.4-2: Tree Replacement Requirements

Diameter of Tree to be Removed[1]	Type of Tree to be Removed[2]			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
12 inches or more[3]	5:1	4:1	3:1	15-gallon container
6 – 12 inches	3:1	2:1	None	15-gallon container
Less than 6 inches	1:1	1:1	None	15-gallon container

[1] As measured 4.5 feet above ground level
[2] x:x = tree replacement to tree loss ratio
[3] Ordinance-sized trees
Notes: Trees greater than or equal to 12 inches in diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For multi-family residential, commercial, and industrial properties, a Tree Removal Permit is required for removal of trees of any size.
A 38-inch tree is 12.1 inches in diameter.
One 24-inch box tree = two 15-gallon trees.

In accordance with City policy, tree replacement would be implemented as shown on Table 4.4-2. A total of 55 trees would be required to be planted on-site. Thirty-two trees would be required to replace the 16 non-native trees between six and 12 inches in diameter, 20 trees would be required to replace the five non-native ordinance-sized trees, and three trees would be required to replace one native coast live oak tree between six to 12 inches. The species of trees to be planted shall be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

In the event the project site does not have sufficient area to accommodate 61 new trees, the project would the required to implement one of the following measures to the satisfaction of the Director of Planning, Building and Code Enforcement at the development permit stage:

- The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site, at the development permit stage.

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

Through compliance with the standard permit conditions above, the project would offset the loss of the existing trees and reduce the impacts of tree removal to a less than significant level. The project, therefore, would not conflict with City policies or ordinances that protect biological resources. **(Less Than Significant Impact)**

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

The project would not be subject to any land cover fee given the current developed nature of the site and its designation as Urban-Suburban land in the HCP/NCCP.

Nitrogen Deposition Impacts on Serpentine Habitat

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

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

Standard Permit Condition: The project shall implement the following condition to reduce the impacts related to nitrogen deposition:

- Santa Clara Valley Habitat Plan: The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning, 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.

Compliance with the standard permit condition listed above would ensure that the project does not conflict with the provisions of the Habitat Plan. **(Less Than Significant Impact)**

4.5 CULTURAL RESOURCES

A historic evaluation of the site was completed by *Archives & Architecture* in June 2020, which is included in Appendix C of this Initial Study. A cultural resources literature review was completed by *Holman & Associates, Inc.* in August 2019. The literature review is on file at the City of San José's Planning, Building and Code Enforcement Department.

4.5.1 Environmental Setting

4.5.1.1 *Regulatory Framework*

Federal and State

National Historic Preservation Act

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

The NRHP is the nation's master inventory of historic resources that are considered significant at the national, state, or local level. The minimum criteria for determining NRHP eligibility include:

- The property is at least 50 years old (properties under 50 years of age that are of exceptional importance or are contributors to a district can also be included in the NRHP);
- It retains integrity of location, design, setting, materials, workmanship, feeling, and associations; and
- It possesses at least one of the following characteristics:
    - Association with events that have made a significant contribution to the broad patterns of history;
    - Association with the lives of persons significant in the past;
    - Distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant, distinguishable entity whose components may lack individual distinction; or
    - Has yielded, or may yield, information important to prehistory or history.

California Register of Historical Resources

The California Register of Historical Resources (CRHR) is administered by the State Office of Historic Preservation and encourages protection of resources of architectural, historical, archeological, and cultural significance. The CRHR identifies historic resources for state and local

planning purposes and affords protections under CEQA. Under Public Resources Code Section 5024.1(c), a resource may be eligible for listing in the CRHR if it meets any of the NRHP criteria.[21]

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

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

California Native American Historical, Cultural, and Sacred Sites Act

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

Public Resources Code Sections 5097 and 5097.98

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

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

[21] California Office of Historic Preservation. "CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6; California Register and National Register: A Comparison (for purposes of determining eligibility for the California Register)." March 14, 2006. Accessed January 19, 2020. https://ohp.parks.ca.gov/pages/1069/files/technical%20assistance%20bulletin%206%202011%20update.pdf.

Local

City of San José Municipal Code – Historic Preservation Ordinance

In accordance with the City of San José's Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code), a resource qualifies as a City Landmark if it has "special historical, architectural, cultural, aesthetic or engineering interest or value of an historic nature" and is one of the following resource types:

1. An individual structure or portion thereof;
2. An integrated group of structures on a single lot;
3. A site, or portion thereof; or
4. Any combination thereof.

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

1. Identification or association with persons, eras or events that have contributed to local, regional, state, or national history, heritage or culture in a distinctive, significant or important way;
2. Identification as, or association with, a distinctive, significant or important work or vestige:
   a. Of an architectural style, design, or method of construction;
   b. Of a master architect, builder, artist, or craftsman;
   c. Of high artistic merit;
   d. The totality of which comprises a distinctive, significant, or important work or vestige whose component parts may lack the same attributes;
   e. That has yielded or is substantially likely to yield information of value about history, architecture, engineering, culture or aesthetics, or that provides for existing and future generations an example of the physical surroundings in which past generations lived or worked; or
   f. That the construction materials or engineering methods used in the proposed landmark are unusual or significant of uniquely effective.
3. The factor of age alone does not necessarily confer a special historical, architectural, cultural, aesthetic, or engineering significance, value or interest upon a structure or site, but it may have such effect if a more distinctive, significant or important example thereof no longer exists (Section 13.48.020 A).

The ordinance also provides a designation of a district: "a geographically definable area of urban or rural character, possessing a significant concentration or continuity of site, building, structures or objects unified by past events or aesthetically by plan or physical development (Section 13.48.020 B).

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

Based upon the criteria of the City of San José Historic Preservation Ordinance, the San José Historic Landmarks Commission established a quantitative process, based on the work of Harold Kalman

(1980), by which historical resources are evaluated for varying levels of significance. This historic evaluation criterion, and the related Evaluation Rating Sheets, is utilized within the Guidelines for Historic Reports published by the City's Department of Planning, Building and Code Enforcement, as last revised on February 26, 2010.

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

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

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes policies applicable to all development projects in San José. The following policies are specific to cultural resources and are applicable to development on the site:

Policy	Description
Policy ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
Policy ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
Policy ER-10.3	Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.
Policy LU-13.8	Ensure that new development, alterations, and rehabilitation/remodels adjacent to a designated or candidate landmark or Historic District be designed to be sensitive to its character.
Policy LU-13.15	Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.
Policy LU-14.1	Preserve the integrity and enhance the fabric of areas or neighborhoods with a cohesive historic character as a means to maintain a connection between the various structures in the area.

Policy	Description
Policy LU-14.4	Discourage demolition of any building or structure listed on or eligible for the Historic Resources Inventory as a Structure of merit by pursuing the alternatives of rehabilitation, re-use on the subject site, and/or relocation of the resources.
Policy LU -16.4	Require development approvals that include demolition of a structure eligible for or listed on the Historic Resources Inventory to salvage the resource's building materials and architectural elements to allow re-use of those elements and materials and avoid the energy costs of producing new and disposing of old building materials.

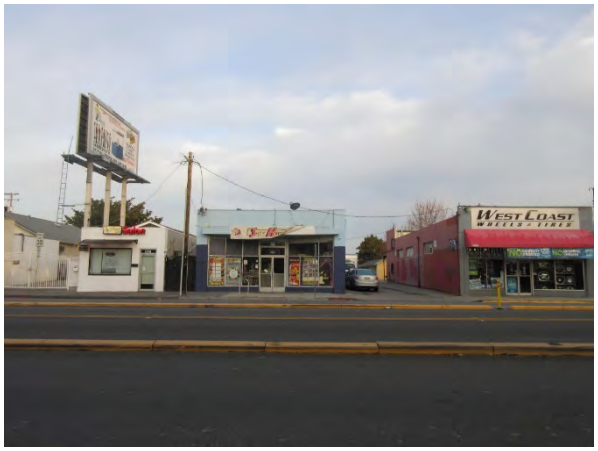
4.5.1.2 *Existing Conditions*

Historic Resources: Project Site

The 0.9-acre project site is currently developed with a restaurant, a tire store, an automobile sales and repair business, an apartment building, and related ancillary structures. These buildings were constructed beginning in the 1920s until the 1950s. The on-site buildings are not listed on the San José Historic Resources Inventory. Given the buildings are more than 50 years of age, a historic evaluation was completed for the site.

1661 Alum Rock Avenue

The buildings consist of a one-story restaurant at the project site frontage and a one-story, seven-unit apartment building and carport to the rear of the property. The restaurant and apartment buildings were constructed in 1953, and the carport was constructed in 1958.



1661 and 1663 Alum Rock Avenue commercial buildings

Architectural Features

The restaurant has commercial vernacular features common to early-to-mid-twentieth century designs. The front façade of the restaurant building features a recessed glazed storefront surrounded by a painted-stucco wall frame. The one-story apartment building located to the rear of the property has a low appearance from the site's frontage. The apartment building is made of stucco and has a gable roof covered with shingles. The detached linear carport is made of painted stucco to match the apartment building. The roof is an asymmetrical gable form, with a steeper slope facing west into the center of the property.

1661 Alum Rock Avenue apartment building

The three buildings have a high level of integrity to their original design and form based on the National Register's aspects of integrity. The complex is still surrounded by a commercial setting with buildings of similar scale and design. The buildings have integrity related to their vernacular design, including retaining their original roof forms and composition of common buildings materials used the at the mid-twentieth century. Most of the buildings' original character-defining materials have been preserved, including stucco walls, although the original windows and doors appear to have been replaced in the residential building. The buildings have retained their mid-twentieth-century form and scale which illustrate their associations with patterns of commercial and multi-family development in San José in the mid-century.

History of the Property

The restaurant building was initially the site of La Guadalajara Bakery beginning in 1955, a long-time ethnic Mexican bakery and later market and then restaurant (taqueria). The restaurant and market were named La Guadalajara Restaurant and Market #1, which became part of a chain of popular Mexican eateries. La Guadalajara was founded by Apolonio S. Flores, Jr. (who lived from 1928 to 2006). He was recognized as a generous contributor to the local sense of community. La Guadalajara has been referred to as the Original Taqueria of Santa Clara Valley.

The Flores family later opened La Guadalajara Numbers 2 and 3 (taquerias) in the San José area. All the La Guadalajara restaurants/markets are now closed, including the La Guadalajara #1 that was located on the project site. La Guadalajara #1 closed in 2011 after serving the local community for over half a century. The business was replaced by 2013 with a similar Mexican food bakery and restaurant. The Mexican food restaurant was then replaced with Sushi Heroes in 2017 which is still in operation.

The former La Guadalajara #1 is known for its long-time association with the Mexican American and Portuguese American communities in the east side of San José within San José's period of post-war industrialization and suburbanization (1945 to 1991). The building could qualify for listing as a site or structure of Lesser Significance (Structure of Merit) in the City of San José's Historic Resources Inventory, as the building's association with La Guadalajara #1 seems to be representative of important aspects of San José's past.

1663 Alum Rock Avenue

The commercial building was constructed in 1949 by owners Domenico and Giovanna Frisone, who later built the restaurant building at 1661 Alum Rock Avenue (formerly La Guadalajara Bakery and Market). The subsequent tenant was Thrifty Cleaners who occupied the site until the 1960s, followed by Quality Cleaners who occupied the site until the early 1970s. By 1976, the cleaners had been renamed or replaced by Payless Cleaners, and in 1979, the business was known as Enright's Quality Cleaners. Independent chain cleaners, such as those that occupied this property, were located throughout the area during this period, with almost 100 businesses operating in the San Jose area. In recent years, a tire store has occupied the building, and is currently the West Coast Wheels and Tires store.

The commercial building is a vernacular design with a style similar to that of the eclectic revival period's early-to-mid-twentieth-century designs. The painted-stucco front façade features a rectangular wall frame consisting of two side walls that support a full-width, tall parapet.

The building has a high level of integrity to its original design and form according to the National Register's aspects of integrity. The building has integrity with a slightly modern design, including its original roof form and composition of common building materials used in the mid-twentieth century. Most of its original character-defining materials have been preserved, including stucco walls and original windows and doors. The building retains its mid-twentieth-century form, scale, and feeling and continues, through its location, setting, design, and form, to illustrate its associations with secondary patterns of commercial development in greater San José at mid-twentieth century.

1665 Alum Rock Avenue

The property consists of a commercial automobile sales and repair building (a former residence) with two attached additions and a detached garage. The building was constructed sometime between 1916 and 1920.

1665 Alum Rock Avenue auto sales and repair building

The first known owner of the former residence was H. Sampson, a carpenter, and his family who were living in the house by 1920. Sampson made alterations to the house in 1921. By 1924, John R. and Annie Hynes owned the property. Hynes was a clerk in a dry goods store. A gasoline station occupied the site in the 1930s to the 1940s (the owner was Andrew Landini). In the 1940s, the site was occupied by an automobile repair shop (the owners were F.L. Nobbs and Charles Pelton). By 1954 until at least the mid-1960s, Filippi Motors, a used car dealership, occupied the site. This use continued until at least 1970 when Montes' Auto Sales occupied the site.

The building is a one-and-one-half-story Craftsman Bungalow from the early twentieth century that appears to have been altered with applications of heavily textured stucco and replacement windows. The building has a rectangular footprint and is topped by a full-width gabled roof with exposed rafter tails at the edges of the roof.

There are two additions attached to the to the rear of the automobile sales and repair building. The first addition consists of horizontal wood lap siding and has a vertical window facing west. The second addition is a mid-century attached garage with a roll-up door. There is a detached garage located at the rear of the parcel. This building has a gable roof with exposed rafter tails. The detached garage is made of horizontal board siding and features a two-car roll-up door.

The former residential building and related structures that constitute this property have a fair level of integrity to its original design and form based on the National Register's aspects of integrity. The former residence is no longer surrounded by a residential setting (as it was when constructed in 1920)

and is now is situated within a commercial strip. The house has some integrity with its modest Craftsman design, including its original roof form and composition of common buildings materials used during the 1920s; however, some replacement of cladding has taken place. Most of its original character-defining materials have been preserved, although the original windows have been replaced. The residential building retains its 1920s form and scale, and continues, through its design and form, to illustrate its associations with patterns of residential development in San José from the early twentieth century.

Summary of the Historic Evaluation of 1661, 1663 and 1665 Alum Rock Properties

Based on the historic evaluation of the site, the 1661 Alum Rock Avenue restaurant building previously occupied by La Guadalajara Bakery and Restaurant Number 1 has historical interest based on patterns of community development and commerce and for its long-time association with the Mexican American and Portuguese American communities in the east side of San José. As previously stated, the period for this pattern of historic interest is within San José's period of post-war industrialization and suburbanization. The historic use (Mexican restaurant and bakery) has not operated in this building for approximately 10 years. Although the building continues to serve as a restaurant, the important associations related to the earlier ethnic use no longer occur. The physical characteristics of the building remain but do not qualify this property for the California Register under Criterion 1 (or National Register under Criterion A). In addition, the 1663 and 1665 Alum Rock Avenue buildings do not reflect patterns of historic interest or significance and, therefore, these buildings would also not qualify the site for the California Register under Criterion 1 (or National Register under Criterion A).

The buildings on-site are not associated with any persons known to be historically important. Apolonio Flores, the founder of La Guadalajara Bakery and Restaurants, is recognized as being a generous contributor to the local sense of community. Apolonio Flores, however, has not been established as a significant personage. The project site, therefore, would not qualify for the California Register under Criterion 2 (or National Register under Criterion B) related to significant personages.

Post-war development and modern commercial architecture could be eligible for the California Register under Criterion (3) if the architecture is distinctive within its context. Although all the buildings are over 50 years of age, the buildings are vernacular examples of either Craftsman or 1950s residential architecture, or vernacular commercial storefront buildings that are common throughout the twentieth century; none of these buildings qualify for the California Register under Criterion 3 (or National Register under Criterion C).[22]

Although the 1661 Alum Rock commercial/restaurant building had a relatively important role as the site of an early Mexican bakery and taqueria in East San José, this role has not yet been established and the building is not considered eligible for designation as a City historic landmark site based on the prior use. The building may qualify for listing in the City's Historic Resources Inventory as a

[22] California Register Criterion 4/National Register Criterion D include resources that yield or has the potential to yield, information important to the prehistory or history of the local area, California, or the nation. This criterion applies to archaeological resources and is, therefore, not applicable to the buildings on-site.
Personal Communications: Maggi, Franklin, Archives and Architecture. *RE: Little Portugal Historic Evaluation.* January 24, 2020.

Structure of Merit. The City, however, does not consider Structures of Merit to be local historical resources under CEQA.

The project site is not associated with a significant historic event, nor is it identified with persons who have been clearly established as persons who significantly contributed to the local culture and history; the buildings on-site do not exemplify the cultural, economic, social or historic heritage of the City that is considered important under the City's criteria for landmark designation. The buildings lack the embodiment of distinguishing characteristics of an architectural type or specimen; therefore, the buildings do not have characteristics that are identified with the work of an architect or master builder whose individual work has influenced the development of the City of San José. For these reasons, the buildings on-site do not qualify as historic resources of local significance.

Historic Resources: Surrounding Properties

A historic assessment of nearby properties within 200 feet of the project site was completed to determine if the properties were listed on the Historic Resources Inventory and if there would be potential impacts to off-site historic resources resulting from the project (an aerial of surrounding properties evaluated is shown on Figure 4.5-1).

The project site is surrounded by a diverse mix of low to moderate density residential and commercial development. There are 20 properties containing residential structures (with some converted to other uses) to the north and west. Along Alum Rock Avenue, there are 13 properties containing a mix of commercial storefronts for uses such as stores, fast-food restaurants, medical supply, and a funeral home. An apartment building is also located across Alum Rock Avenue.

Residential Properties

Of the 20 surrounding residential properties evaluated, nine appear to be older than 50 years of age. The older houses along North 34th Street are infill properties; many of these houses have had noticeable alternations over time. The residential properties located on North King Road were built in the late 1930s or after World War II. Many of the properties on North King Road have had a re-clad of their siding to stucco.

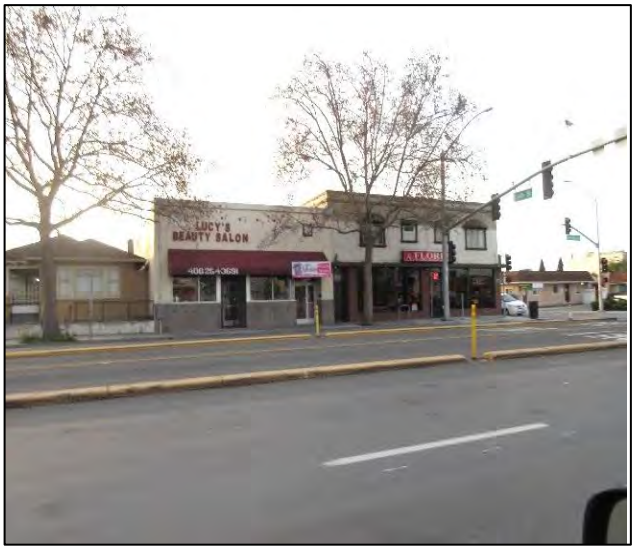
15 North King Road Residence converted to a Church Use

Two residential structures, one at 1675 Alum Rock Avenue and one at 15 North King Road (constructed in the 1930s), have been converted to church uses. None of residential properties evaluated were listed on the Historic Resources Inventory. Based on visual observation from street views, all 20 residences are of vernacular construction and are not architecturally significant. Because of the diverse nature of these residential properties and the on-going upgrades, there does not appear to be any potential that this area would qualify as a historic district or conservation area.

SURROUNDING PROPERTIES | FIGURE 4.5-1

Commercial and Multi-family Residential Properties along Alum Rock Avenue

Of the 13 commercial properties located along Alum Rock Avenue near the project site, two are detached buildings with either fast food or convenience stores of recent vintage. The remaining properties are a mix of one to two-story commercial buildings, some built as expansions of early houses, and others are of recent vintage, built in the late 1960s through 1980s. The three-story apartment building across Alum Rock Avenue, originally known as Mayfair Arms, was built in the late 1960s. Most of this commercial development on Alum Rock Avenue occurred after World War II. None of these properties are listed on the Historic Resources Inventory. Based on visual observation from street views, these buildings along Alum Rock Avenue are of vernacular construction with no architectural significance or identifiable style.



Commercial Buildings on Alum Rock Avenue

Archaeological Resources

Archaeological resources are resources associated with human activity in the past and encompass both prehistoric and historic resources. In August 2019, *Holman & Associates* completed a records search at the Northwest Information Center (NWIC) of the California Historical Resources Information System (CHRIS) for the proposed project. All records of identified cultural resources within one quarter mile, and all archaeological resources reports for projects within 165 feet (50 meters) of the project site were reviewed.

Prehistoric Resources and Historic Resources

Based on a cultural resources records search, no archaeological sites have been recorded within the project site or within one quarter mile of the site. In this area of Santa Clara County, Native American archaeological sites have been identified adjacent to Coyote Creek, particularly near confluences with other creeks and near springs. These resources were often buried by alluvium and recent fill. The project site is located 0.9 miles east of Coyote Creek and 0.9 miles from Miguelita/Silver Creek's confluence with Coyote Creek. The project site is approximately 0.4 miles south of Silver Creek. Given the distance of the project site from the above creeks, there is a low potential for Native American deposits to occur within the project footprint.

In 2005, the entire project site was studied as a part of a VTA light rail project that included Alum Rock Avenue. Archaeological resources were investigated as a part of the project. Since most of the long linear project area of potential effects was paved or built upon, or was privately owned, only select locations were surveyed for archaeological deposits. None of the lands within or adjacent to the current project site were field inspected for archaeological resources.

Historic-era maps for the project area were reviewed to identify the potential for archaeological resources in the project area. Based on the review of historical land use patterns, there is a low potential for historic archaeological deposits within the current project area.

4.5.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with 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 CEQA Guidelines Section 15064.5?	☐	☐	☐	☒
b) Cause a substantial adverse change in the significance of an archaeological resource as pursuant to CEQA Guidelines Section 15064.5?	☐	☐	☒	☐
c) Disturb any human remains, including those interred outside of dedicated cemeteries?	☐	☐	☒	☐

a) **Would the project cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?**

Generally, a resource is considered to be historically significant by the City of San José if it is listed or meets the criteria for listing on the National Register, California Register, or as a City Landmark on the City's Historic Resources Inventory.

Based on the historical evaluation of the project site, the 1661, 1663 and 1665 Alum Rock properties are not listed nor eligible to be listed on the California Register or National Register. As discussed in Section 4.5.1, the restaurant building located at 1661 Alum Rock Avenue may be eligible for local listing on the City's Historic Resources Inventory as a Structure of Merit, as the former Mexican restaurant, market, and bakery had a long-time association with the Mexican American and Portuguese American communities in East San José. Structures of Merit are not considered local historic resources under CEQA, however in conformance with the City's practices and General Policies LU14.4 and LU-16.4, the following Conditions of Approval will be implemented as part of the project.

Conditions of Approval: Structure of Merit, 1661 Alum Rock Avenue Building. Prior to issuance of any demolition permit, the following shall be met to the satisfaction of the Planning Director:

- The Permittee shall advertise the 1661 Alum Rock Avenue Building for relocation. A dollar amount equal to the estimated cost of demolition as certified by a licensed contractor and any associated Planning Permit fees for relocation shall be offered to the recipient of the building. The Permittee shall provide evidence to the Historic Preservation Officer and Supervising Environmental Planner that an advertisement has been placed in a newspaper of general

circulation, posted on an appropriate website, and posted at the site for a period of no less than 30 days.

- Preservation organizations and other interested parties shall be contacted at least 30 days prior to demolition activities and given the opportunity to examine the building and salvage surplus elements not being incorporated in the project for possible re-use in the rehabilitation of the buildings of similar age and style. Documentation of the salvage offers shall be submitted to the City's Historic Preservation Officer.

- Preparation of a full photo-documentation of the building is required using the Secretary of Interior's Standards and Guidelines for Architectural and Engineering Documentation: Historic American Buildings Survey/ Historic American Engineering Record (HABS/HAER) Standards, and shall be submitted to the City's Historic Preservation Officer. The photo-documentation shall be provided to the History Museum of San José.

Based on a review of the City's Historic Resources Inventory, there are no historic resources located within the vicinity of the project site. An investigation of nearby properties that fall within 200 feet of the project site boundary was completed to determine if any of these properties contain historic resources. None of the properties evaluated are listed on the City's Historic Resources Inventory, they are of vernacular construction, and are not architecturally significant.

The closest historic resources are a commercial building located at 1805 Alum Rock Avenue, approximately 0.2 miles east of the site and a former farmer's supply and feed store located at 1936 Alum Rock Avenue, located approximately 0.4 miles east of the site.[23] Given the distance of the project site from these historic resources, the project would have no impact on these resources. For these reasons, the project would not result in a significant impact to historic resources on-site or in the project area. **(No Impact)**

b) **Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?**

Based on the cultural resources records search completed for the project, no pre-historic archaeological sites have been recorded within one quarter mile of the project site. The site has a low potential for pre-historic Native American and historic-era resources to occur. In the event archaeological resources are encountered during excavation and construction, the following standard permit condition would be implemented.

Standard Permit Condition: Implementation of the following conditions would reduce impacts of the project on subsurface cultural resources:

- If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic

[23] City of San José. Historic Resources Inventory Map. Accessed January 8, 2020. https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/historic-preservation/historic-resources-inventory

Preservation Officer shall be notified, and a qualified archaeologist shall examine the find. The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to 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.

Implementation of the above standard permit condition, in accordance with General Plan policies, would ensure that the proposed project would not significantly impact archaeological resources. **(Less Than Significant Impact)**

c) **Would the project disturb any human remains, including those interred outside of dedicated cemeteries?**

As stated in the response to question b) discussion, the site has a low potential for pre-historic and historic-era Native American archaeological deposits. If, however, human remains are encountered during excavation and construction, the following standard permit conditions would be implemented.

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

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

Implementation of the above standard permit condition, in accordance with General Plan policies, would ensure that the proposed project would not significantly impact human remains. **(Less Than Significant Impact)**

4.6 ENERGY

4.6.1 Environmental Setting

4.6.1.1 *Regulatory Framework*

Federal

Energy Star and Fuel Efficiency

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

State and Local

Renewables Portfolio Standard Program

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

Advanced Clean Cars Program

CARB adopted the Advanced Clean Cars program in 2012 in coordination with the EPA and National Highway Traffic Safety Administration. The program combines the control of smog-causing pollutants and GHG emissions into a single coordinated set of requirements for vehicle model years 2015 through 2025. The program promotes development of environmentally superior passenger cars and other vehicles, as well as saving the consumer money through fuel savings.[24]

California Building Standards Code

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6 of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years, and the 2019 Title 24 updates went into effect on January 1, 2020.[25] Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[26]

[24] California Air Resources Board. "The Advanced Clean Cars Program." Accessed January 10, 2020. https://www.arb.ca.gov/msprog/acc/acc.htm.
[25] California Building Standards Commission. *California Building Standards Code: 2019 Triennial Edition of Title 24*. Accessed January 18, 2020. https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo.
[26] California Energy Commission (CEC). *2019 Building Energy Efficiency Standards*. Accessed January 18, 2020. http://www.energy.ca.gov/title24/2016standards/index.html.

California Green Building Standards Code

CALGreen establishes mandatory green building standards for buildings in California. CALGreen was developed to reduce GHG emissions from buildings, promote environmentally responsible and healthier places to live and work, reduce energy and water consumption, and respond to state environmental directives. The most recent update to CALGreen went into effect on January 1, 2020, and covers five categories: planning and design, energy efficiency, water efficiency and conservation, material and resource efficiency, and indoor environmental quality.[27]

Climate Smart San José

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

Sustainable City Strategy

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

Envision San José 2040 General Plan

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

Envision San José 2040 General Plan Relevant Energy Policies

Policy	Description
Policy MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).
Policy MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation or other area functions.
Policy MS-14.4	Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency,

[27] California Building Standards Commission. *California Green Building Standards Code (CCR, Title 24, Part 11 - CALGreen).* Accessed January 18, 2020. https://www.dgs.ca.gov/BSC/Resources/Page-Content/Building-Standards-Commission-Resources-List-Folder/CALGreen#@ViewBag.JumpTo.

	sustainable site selection, and passive solar building design and planting of trees and other landscape materials to reduce energy consumption.
Policy MS-14.5	Consistent with State and Federal policies and best practices, require energy efficiency audits and retrofits prior to or at the same time as consideration of solar electric improvements.
Policy MS-19.1	Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a fiscally and environmentally sustainable local water supply.
Policy TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
Policy TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

4.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 7,881 trillion British thermal units (Btu) in the year 2017, the most recent year for which this data was available. Out of the 50 states, California is ranked second in total energy consumption and 48th in energy consumption per capita. The breakdown by sector was approximately 18 percent (1,416 trillion Btu) for residential uses, 19 percent (1,473 trillion Btu) for commercial uses, 23 percent (1,818 trillion Btu) for industrial uses, and 40 percent (3,175 trillion Btu) for transportation.[28] This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

Electricity

Electricity in Santa Clara County in 2018 was consumed primarily by the commercial sector (77 percent), followed by the residential sector consuming 23 percent. In 2018, a total of approximately 16,708 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[29]

San José Clean Energy (SJCE) is the electricity provider for residents and businesses in the City of San José. SJCE sources the electricity and the Pacific Gas and Electric Company (PG&E) delivers it to customers over their existing utility lines. SJCE customers are automatically enrolled in the GreenSource program, which provides 80 percent GHG emission-free electricity. Customers can choose to enroll in SJCE's TotalGreen program at any time to receive 100 percent GHG emission-free electricity form entirely renewable sources.

[28] United States Energy Information Administration. "State Profile and Energy Estimates, 2017." Accessed January 10, 2020. https://www.eia.gov/state/?sid=CA#tabs-2.
[29] California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed January 10, 2020. http://ecdms.energy.ca.gov/elecbycounty.aspx.

Fuel for Motor Vehicles

In 2017, 15 billion gallons of gasoline were sold in California.[30] The average fuel economy for light-duty vehicles (autos, pickups, vans, and SUVs) in the United States has steadily increased from about 13.1 miles-per-gallon (mpg) in the mid-1970's to 24.9 mpg in 2018.[31] Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was subsequently revised to apply to cars and light trucks Model Years 2011 through 2020.[32] In 2012, the federal government raised the fuel economy standard to 54.5 miles per gallon for cars and light-duty trucks by Model Year 2025.[33]

Natural Gas

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

Energy Use of the Existing Buildings

The existing on-site buildings are used for residential and commercial purposes. The electricity and natural gas used by the existing buildings on-site is estimated in Table 4.6-1.

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

Development	Electricity Use (kWh)	Natural Gas Use (kBtu)
Automobile Sales and Repair	12,184	38,911
Restaurant and Tire Store	42,910	9,513
Apartments (seven units)	30,442	71,392
Total	85,836	119,816

Notes: Results based on CalEEMod for existing uses. January 18, 2020.

[30] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed January 10, 2020. http://www.cdtfa.ca.gov/taxes-and-fees/MVF-10-Year-Report.pdf.
[31] United States Environmental Protection Agency. "The 2018 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." March 2019. . https://www.epa.gov/automotive-trends/download-automotive-trends-report#Full%20Report
[32] United States Department of Energy. *Energy Independence & Security Act of 2007.* Accessed January 10, 2020. https://afdc.energy.gov/laws/eisa.html
[33] The White House. *Obama Administration Finalizes Historic 54.5 mpg Fuel Efficiency Standards.* August 28, 2012. Accessed January 10, 2020. https://obamawhitehouse.archives.gov/the-press-office/2012/08/28/obama-administration-finalizes-historic-545-mpg-fuel-efficiency-standard.
[34] California Gas and Electric Utilities. *2019 California Gas Report Supplement.* Accessed January 10, 2020. https://socalgas.com/regulatory/documents/cgr/2019_CGR_Supplement_7-1-19.pdf
[35] California Energy Commission. "Natural Gas Consumption by County." Accessed January 10, 2020. http://ecdms.energy.ca.gov/gasbycounty.aspx.

As shown in the table above, the existing on-site uses would generate approximately 85,836 kWh of electricity and 119,816 kBtu of natural gas. Using the U.S. EPA fuel economy estimate of 24.9 miles per gallon, the existing uses consume approximately 15,653 gallons of gasoline per year.[36]

4.6.2 Impact Discussion

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

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

Construction Impacts

As proposed, the project would demolish the existing on-site commercial and residential buildings and construct a six-story mixed use development with 123 apartment units and 13,650 square feet of retail space with two underground parking levels. The duration of demolition of the existing building and construction of the proposed development would take approximately 18 months.

Energy is consumed during the construction process from demolition, site preparation, grading and excavation, trenching, and paving. The project would not waste or use energy inefficiently; construction processes are generally designed to be efficient in order to avoid excess monetary costs associated with unnecessary fuel consumption, equipment rental or maintenance. Project development in urbanized areas with proximity to roadways, construction supplies, and workers is already more efficient than construction occurring in outlying, undeveloped areas; equipment would be staged onsite when not in use to further increase efficiency.

The proposed project would participate in the City's recycle construction and demolition materials program, restrict equipment idling times to five minutes or less and require the applicant to post signs on the project site reminding workers to shut off idle equipment (see standard permit conditions under Impact AQ-2), and use construction equipment with higher energy efficiency (see Mitigation Measure MM AQ-3.1 under Impact AQ-3).

[36] Existing 389,748 VMT / 24.9 mpg (U.S. EPA fuel economy estimate) = 15,653 gallons of gasoline

Operation Impacts

Operation of the project would consume energy for multiple purposes including, but not limited to, building heating and cooling, lighting, appliances, and electronics. Operational energy would also be consumed during each vehicle trip generated by future employees and customers. The proposed project would result in increased residential use, and increased intensity of commercial use as compared to the existing project site. However, the proposed project would transition the project site from automobile-focused commercial uses to pedestrian-and-transit-focused retail space. Estimates of future operational energy usage are shown below, in Table 4.6-3.

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

Electricity (kWh)	Gasoline (gallon)	Natural Gas (kBTU)
Proposed Mixed-Use Development		
702,267	67,809	1,095,585
Existing Uses		
85,836	15,653	119,816

Note: The estimated gasoline demand is based on the estimated VMT of for the project, and an average fuel economy of 24.9 mpg = 1,688,438 VMT/24.9 mpg = 67,809

kWh = kilowatt per hour

kBTU = kilo-British Thermal Unit

Source: Illingworth & Rodkin, Inc. *Little Portugal Gateway Air Quality & Greenhouse Gas Assessment.* December 18, 2019.

Implementation of the proposed project would increase electricity use by approximately 616,431 kWh per year, and natural gas usage by approximately 975,769 kBtu per year. The energy use increase does not take into account the efficiency measures incorporated into the project. The project would be built to the 2019 CALGreen requirements and Title 24 energy efficiency standards, which would improve the efficiency of the overall project and lower the estimated energy use.

The project would include the following green building measures, in accordance with 2019 CALGreen requirements:

- Solar-ready area for PV solar panels on the roof
- Light roof color cap sheet.
- Low E dual-panel vinyl windows.
- Low volatile organic compound (VOC) emission carpet
- Renewable resource bamboo flooring in residential community room.
- Energy Star General Electric (GE) appliances.
- 12 Seasonal Energy Efficiency Ratio (SEER) Energy Star rated heating, ventilation, and air conditioning (HVAC) units with non-chlorofluorocarbon (CFC) refrigerant- will be provided.[37]

[37] SEER is the total heat removed from the conditioned space during the annual cooling season, expressed in Btu, divided by the total electrical energy consumed by the air conditioner or heat pump during the same season, expressed in watt-hours. Products with the highest SEER ratings are considered to be the most energy efficient.

- Drought-tolerant landscaping and low flow irrigation system.
- Electric car-sharing spaces.
- Parking area for car charging spaces.
- Bicycle repair station and storage.

Additionally, San José Clean Energy would provide electricity to the project site from renewable sources including solar, wind, and hydropower.

The total annual VMT for the project would be approximately 1,688,438.[38] Using the U.S. EPA fuel economy estimate (24.9 mpg), the proposed project would result in the consumption of approximately 67,809 gallons of gasoline per year.[39] Implementation of the project would increase annual gasoline demand by approximately 52,156 gallons. New automobiles used by residents and employees of the proposed project would be subject to fuel economy and efficiency standards applied throughout the State of California, which means that over time the fuel efficiency of vehicles associated with the project site would improve. The nearest transit station (Alum Rock Avenue/King Road BRT Station) and bus stops (VTA Lines 22, 23, 67, 77, and 522) are within 400 feet of the project site. As discussed in Section 4.17, *Transportation*, existing transit services would be able to accommodate the increase in new riders generated by the proposed project. As a result, implementation of the proposed project would not result in a substantial increase of transportation-related energy use.

With the implementation of these construction and operation features, the proposed project would not result in significant energy waste, inefficiency, or unnecessary use. **(Less than Significant Impact)**

b) **Would the project conflict with or obstruct a state or local plan for renewable energy or energy efficiency?**

The project would be constructed and operated in compliance with all applicable state and local green building standards and energy efficiency policies. The project would be consistent with the regulations described in Section 4.6.1.1 (including General Plan policies) by:

- Complying with Title 24 and CALGreen,
- Complying with the Sustainable City Strategy
- Complying with Climate Smart San José

The project, therefore, would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. **(No Impact)**

[38] Illingworth & Rodkin, Inc. *Little Portugal Gateway Air Quality & Greenhouse Gas Assessment.* December 18, 2019.
[39] 1,664,577 VMT / 22.0 mpg = 75,663 gallons of gasoline

4.7 GEOLOGY AND SOILS

This discussion is based in part upon is in part based upon a Geotechnical Investigation report completed by *Rockridge Geotechnical* in September 2018. A copy of this report is included in Appendix D of this Initial Study.

4.7.1 Environmental Setting

4.7.1.1 *Regulatory Framework*

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning (AP) Act was passed into law following the destructive 1971 San Fernando earthquake. The AP Act regulates development in California near known active faults due to hazards associated with surface fault ruptures. Areas within the Alquist-Priolo Earthquake Fault Zone require special studies to evaluate the potential for surface rupture to ensure that no structures intended for human occupancy are constructed across an active fault. The project site is not located in an Alquist-Priolo Earthquake Fault Zone.

Seismic Hazards Mapping Act

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

California Building Code

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

Envision San José 2040 General Plan

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

Envision San José 2040 General Plan Relevant Geology and Soil Policies

Policy	Description
Policy EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
Policy EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.
Policy EC-4.2	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.
Action EC-4.11	Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards and require review and implementation of mitigation measures as part of the project approval process.
Action EC-4.12	Require review and approval of grading plans and erosion control plans (if applicable) prior to issuance of grading permits by the Director of Public Works.
Policy ES-4.9	Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

City of San José Municipal Code

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

permits within defined geologic hazard zones, including State Seismic Hazard Zones for Liquefaction.

4.7.1.2 *Existing Conditions*

The project site is located in the Santa Clara Valley, a relatively flat alluvial basin, bounded by the Santa Cruz Mountains to the southwest and west, the Diablo Mountain Range to the east, and San Francisco Bay to the north. The Santa Clara Valley consists of a large structural basin containing alluvial deposits from the Diablo Range and Santa Cruz Mountains. The Santa Clara Valley is located within the Coast Ranges geomorphic province, a region characterized by fault-controlled valleys trending northwest-southeast.

Seismicity

Situated within the greater Bay Area, the proposed project is located in an area of very high seismic activity. The San Francisco Bay Area is classified as Zone 4 for seismic activity, the most seismically active region in the United States. Several major fault zones are present in the greater Bay Area, including the San Andreas, San Gregorio, Hayward, and Calaveras faults. These faults have produced roughly 12 earthquakes strong enough to cause structural damage per century, and numerous small earthquakes occur each year. Based on a 2015 forecast completed by the United States Geological Survey (USGS), there is a 72 percent probability of experiencing at least a magnitude 6.7 earthquake during the next 30 years.[40] The closest major active fault to the site is the Calaveras fault, located approximately six miles northeast of the site. The project site is, however, not located within an Alquist-Priolo Earthquake Fault Zone, and no known active or potentially active faults exist on the site.

Table 4.7-1: Active Faults Near the Project Site

Fault	Distance from Project Site (miles)	Mean Characteristic Moment Magnitude
Calaveras (major active fault)	6.1	7.0
Hayward (major active fault)	6.8	7.0
Monte Vista-Shannon	9.3	6.5
N. San Andreas	14.2	8.0
Zayante-Vergeles	19.2	7.0
Greenville Connected	19.8	7.0
San Gregorio	28.5	7.5

Soil and Groundwater

Based on a geotechnical subsurface investigation completed in April 2018, the site is underlain by alluvium that consists of predominantly stiff clay with variable amounts of sand and gravel to the maximum depth explored. These clay, sand, and gravel deposits were encountered to a depth of 80 feet below the ground surface at the project site. The expansion potential of the near-surface clay materials is low.

[40] United States Geological Survey. "UCERF3: A New Earthquake Forecast for California's Complex Fault System." Accessed December 18, 2019. https://pubs.usgs.gov/fs/2015/3009/pdf/fs2015-3009.pdf.

Groundwater was encountered on the project site at an average depth of eight feet below the ground surface. Groundwater levels can fluctuate due to a range of environmental factors, including seasonal variations in precipitation. Groundwater was encountered at the site at levels ranging from seven to nine feet below the ground surface during the investigation.

Liquefaction and Lateral Spreading

Liquefaction

Liquefaction is a temporary loss of soil shear strength due to increase pore pressure associated with strong ground motion in areas of loose, low-plasticity soils and high groundwater levels. Liquefaction is defined by saturation of soil and a subsequent lack of cohesion. The project site is located in an area of low liquefaction potential, due to the predominantly dense, cohesive clay underlying the site.

Lateral Spreading

Lateral spreading is a type of liquefaction related ground failure. It occurs when soil is horizontally displaced toward an open ground face, such as a steep stream bank. Due to a combination of factors, including a low grade at the project site, the potential for lateral spreading or other liquefaction related ground failure at the site is low.

Paleontological Resources

The site is located in an area of high paleontological sensitivity at depth but is not within an area of high paleontological sensitivity at the ground surface.[41]

4.7.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
- Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42)?	☐	☐	☒	☐
- Strong seismic ground shaking?	☐	☐	☒	☐
- Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
- Landslides?	☐	☐	☒	☐

[41] City of San José. *Envision San José 2040 General Plan Final Environmental Impact Report.* Appendix J. 2010.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
c) Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☒	☐
d) Be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?	☐	☐	☒	☐
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒
f) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?	☐	☐	☒	☐

a) **Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault; strong seismic ground shaking; seismic-related ground failure, including liquefaction; or landslides?**

The project site is in the seismically active San Francisco Bay Area which has a 72 percent probability of experiencing at least one magnitude 6.7 earthquake during the next 30 years.[42] Due to the proximity of the project site to active faults, there is the potential for strong to very strong ground shaking during the life of the proposed project. The project site is, however, not located within an Earthquake Fault Zone as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map and the potential for ground failure due to fault rupture is low.

Based on a liquefaction analysis completed as a part of the site's geotechnical investigation, the soils on-site are sufficiently cohesive and/or dense to resist liquefaction (with the exception of thin discontinuous layers of medium dense sand). Based on these findings, the potential for liquefaction-induced structural damage is very low. Due to the flat topography of the project site and area, there is a low potential for landslides to occur in the project area.[43]

[42] United States Geological Survey. "UCERF3: A New Earthquake Forecast for California's Complex Fault System." Accessed December 18, 2019. https://pubs.usgs.gov/fs/2015/3009/pdf/fs2015-3009.pdf.
[43] California Department of Conservation. DOC Maps: California Geological Survey. Data Viewer. Accessed January 16, 2020. https://maps.conservation.ca.gov/cgs/#webmaps.

The nearest creek to the site is Lower Silver Creek, which is located approximately 0.4 miles northeast of the site. The liquefaction potential at the site is low and there are no open vertical faces on the site. For these reasons, the probability of lateral spreading occurring at the site is low.

In accordance with the City's General Plan and Municipal Code, and to avoid or minimize potential damage from seismic shaking, the proposed development would be built using standard engineering and seismic safety design techniques. All earthwork including, grading, backfilling, foundation excavation will be observed and inspected by a Geotechnical Engineer. The project shall implement the following standard permit condition for the proposed project.

Standard Permit Condition: 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 process and prior to the issuance of a grading permit. 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 Building Code.

With implementation of the above standard permit condition, the proposed project would not expose people or structures to substantial adverse effects due to ground shaking; nor would the project exacerbate existing geological hazards on the project site such that it would impact (or worsen) off-site geological and soil conditions. **(Less Than Significant Impact).**

b) **Would the project result in substantial soil erosion or the loss of topsoil?**

Construction of the proposed project would disturb the ground and expose soils, thereby increasing the potential for wind- or water-related erosion and sedimentation at the site until the completion of construction. The City's National Pollutant Discharge Elimination System (NPDES) General Permit, urban runoff policies, and the Municipal Code (which are discussed in Section 4.10, *Hydrology and Water Quality* of this Initial Study) are the primary means of enforcing erosion control measures. Construction activities would be subject to the requirements of those policies and regulations.

The City will require all phases of the project to comply with all applicable City regulatory programs pertaining to construction related erosion, including the following standard permit conditions.

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.

With implementation of the standard permit conditions, the project would not result in substantial soil erosion or loss of topsoil. **(Less Than Significant Impact)**

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

With the implementation of the previously identified standard permit conditions, the project would not cause soils or geologic units to become unstable as a result of the project. Refer to the analysis under the response to impact question a)**. (Less Than Significant Impact)**

d) **Would the project be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?**

The underlying soils present at the project site are mainly stiff clay, with thin, well-spaced deposits of dense sand and gravel. The expansion potential of near surface soils at the project site is low. Additionally, the project would be subject to the following standard permit condition.

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

With implementation of the above standard permit condition, the proposed project would not create substantial direct or indirect risks to life or property due to expansive soils. **(Less than Significant Impact)**

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

The proposed project would include sanitary sewer lines connecting the project to existing utilities infrastructure on Alum Rock Avenue. The proposed project would not require the construction of alternative wastewater disposal systems, including septic tanks, on the project site. Therefore, the proposed project would have no impact on soils from the use of septic tanks alternative wastewater disposal systems. **(No Impact)**

f) **Would the project directly or indirectly destroy a unique paleontological resource or site or unique geological feature?**

The project site is located in an area of high paleontological sensitivity at depth, but not high sensitivity at the ground surface. Additionally, soil on the project site has been previously disturbed during construction of the existing buildings. Development of the site under the proposed project is not expected to encounter paleontological resources.

Although not anticipated, construction activities associated with the proposed project could impact paleontological resources if they are encountered. The project shall implement the following standard permit condition.

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

- If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee 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 PBCE or the Director's designee.

Implementation of the above standard permit condition, in accordance with General Plan policies, would ensure that the proposed project would not significantly impact paleontological resources. **(Less Than Significant Impact)**

4.8 GREENHOUSE GAS EMISSIONS

This section is based in part upon an Air Quality and Greenhouse Gas Assessment completed by *Illingworth & Rodkin, Inc.* on December 18, 2019. The report is included in Appendix A of this Initial Study.

4.8.1 Environmental Setting

4.8.1.1 *Background Information*

Gases that trap heat in the atmosphere, GHGs, regulate the earth's temperature. This phenomenon, known as the greenhouse effect, is responsible for maintaining a habitable climate. In GHG emission inventories, the weight of each gas is multiplied by its global warming potential (GWP) and is measured in units of CO_2 equivalents (CO_2e). The most common GHGs are carbon dioxide (CO_2) and water vapor but there are also several others, most importantly methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6). These are released into the earth's atmosphere through a variety of natural processes and human activities. Sources of GHGs are generally as follows:

- CO_2 and N_2O are byproducts of fossil fuel combustion.
- N_2O is associated with agricultural operations such as fertilization of crops.
- CH_4 is commonly created by off-gassing from agricultural practices (e.g., keeping livestock) and landfill operations.
- Chlorofluorocarbons (CFCs) were widely used as refrigerants, propellants, and cleaning solvents, but their production has been stopped by international treaty.
- HFCs are now used as a substitute for CFCs in refrigeration and cooling.
- PFCs and SF_6 emissions are commonly created by industries such as aluminum production and semiconductor manufacturing.

An expanding body of scientific research supports the theory that global climate change is currently causing changes in weather patterns, average sea level, ocean acidification, chemical reaction rates, and precipitation rates, and that it will increasingly do so in the future. The climate and several naturally occurring resources within California are adversely affected by the global warming trend. Increased precipitation and sea level rise will increase coastal flooding, saltwater intrusion, and degradation of wetlands. Mass migration and/or loss of plant and animal species could also occur. Potential effects of global climate change that could adversely affect human health include more extreme heat waves and heat-related stress; an increase in climate-sensitive diseases; more frequent and intense natural disasters such as flooding, hurricanes and drought; and increased levels of air pollution.

4.8.1.2 *Regulatory Framework*

State

Assembly Bill 32

Under the California Global Warming Solutions Act, also known as AB 32, CARB established a statewide GHG emissions cap for 2020, adopted mandatory reporting rules for significant sources of GHGs, and adopted a comprehensive plan, known as the Climate Change Scoping Plan, identifying how emission reductions would be achieved from significant GHG sources. The GHG reduction goals of AB 32 were guided by Executive Order S-3-05, which was signed in 2005 and set reduction targets for 2010, 2020, and 2050. Executive Order S-3-05 sets a long-term GHG reduction goal of 80 percent below 1990 levels by 2050.

Senate Bill 32

In 2016, SB 32 was signed into law, amending the California Global Warming Solution Act. SB 32, and accompanying Executive Order B-30-15, require CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its Climate Change Scoping Plan in December of 2017 to express the 2030 statewide target in terms of million metric tons of CO_2E ($MMTCO_2e$). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 $MMTCO_2e$.

Executive Order EO B-55-18

In September 2018, the State of California Governor issued a new executive order, EO B-55-18, which established a new statewide goal "to achieve carbon neutrality as soon as possible, and no later than 2045, and achieve and maintain net negative emissions thereafter. Emissions can be offset by achieving equivalent net removals of carbon dioxide (CO_2) from the atmosphere through sequestration in forests, soils, and other natural landscapes. The executive order states that this new goal is in addition to the existing statewide targets of reducing greenhouse gas emissions under SB 32. EO B-55-18 requires the CARB to work with relevant state agencies to ensure future Scoping Plans identify and recommend measures to achieve the carbon neutrality goal.

Senate Bill 375

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

Consistent with the requirements of SB 375, the Metropolitan Transportation Commission (MTC) partnered with the Association of Bay Area Governments (ABAG), BAAQMD, and the Bay Conservation and Development Commission to prepare the region's Sustainable Communities Strategy (SCS) as part of the Regional Transportation Plan process. The SCS is referred to as Plan Bay Area 2040. Plan Bay Area 2040 establishes a course for reducing per-capita GHG emissions through the promotion of compact, high-density, mixed-use neighborhoods near transit, particularly

within identified Priority Development Areas (PDAs). The project site is located within the East Santa Clara/Alum Rock Corridor PDA.[44]

Regional and Local

2017 Clean Air Plan

To protect the climate, the 2017 CAP (prepared by BAAQMD) includes control measures designed to reduce emissions of methane and other super-GHGs that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

CEQA Air Quality Guidelines

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

Climate Smart San José

Climate Smart San José was developed by the City to reduce air pollution, save water, and create a healthier community. The plan contains nine strategies to reduce carbon emissions consistent with the Paris Climate Agreement. These strategies include use of renewable energy, densification of neighborhoods, electrification and sharing of vehicle fleets, investments in public infrastructure, creating local jobs, and improving building energy-efficiency.

Reach Building Code

In 2019, the San José City Council approved Ordinance No. 30311 and adopted Reach Code Ordinance (Reach Code) to reduce energy related GHG emissions consistent with the goals of Climate Smart San José. The Reach Code applies to new construction projects in San Jose. It requires new residential construction to be outfitted with entirely electric fixtures. Mixed-fuel buildings (i.e., use of natural gas) are required to demonstrate increased energy efficiency through a higher Energy Design Ratings and be electrification ready. In addition, the Reach Code requires EV charging infrastructure for all building types (above current CalGreen requirements), and solar readiness for non-residential buildings.

Post 2020-Impact Thresholds

As described previously, BAAQMD adopted GHG emissions thresholds of significance to assist in the review of projects under CEQA. These thresholds were designed to establish the level at which BAAQMD has determined that GHG emissions would cause significant environmental impacts. The

[44] City of San José. *Priority Development Areas.* Accessed December 31, 2019. https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/data-and-maps/area-maps/priority-development-areas.

GHG emissions thresholds identified by BAAQMD are 1,100 metric tons (MT) of CO_2e per year or 4.6 MT CO_2e per service population per year. A project that is in compliance with the City's Climate Action Plan (a qualified GHG Reduction Strategy) is considered to have a less than significant GHG impact regardless of its emissions.

The numeric thresholds set by BAAQMD and included within the City's Climate Action Plan were calculated to achieve the state's 2020 target for GHG emissions levels (and not the SB 32 specified target of 40 percent below the 1990 GHG emissions level). The project would begin construction in July 2020 and would take approximately 18 months to complete. The project, therefore, would not be fully constructed and occupied until after December 31, 2020. Because the project would be completed in the post-2020 timeframe, the project would not be covered under the City's Climate Action Plan.

CARB has completed a Scoping Plan, which will be utilized by BAAQMD to establish the 2030 GHG efficiency threshold. BAAQMD has yet to publish a quantified GHG efficiency threshold for 2030. For the purposes of this analysis, a Substantial Progress efficiency metric of 2.6 MT CO2e/year/service population has been calculated for 2030 based on the GHG reduction goals of SB 32 and Executive Order B-30-15, taking into account the 1990 inventory and the projected 2030 statewide population and employment levels.

Envision San José 2040 General Plan

The following General Plan policies are related to GHG emissions and are applicable to the proposed project.

Policy	Description
Action MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g. design to maximize cross ventilation and interior daylight) and through site design techniques (e.g. orienting buildings on sites to maximize the effectiveness of passive solar design).
Policy MS-14.4	Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
Policy CD-3.2	Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure that the design of new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity.
Policy CD-5.1	Design areas to promote pedestrian and bicycle movements and to facilitate interaction between community members and to strengthen the sense of community.

City of San José Municipal Code

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

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

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

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

4.8.1.3 *Existing Conditions*

The project site is occupied by a restaurant, a tire store, an automobile sales and repair business, and an apartment building. GHG emissions generated by the current uses primarily result from vehicles traveling to and from the site.

4.8.2 Impact Discussion

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

a) **Would the project generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment?**

BAAQMD adopted thresholds of significance to assist the review of projects under CEQA. These thresholds were designed to establish the level at which BAAQMD reports GHG emissions would cause significant environmental impacts. The significance thresholds identified by BAAQMD are 1,100 MT of CO_2e per year or 4.6 MT CO_2e per service population per year. In addition, a project that is in compliance with the City's Climate Action Plan (a qualified GHG Reduction Strategy) is

considered to have a less than significant GHG impact. The numeric thresholds, however, were established to achieve the State's 2020 target of 1990 GHG levels.

The project would begin operations in 2023. Although BAAQMD has yet to publish a threshold for 2030, for the purposes of this Initial Study, the 2.6 MT CO_2e per service population/year efficiency threshold for 2030 is utilized. This threshold is utilized for new projects that will be constructed and operational after 2020 and before 2031.

CalEEMod was used to predict GHG emissions from operation of the site assuming full build-out of the project. The project land use types and size and other project-specific information were input to the model, as described above within the operational period emissions. The project would use SJCE as the electricity provider. It is assumed the project would use natural gas, although the City's new Reach Code would discourage this source of energy. Assuming the project would be operational by 2023 at the earliest, the 100 percent carbon-free SJCE-provided electricity assumption was applied to the project modeling.

Greenhouse Gas Emissions Impacts

Construction Emissions

Short-term GHG emissions from the construction phase of the project would consist of primarily heavy equipment exhaust, worker travel, materials delivery, and solid waste disposal. GHG emissions associated with construction were computed to be 503 MT of CO_2e for the total construction period using CalEEMod and EMFAC2017 (refer to Appendix A). Neither the City of San José nor BAAQMD have an adopted threshold of significance for construction related GHG emissions; however, BAAQMD recommends quantifying emissions and disclosing that GHG emissions would occur during construction.

Because construction would be temporary (approximately 18 months) and would not result in a permanent increase in emissions, the project would not interfere with the implementation of AB 32 or SB 32.

Operational Emissions

Operational emissions generated by the project includes vehicular traffic within the project vicinity, energy and water usage, and solid waste disposal. CalEEMod was used to predict GHG emissions from operation of the site assuming full buildout of the project. The project land use types and size and other project-specific information were input to the model (i.e., 123 apartment units, 13,897 square feet of retail/strip mall, 170 parking spaces).[45] The proposed building would use SJCE as the electricity provider, which provides 100-percent carbon-free electricity for new projects that will be operational in 2021 or later. The proposed project would be constructed and operational after 2021.

As shown in Table 4.7-1, the annual emissions resulting from operation of the proposed project are predicted to be 725 MT of CO_2e for the year 2023. The service population emissions for the year

[45] The project proposes 13,650 square feet of retail space. 13,897 square feet of retail space was input into CalEEMod, which provides a conservative greenhouse gas analysis.

2023 would be 1.9 MT CO_2e/year/service population (assuming the project would accommodate a service population of 394 residents and 55 employees).[46]

Table 4.8-1: Annual Project GHG Emissions (CO_2e)	
Source Category	**Proposed Project in 2023**
Area	6
Energy Consumption	59
Mobile	609
Solid Waste Generation	36
Water Usage	15
Total (MT CO_{2e}/year)	725
Service Population Emissions (MT CO_2e/year/service population)	1.6 MT CO_{2e}/year
Significance Threshold	**2.6 MT CO_{2e}/year**
Significant (Exceeds both thresholds)?	*No*

The 2023 operational GHG emissions do not exceed the 2030 "Substantial Progress" efficiency metric of 2.6 MT CO_2e/year/service population. Since the project's operational emissions would be below this efficiency metric, the project's GHG emissions would not result in a significant impact to the environment. **(Less Than Significant Impact)**

b) **Would the project conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs?**

Given the project's operational GHG emissions is below the 2030 Substantial Progress" efficiency metric, the project is consistent with the SB 32 goal to reduce statewide GHG emissions to 40 percent below the 1990 levels by 2030. As previously discussed, the proposed development would use SJCE as the electricity provider, which provides 100-percent carbon-free electricity. The project would include a Transportation Demand Management (TDM) Plan which reduces VMT and GHG emissions (refer to the discussion below). The project also includes design features such as trees which help sequester carbon. As a result, the project would not conflict with the long-term goals of under AB 32 to reduce GHG emissions 80 percent below 1990 levels by 2050 or Executive Order to achieve carbon neutrality by 2045.

While the construction and operation of this project would not be completed prior to 2020, in the interim, the project would comply with the mandatory measures and voluntary measures required by the City, which would ensure the project's consistency with the City's GHG Reduction Strategy.

[46] The operational GHG emissions does not account for existing uses. Trips generated by existing uses are typically based on the existing driveway counts. Driveway counts for existing uses were not completed since customers/employees primarily utilize on-street parking and do not park on the site.
13,650 square feet/250 square feet per one employee = 55 employees
3.2 residents per household * 123 residential units = 394 residents

The proposed project's consistency with these measures is detailed below.

Mandatory Criteria

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

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

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

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

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

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

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

The proposed project is consistent with the General Plan land use and zoning designation for the site. The building would be constructed in compliance with the San José Green Building Ordinance (Policy 6-32) and the California Building Code requirements. Given the project's consistency with the General Plan land use designation, compliance with Policy 6-32 and California Building Code requirements, the project would be consistent with mandatory criteria 1, 2, and 3. The proposed project would implement a TDM Plan[47]. The primary purpose of the TDM plan is to reduce the project's parking demand and VMT. The project's TDM measures include:

[47] The TDM plan would need to be re-evaluated annually for the life of the project. If it is determined that the parking reduction is not being achieved (i.e., the on-site parking garage reaches full capacity), additional TDM measures would need to be introduced.
Hexagon Transportation Consultants. Little Portugal Gateway Mixed-Use Development TDM Plan. January 14, 2020

- Bicycle parking spaces for residential and retail uses.
- A trip planning kiosk which would provide information regarding non-auto transportation alternatives
- Provision of 100 percent unbundled parking for all residential spaces.
- Transit subsidies which encourage residents and employees to use transit (e.g., provide VTA SmartPasses to all residential tenants)

The project would be required to achieve a minimum 10 percent reduction in traffic trips to meet the City's 2017 CAP goals. The City will require verification of the TDM reductions and, therefore, the project would be consistent with criteria 6.

Criteria 4, 5, and 7 are not applicable to the proposed project because the project site has no historic structures, the project does not include a data center or other energy-intensive uses, and the site does not propose drive-through or vehicle serving uses.

The proposed project is consistent with the existing General Plan land use designation and would comply with the applicable mandatory measures of the GHG Reduction Strategy (Criteria 1, 2 and 3). Therefore, the proposed project is consistent with local policies and programs designed to reduce GHG emissions and impacts would be less than significant. **(No Impact)**

4.9 HAZARDS AND HAZARDOUS MATERIALS

This discussion is based in part upon a Phase I Environmental Site Assessment completed April 2018 and a Site Assessment Summary Memorandum (Phase II ESA) completed in June 2018 by Arcadis. A copy of these reports is provided in Appendix E of this Initial Study.

4.9.1 Environmental Setting

4.9.1.1 *Regulatory Framework*

Overview

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and state laws. Federal regulations and policies related to development include the Comprehensive Environmental Response, Compensation, and Liability Act, commonly known as Superfund, and the Resource Conservation and Recovery Act. In California, the EPA has granted most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (CalEPA). In turn, local agencies have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program.

Worker health and safety and public safety are key issues when dealing with hazardous materials. Proper handling and disposal of hazardous material is vital if it is disturbed during project construction. Cal/OSHA enforces state worker health and safety regulations related to construction activities. Regulations include exposure limits, requirements for protective clothing, and training requirements to prevent exposure to hazardous materials. Cal/OSHA also enforces occupational health and safety regulations specific to lead and asbestos investigations and abatement.

Federal and State

Federal Aviation Regulations Part 77

Federal Aviation Regulations, Part 77 Objects Affecting Navigable Airspace (FAR Part 77) sets forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of potential structures and minimizing other potential hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircraft in flight. These regulations require that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above the ground.

Government Code Section 65962.5

Section 65962.5 of the Government Code requires CalEPA to develop and update a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by state and local agencies and developers to comply with CEQA requirements. The Cortese List includes hazardous

substance release sites identified by the Department of Toxic Substances Control (DTSC) and State Water Resources Control Board (SWRCB).[48]

California Accidental Release Prevention Program

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

Asbestos-Containing Materials

Friable asbestos is any asbestos containing material (ACM) that, when dry, can easily be crumbled or pulverized to a powder by hand, allowing the asbestos particles to become airborne. Common examples of products that have been found to contain friable asbestos include acoustical ceilings, plaster, wallboard, and thermal insulation for water heaters and pipes. Common examples of non-friable ACMs are asphalt roofing shingles, vinyl floor tiles, and transite siding made with cement. The EPA phased out use of friable asbestos products between 1973 and 1978. National Emission Standards for Hazardous Air Pollutants guidelines require that potentially friable ACMs be removed prior to building demolition or remodeling that may disturb the ACMs.

CCR Title 8, Section 1532.1

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

Regional and Local

Municipal Regional Permit Provision C.12.f

Polychlorinated biphenyls (PCBs) were produced in the United States between 1955 and 1978 and used in hundreds of industrial and commercial applications, including building and structure materials such as plasticizers, paints, sealants, caulk, and wood floor finishes. In 1979, the EPA banned the production and use of PCBs due to their potential harmful health effects and persistence in the environment. PCBs can still be released to the environment today during demolition of buildings that contain legacy caulks, sealants, or other PCB-containing materials.

With the adoption of the San Francisco Bay Region Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit (MRP) by the San Francisco Bay Regional Water Quality Control Board on November 19, 2015, Provision C.12.f requires that permittees develop an assessment protocol methodology for managing materials with PCBs in applicable

[48] CalEPA. "Cortese List Data Resources." Accessed January 13, 2020. https://calepa.ca.gov/sitecleanup/corteselist.

structures planned for demolition to ensure PCBs do not enter municipal storm drain systems.[49] Municipalities throughout the Bay Area are currently modifying demolition permit processes and implementing PCB screening protocols to comply with Provision C.12.f. As of July 1, 2019, buildings constructed between 1955 and 1978 that are proposed for demolition must be screened for the presence of PCBs prior to the issuance of a demolition permit.

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

The Norman Y. Mineta San José International Airport (Airport) Comprehensive Land Use Plan (CLUP) is intended to safeguard the general welfare of the inhabitants within the vicinity of the Airport and aircraft occupants. The CLUP establishes an airport land use planning area, referred to as the Airport Influence Area (AIA). The AIA is a composite of areas surrounding the Airport that are affected by noise, height, and safety considerations. The CLUP includes land use compatibility guidelines, with topics such as noise and building height, to ensure that surrounding land uses and development do not interfere with the Airport's continuing operations.

Envision San José 2040 General Plan

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

Envision San José 2040 Relevant Hazardous Material Policies

Policy	Description
Policy EC-6.6	Address through environmental review for all proposals for new residential, park and recreation, school, day care, hospital, church or other uses that would place a sensitive population in close proximity to sites on which hazardous materials are or are likely to be located, the likelihood of an accidental release, the risks posed to human health and for sensitive populations, and mitigation measures, if needed, to protect human health.
Action EC-6.8	The City will use information on file with the County of Santa Clara Department of Environmental Health under the California Accidental Release Prevention (CalARP) Program as part of accepted Risk Management Plans to determine whether new residential, recreational, school, day care, church, hospital, seniors or medical facility developments could be exposed to substantial hazards from accidental release of airborne toxic materials from CalARP facilities.
Action EC-6.9	Adopt City guidelines for assessing possible land use compatibility and safety impacts associated with the location of sensitive uses near businesses or institutional facilities that use or store substantial quantities of hazardous materials by 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.

[49] California Regional Water Quality Control Board. *San Francisco Bay Region Municipal Regional Stormwater NPDES Permit.* November 2015.

Policy EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state, and federal laws, regulations, guidelines and standards.
Policy EC-7.4	On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-paint and asbestos-containing materials, shall be implemented in accordance with state and federal laws and regulations.
Policy EC-7.5	In development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements.
Policy EC-7.8	Where an environmental review process identified 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 hazardous materials found in the soil, groundwater, soil vapor, or in existing structures.
Policy EC-7.9	Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.
Action EC-7.10	Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.
Action EC-7.11	Require sampling for residual agricultural chemicals, based on the history of land use, on sites to be used for any new development or redevelopment to account for worker and community safety during construction. Mitigation to meet appropriate end use such as residential or commercial/industrial shall be provided.

4.9.1.2 *Existing and Historic Conditions*

Project Site

The site is comprised of three parcels with a restaurant, apartment building, and carport located at 1661 Alum Rock Avenue, a tire store located at 1663 Alum Rock Avenue, and an automobile sales and repair business and detached garage located at 1665 Alum Rock Avenue.

The restaurant and apartment building were constructed between 1953 and 1958. The commercial building/tire store was constructed in 1949. A restaurant operated in this building until the 1960s, when the building was occupied by a dry cleaner. The building remained a dry cleaner until the late 1970s. In 1991, operations at the building included a commercial business named Kathy's Store.

The automobile sales and repair building was constructed in 1920. The building was a residence from the 1920s until the 1930s, when the site was occupied by a gasoline station. By 1949, the property

was an automobile repair shop and a residence. By 1954 until at least the 1970s, a used car dealership was operating on the property.

Surrounding Areas

The project site is currently surrounded by residential and commercial uses. Between 1915 and 1950, residential buildings were constructed to the west of the site. In 1969, additions were made to two of the residences along Alum Rock Avenue. These buildings became mixed commercial and residential buildings. Buildings to the west of the site are currently used for residential and commercial purposes.

In 1915, two houses were located on the opposite side of Alum Rock Avenue. By 1950, additional buildings were located south of the site which included a post office, a commercial business, and another residence. Between 1950 and 1969, one of the residential buildings to the south was demolished and the property was converted to an automobile sales lot. South of Alum Rock Avenue and across from the site, there are currently three commercial buildings, two-single family residences (with one residence behind a commercial building) and a multi-family residential building.

The adjacent property to the east of the site was also a residence in 1915. The property was a vacant lot in 1950 and by 1969, the property was an auto sales and automobile service business lot consisting of three buildings. The property now contains a church and a paved parking area.

4.9.1.3 *Contamination Sources and Previous Investigations*

Contamination from On-site Sources

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

One 500-gallon gasoline underground storage tank (UST) was installed at 1665 Alum Rock Avenue, prior to 1986, and removed in 1991. Impacted soil and groundwater were identified during the UST removal. The project site was entered into the State leaking underground storage tank (LUST) Trust Fund Program, and groundwater monitoring was completed on a quarterly basis on-site in 1997. Residual contamination was left in place following the last monitoring event (in April of 1998), which showed that contamination levels dropped significantly since 1997. Analytical results from the April 1998 sampling event showed that benzene levels were detected above regulatory environmental screening levels (ESLs). In-situ bioremediation was completed based on recommendations in a June 1998 Corrective Active Plan. The LUST incident was issued a Case Closure Letter on April 28, 2000 and does not require additional controls. Natural attenuation is expected and allowed by the County of Santa Clara Department of Environmental Health, and residual contaminant concentrations are expected to diminish over time. Given that that the present residual contamination levels are unknown, the LUST incident was identified as a recognized environmental condition (REC) in the Phase I ESA.

Contamination from Off-site Sources

Numerous surrounding properties were identified in the regulatory environmental databases search completed as a part of the Phase I ESA. Surrounding properties were evaluated to determine if the properties were a potential environmental concern for the project site. The following criteria was used to evaluate the potential that surrounding properties could adversely affect the site:

- Distance from the site
- Expected depth and direction of groundwater flow
- Expected direction of surface water and stormwater runoff flow
- Presence or absence of documented releases of hazardous substances and/or petroleum products at the identified facilities, the nature of such releases, and where applicable, status of associated investigations, remediation, and regulatory closure.

Based on the above criteria, one off-site property (1694 Alum Rock Avenue) was identified as an environmental concern for the project site.

The off-site restaurant property (former gas station) located at 1694 Alum Rock Avenue is listed as an active LUST site undergoing assessment and remedial action. The off-site restaurant is located approximately 250 feet east of the project site and is located on the southwest corner of the Alum Rock Avenue and South King Road intersection. The restaurant property operated as a gasoline station from approximately 1956 through 1977.

Subsurface investigations have been completed at the site since April 2015. Potential contaminants of concern include benzene, diesel, ethylbenzene, fuel oil, methyl tert-butyl ether (MTBE)/tertiary butyl alcohol (TBA)/other fuel oxygenates, naphthalene, toluene, and xylene. Since 2017, a semi-annual monitoring event schedule has been established. Based on the Second Semiannual 2018 Groundwater Monitoring Report, the above contaminants of concern were generally limited to the property's immediate vicinity of the former USTs and that dissolved phase benzene was below the State Water Resources Control Board's low threat closure policy screening level. The contaminants of concern were stable or decreasing.[50] As a result, in February 2019, the Santa Clara Department of Environmental Health (DEH) approved cessation of groundwater sampling activities.[51] Since there was still a potential for down gradient vapor encroachment on the site (based on groundwater flow direction and proximity to the site), the property was considered a REC from an off-site source for the project site.

<u>On-site Sampling</u>

Based on the recognized environmental concerns and potential contaminants identified in the Phase I ESA, soil and soil vapor samples were collected at nine soil boring locations (SB-1 through SB-9, see Appendix D Site Assessment Memorandum) on the project site in May 2018.

[50] AECOM. *Second Semiannual 2018 Groundwater Monitoring Report: Former Shell-Branded Service Station (Martina Family Trust) – 1694 Alum Rock Avenue, San Jose, CA 9511*6. January 31, 2019. Accessed January 13, 2020. https://geotracker.waterboards.ca.gov/.

[51] County of Santa Clara, Department of Environmental Health. *Fuel leak Investigation: Martina Family Trust, 1694 Alum Rock Ave., San Jose, CA.* February 5, 2019. Accessed January 13, 2020. https://geotracker.waterboards.ca.gov/.

Soil Sampling

In May 2018, soil samples were collected at depths of one, four, 10 and 16 feet below the ground surface. Soil samples were analyzed for the following chemicals:

- Total petroleum hydrocarbons (TPH) quantified as diesel range organics (TPH-DRO)
- TPH quantified as motor oil range organics (TPH-MRO)
- TPH quantified as gasoline range organics (TPH-GRO)
- Volatile and semi-volatile organic compounds (VOCs/SVOCs)
- Title-22 metals (including arsenic)
- Asbestos

Samples were collected at approximately one foot below the ground surface from all soil borings were additionally analyzed for polychlorinated biphenyls (PCBs) and organochlorine pesticides.

Based on the sample results, two of three TPH-DRO samples (SB-3 and SB-6) collected (at one foot below ground surface) had concentrations above regulatory environmental screening levels (ESLs). Benzo[b]fluoranthene and benzo[a]pyrene (SVOCs) were detected in the SB-3 soil sample and were above their respective ESLs. Arsenic was detected in all nine samples above the established background range in the San Francisco Bay Area. Sample SB-7 particularly had high concentrations of arsenic. Lead was detected in all samples analyzed and two samples of lead (SB-2-1 and SB-3-1) had concentrations above the ESL.

TPH-GRO, TPH-MRO, VOCs and OCPs were not detected in any samples above their respective ESLs. PCBs and asbestos were not detected above the laboratory reporting limits in any samples analyzed.

Soil Vapor Sampling

In May 2018, soil vapor samples were collected from seven of the nine soil boring locations (SVP-1- through SVP-7) and were analyzed for VOCs. VOCs including ethanol, toluene, xylenes, 4-ethyltoluene, cyclohexane, 1,3,5-trimethylbenzene, 1,2,4- trimethylbenzene, and 2,2,4-trimethylpentane were detected above laboratory reporting limits. The detections, however, were all below their respective ESLs. As a result, contaminated soil vapor is not an environmental concern for the project site.

Lead-Based Paint and Asbestos-Containing Building Materials

The buildings on-site were constructed between the 1920s and 1950s. Based on the construction dates of the on-site buildings, asbestos-containing materials (ACMs) may have been used during the construction of the buildings. Based on a visual inspection of the buildings as a part of the Phase I ESA, ACMs may be in surface material, flooring, roofing materials, and drywall systems.

The use of lead-based paint was banned by the U.S. Consumer Product Safety Commission in 1978. The buildings on-site likely contain lead-based paint. As a part of the Phase I ESA, painted surfaces were observed throughout the on-site buildings; Paint that was chipped, peeling, cracked, or otherwise deteriorating, was observed.

4.9.1.4 *Other Hazards*

Airports

The nearest airports to the site are the Reid-Hillview Airport, approximately two miles southeast of the project site, and the Norman Y. Mineta San José International Airport, approximately three miles west of the site. Given the distance of the project site from these airports, the site is not located within the AIA of either airport, nor is the site located in an airport safety zone designated in the Comprehensive Land Use Plans.[52]

For the Norman Y. Mineta San José International Airport, based on the Federal Aviation Administration Federal Aviation Regulations (FAR) Part 77 requirements, developments proposed for heights above 140 to 145 feet above ground surface, require submittal to the FAA for airspace safety review to reduce airspace hazards.[53] The maximum height of the proposed apartment building would be 80 feet above the ground surface.

Wildfire Hazards

The project site is surrounded by residential and commercial development and is not located within a Very-High Fire Hazard Severity Zone for wildland fires designated by California Department of Forestry and Fire Protection (CalFIRE).[54]

4.9.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with 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?	☐	☐	☒	☐
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?	☐	☒	☐	☐

[52] County of Santa Clara, Department of Planning and Development. *Airport Land Use Commission: Comprehensive Land Use Plans and Associated Documents*. November 16, 2016. Accessed January 24, 2020. https://www.sccgov.org/sites/dpd/Commissions/ALUC/Pages/ALUC.aspx.

[53] FAA noticing would be required for buildings approximately 230 feet above mean sea level (amsl). The site is approximately 85 feet amsl. Structures above 145 feet above ground surface (230 feet – 85 feet amsl) would be required to submit noticing to the FAA.
Norman Y. Mineta San José Airport. *Notice Requirement Criteria for Filing FAA Form 7460-1*. 2013.

[54] California Department of Forestry and Fire Protection. *Santa Clara County FHSZ Map*. November 6, 2007. Accessed January 18, 2020. https://osfm.fire.ca.gov/divisions/wildfire-planning-engineering/wildland-hazards-building-codes/fire-hazard-severity-zones-maps/.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☒	☐
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?	☐	☐	☐	☒
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, result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☐	☒
f) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	☐	☐	☐	☒

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

The proposed project would require the removal and off-haul of soils contaminated with TPH and SVOCs to disposal facilities during construction. With the implementation of mitigation measure MM HAZ-1.2 which requires the implementation of a Site Management Plan (SMP) and Health and Safety Plan (HSP), the project would not result in a significant hazard to the public or environment through the transport or disposal of hazardous materials to off-site facilities during construction (refer to response to Question b) below).

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

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

Hazards from Contaminated Soil and Soil Vapor

The Phase I ESA identified two recognized environmental conditions related to soil/groundwater contamination including the previous LUST incident at 1665 Alum Rock and the UST release incident at a former gas station located at 1694 Alum Rock Avenue (off-site). Based on these recognized environmental conditions, soil samples were collected and analyzed for TPH-DRO, TPH-MRO, TPH-GRO, VOCs/SVOCs, Title-22 metals (including arsenic), and asbestos. The results showed that two of three TPH-DRO samples (SB-3 and SB-6) collected had concentrations above regulatory ESLs. Benzo[b]fluoranthene and benzo[a]pyrene (SVOCs) were detected in the SB-3 soil sample and were above their respective ESLs. Arsenic was detected in all nine samples above the established background range in the San Francisco Bay Area. Sample SB-7 particularly had high concentrations of arsenic. Two samples of lead (SB-2-1 and SB-3-1) had concentrations above the ESL. The source of these contaminants is not known; however, the contamination could possibly be a result of past automobile repair uses at the site. [55]

Impact HAZ-1: Construction of the proposed mixed-use development could result in the exposure of construction workers and adjacent residences to soils contaminated with total petroleum hydrocarbons, semi-volatile organic compounds (SVOCs), lead, and arsenic above regulatory screening levels or background concentrations. **(Significant Impact)**

Mitigation Measures: The project would implement the following measures to minimize the effects of potential contaminants during and after site development.

MM HAZ-1.1: The project applicant shall obtain regulatory oversight from Santa Clara Department of Environmental Health (DEH) regarding the next steps and appropriate actions. Any further investigation and remedial actions must be performed under regulatory oversight to mitigate the contamination.

The project applicant shall enter the Santa Clara County Department of Environmental Health Site Cleanup Program to assess the petroleum levels and potential presence of a closed Underground Storage Tank.

The applicant will provide the SCCDEH with the most recent Phase I and soil sampling results. Any further investigation and/or remedial actions must be performed under regulatory oversight to mitigate the contamination and make the site suitable for the proposed residential development.

[55] Personal Communications: Donald, Jessica, City of San José, Environmental Services Department. *RE: Little Portugal Gateway (1661-1665 Alum Rock Avenue) Mixed-Use Project*. October 18, 2019.

MM HAZ-1.2: A Site Management Plan (SMP) shall be prepared by a qualified environmental professional and implemented during project construction activities. The SMP and HSP shall characterize the soil and establish appropriate management practices for handling impacted soil that may be encountered during construction activities. The SMP shall evaluate potential disposal options if excess soil is generated that will require off-haul and describe methods for segregating impacted and non-impacted soil during excavation activities. The HSP shall establish soil management practices to ensure construction worker safety and the health of future workers, residents, and the environment.

If naturally occurring asbestos is identified during soil sampling or if it is determined that it is likely to be encountered during excavation and trenching activities, the SMP shall include asbestos dust mitigation measures and protocols to perform personnel and perimeter air and dust monitoring to evaluate the effectiveness of dust-control measures.

If groundwater dewatering is to be conducted, the SMP shall describe methods for groundwater extraction. The SMP shall outline protocols for pumping groundwater into appropriate storage containers, as well as sampling and analysis. The SMP shall also establish appropriate disposal options for the groundwater.

The SMP and evidence of regulatory oversight, shall be provided to the Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement and the Environmental Compliance Officer in the City of San José's Environmental Services Department.

With the implementation of the MM HAZ-1.1 and MM HAZ-1.2, hazardous conditions on-site and the transport of contaminated soils would not result in a significant hazard to construction workers, the public, or the environment. **(Less Than Significant Impact with Mitigation Incorporated)**

Asbestos-Containing Materials and Lead-Based Paint Impacts from Current On-Site Structures

Given the age of the existing buildings, the structures likely contain lead-based paint or asbestos. An asbestos survey would be required by local authorities in accordance with National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines and Occupational Safety and Health Administration (OSHA) regulations. Demolition of the existing structures on-site could expose construction workers and nearby building occupants to harmful levels of lead or asbestos. The project would be required to implement the following standard permit conditions to reduce impacts due to the presence of ACMs and/or lead-based paint.

Standard Permit Conditions:

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

    - Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint.
    - During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR, Section 1532.1, including employee training, employee air monitoring and dust control.
    - Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of waste being disposed.

With the implementation of the above standard permit conditions, ACMs and/or lead-based paint at the on-site buildings would not result in a significant hazard to future construction workers, adjacent residences, or the environment. **(Less Than Significant Impact)**

Polychlorinated Biphenyl Compounds

During demolition, polychlorinated biphenyls (PCBs) in building materials could be released and exposed to stormwater runoff from the project site during rain events. The PCB-contaminated runoff would eventually enter the municipal storm drain system, from which it would ultimately be discharged to San Francisco Bay. Given the carport structure associated with the on-site apartment building was constructed in 1958 (between 1955 and 1978), demolition at the site must be screened for the presence of PCBs prior to the issuance of a demolition permit. Beginning July 1, 2019, all applicants for a demolition permit or any other permit that involves the complete demolition of a

building in San José must submit a PCB Screening Assessment Form with their permit application.[56] The form is designed to help applicants ascertain whether the building targeted for demolition is subject to the PCB Screening Assessment. If it is determined through the assessment process that the building(s) do contain PCBs that exceed the RWQCB threshold limits, the applicant must follow applicable federal and State laws, which may include reporting to such agencies as US EPA, RWQCB, and the California Department of Toxic Substances, who may require additional sampling and abatement of PCBs. The project applicant would be required to implement the following standard permit condition:

Standard Permit Condition: The project applicant shall conform to the City of San José permitting requirements, consistent with RWQCB regulations, by submitting a PCB Screening Assessment Form when applying for a demolition permit to demolish the existing building(s) on the project site and shall comply with any resulting sampling and abatement procedures as directed by federal and State agencies.

Conformance with these regulatory requirements would result in a less than significant impact from the demolition of the existing building on site. **(Less Than Significant Impact)**

c) **Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?**

San Antonio Elementary School, located at 1721 E. San Antonio Street, is approximately 0.2 miles southeast of the project site. The project does not propose the uses of substantial hazardous materials on-site during operations as discussed in the response to question a). The project would comply with mitigation measures MM HAZ-2.1, MM HAZ-2.2, and MM HAZ-2.3 and ACM and lead-based paint standard permit conditions to avoid significant contaminant releases into the environment during construction. The project would comply with the standard permit conditions to reduce fugitive dust emissions during construction (refer to Section 4.3, Air Quality). For these reasons, the project would not emit hazardous emissions or handle hazardous materials that would impact the nearby school. **(Less Than Significant Impact)**

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

The project site is not listed as a hazardous materials site pursuant to Government Code Section 65962.5, and therefore, would not result in a significant hazard to the public or the environment.[57] **(No Impact)**

[56] City of San José, Planning, Building and Code Enforcement Department. Demolition Permit Application – Managing PCBs. Accessed January 18, 2020. https://www.sanjoseca.gov/your-government/departments-offices/environmental-services/water-utilities/stormwater/demolition-permit-application.
[57] California Environmental Protection Agency. Cortese List Data Resources. Accessed January 14, 2020. https://calepa.ca.gov/sitecleanup/corteselist/.

e) **If 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?**

The project site is not located within the AIA of the Reid-Hillview or Norman Y. Mineta San José International Airports and, therefore, is not subject to the policies in the Comprehensive Land Use Plans (CLUPs). The project site is not located within the airport safety zone of either airport and is located outside of the 60 decibels (dB) community noise equivalent level (CNEL) contours in the CLUPs. Under Federal Aviation Regulations FAR Part 77 requirements for the Norman Y. Mineta San José International Airport and in compliance with General Plan Policy CD-5.8, developments proposed for heights taller than 140 to 145 feet above the ground surface require submittal to the FAA for airspace safety review in order to reduce airspace hazards. Given the proposed mixed-use development would have a maximum height of 80 feet above the ground surface, the project would not require noticing to the FAA nor result in an airspace safety hazard. **(No Impact)**

f) **Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?**

The project would be constructed in accordance with current building and fire codes to ensure structural stability and safety. In addition, the San José Fire Department (SJFD) would review the development plans to ensure fire protection design features are incorporated and adequate emergency access is provided. For these reasons, the proposed project would not impair implementation of, or physically interfere with, the City's Emergency Operations and Evacuation Plans. **(No Impact)**

g) **Would the project expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?**

As discussed in Section 4.8.1.1, the project site is not located within a Very-High Fire Hazard Severity Zone for wildland fires designated by CalFIRE. Therefore, the project would not expose people or structures to hazards involving wildfire. **(No Impact)**

4.9.3 Non-CEQA Effects

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

General Plan Policy EC-7.1 requires the evaluation of a project site's historical and present land uses to determine if any potential environmental conditions exist that could adversely impact the community or environment. Additionally, Policy EC-7.2 requires redevelopment projects to identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for the health of future users as part of the environmental review process. As such, a Phase I ESA and a Phase II ESA (Site Assessment Summary Memorandum) were prepared for the project site. Based on the results of

the Phase II ESA, mitigation measures MM HAZ-1.1, MM HAZ-1.2, and MM HAZ-1.3 will be implemented to reduce hazards to future occupants of the site from exposure to TPH-DRO, benzo[b]fluoranthene and benzo[a]pyrene contaminated, arsenic and lead in soil. With the implementation of the above mitigation measures, the on-site soils would not result in human health or environmental hazards to future residents of the site (consistent with General Plan Policies EC-7.1 and EC-7.2). Soil vapor sample results showed that all soil vapor samples collected on-site were below ESLs; therefore, soil vapor intrusion would not be a hazard to future occupants of the site.

4.10 HYDROLOGY AND WATER QUALITY

4.10.1 Environmental Setting

4.10.1.1 *Regulatory Framework*

Overview

The Federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality in California. Regulations set forth by the EPA and the State Water Resources Control Board (SWRCB) have been developed to fulfill the requirements of this legislation. EPA regulations include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge pollutants into the waters of the United States (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by the Regional Water Quality Control Boards (RWQCBs). The project site is within the jurisdiction of the San Francisco Bay RWQCB.

Federal and State

National Flood Insurance Program

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

Statewide Construction General Permit

The SWRCB has implemented an NPDES General Construction Permit for the State of California (Construction General Permit). For projects disturbing one acre or more of soil, a Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) must be prepared by a qualified professional prior to commencement of construction. The Construction General Permit includes requirements for training, inspections, record keeping, and, for projects of certain risk levels, monitoring. The general purpose of the requirements is to minimize the discharge of pollutants and to protect beneficial uses and receiving waters from the adverse effects of construction-related storm water discharges.

Regional and Local

San Francisco Bay Basin Plan

The San Francisco Bay RWQCB regulates water quality in accordance with the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan). The Basin Plan lists the beneficial uses that the San Francisco Bay RWQCB has identified for local aquifers, streams, marshes, rivers, and the San Francisco Bay, as well as the water quality objectives and criteria that must be met to protect these uses. The San Francisco Bay RWQCB implements the Basin Plan by issuing and enforcing

waste discharge requirements, including permits for nonpoint sources such as the urban runoff discharged by a City's stormwater drainage system. The Basin Plan also describes watershed management programs and water quality attainment strategies.

Municipal Regional Permit Provision C.3.

The San Francisco Bay RWQCB re-issued the Municipal Regional Stormwater NPDES Permit (MRP) in 2015 to regulate stormwater discharges from municipalities and local agencies (co-permittees) in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, and the cities of Fairfield, Suisun City, and Vallejo.[58] Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 10,000 square feet or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. LID-based treatment controls are intended to maintain or restore the site's natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g. rainwater harvesting for non-potable uses). The MRP also requires that stormwater treatment measures be properly installed, operated, and maintained.

The MRP allows certain types of smart growth, high density, and transit-oriented development (Special Projects) to use alternative means of treatment depending on specific criteria. These types of qualifying projects, known as Special Projects, can apply for alternative means of LID stormwater treatment which may include non-LID methods (e.g., media filters) in addition to LID practices of infiltration, harvest and use and biotreatment to manage stormwater runoff. Special Projects Categories A and B reduction credits apply to small infill and high-density projects within San José's downtown core. Category C (High Density) LID reduction credits is applicable to non-auto related projects within one half a mile within a transit hub and with a minimum density of either 25 dwelling units per acre (for residential projects) or a floor area ratio (FAR) of 2:1 (for commercial or mixed-use projects). 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 after the applicant demonstrates why LID is infeasible for a proposed project.[59]

Municipal Regional Permit Provision C.12.f

Provision C.12.f of the MRP requires co-permittee agencies to implement a control program for Polychlorinated Biphenyls (PCBs) that reduces PCB loads by a specified amount during the term of the permit, thereby making substantial progress toward achieving the urban runoff PCBs wasteload allocation in the Basin Plan by March 2030.[60] Programs must include focused implementation of PCB control measures, such as source control, treatment control, and pollution prevention strategies. Municipalities throughout the Bay Area are updating their demolition permit processes to incorporate the management of PCBs in demolition building materials to ensure PCBs are not discharged to storm drains during demolition. As of July 1, 2019, buildings constructed between 1955 and 1978

[58] MRP Number CAS612008
[59] City of San José. *Regulated and Special Projects*. Accessed January 15, 2020. https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/environmental-planning/stormwater-management/regulated-and-special-projects.
[60] San Francisco Bay Regional Water Quality Control Board. *Municipal Regional Stormwater Permit, Provision C.12.* November 19, 2015.

that are proposed for demolition must be screened for the presence of PCBs prior to the issuance of a demolition permit.

Water Resources Protection Ordinance and District Well Ordinance

The Santa Clara Valley Water District (Valley Water) operates as the flood control agency for Santa Clara County. Their stewardship also includes creek restoration, pollution prevention efforts, and groundwater recharge. Permits for well construction and destruction work, most exploratory boring for groundwater exploration, and projects within Valley Water property or easements are required under Valley Water's Water Resources Protection Ordinance and District Well Ordinance.

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

The City of San José's Policy No. 6-29 implements the stormwater treatment requirements of Provision C.3 of the MRP. City Council Policy No. 6-29 requires new development and redevelopment projects to implement post-construction Best Management Practices (BMPs) and Treatment Control Measures (TCMs). This policy also established specific design standards for post-construction TCMs for projects that create or replace 10,000 square feet or more of impervious surfaces.

Post-Construction Hydromodification Management (City Council Policy No. 8-14)

The City of San José's Policy No.8-14 implements the hydromodification management requirements of Provision C.3 of the MRP. Policy No. 8-14 requires new development and redevelopment projects that create or replace one acre or more of impervious surface area, and are located within a subwatershed that is less than 65 percent impervious, to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt generation, or other impacts to local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP). Projects that do not meet the minimum size threshold, drain into tidally influenced areas or directly into the Bay, or are infill projects in subwatersheds or catchment areas that are greater than or equal to 65 percent impervious would not be subject to the HMP requirement.

Envision San José 2040 General Plan

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

Envision San José 2040 Relevant Hydrology and Water Quality Policies

Policy	Description
Policy IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements per City standards.

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

4.10.1.2 *Existing Conditions*

Hydrology and Drainage

The 0.9-acre site is located in the Coyote Creek watershed.[61] The Coyote Creek watershed is a 320-square mile area that drains Coyote Creek and its tributaries from the Diablo Range on the east side of the Santa Clara Basin to the valley floor. Runoff from the project site and the surrounding area enters the City's storm drainage system, which outfalls to Lower Silver Creek, located approximately 0.4 miles northeast of the site. The project site is currently developed and paved, with approximately 31,394 square feet (78 percent) of the site covered with impervious surfaces, and 9,083 square feet (22 percent) of the site covered in pervious surfaces.

Flooding and Other Hazards

The project site is located within the FEMA-designated Flood Zone X and is not located in a 100-year floodplain (designated by FEMA). . Zone X is defined as an area of minimal flood hazard.[62] There are no City floodplain requirements for Zone X.[63]

According to the General Plan Environmental Impact Report (EIR), the project site is not located within a dam failure inundation area.[64]

[61] City of San José. Watershed Maps. Accessed January 15, 2020. https://www.sanjoseca.gov/your-government/environment/our-creeks-rivers-bay/watershed-maps.
[62] Federal Emergency Management Agency. *Flood Insurance Rate Map, Community Panel No. 06085C0251J*. Accessed January 15, 2020. https://msc.fema.gov/portal/home.
[63] Zone X was previously designated by FEMA as Zones B and C on the Flood Insurance Rate Map FEMA. Unit 3: NFIP Flood Studies and Maps. Accessed June 10, 2020. https://www.fema.gov/pdf/floodplain/nfip_sg_unit_3.pdf.
[64] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report*. Figure 3.7-5.

A seiche is the oscillation of water in an enclosed body of water and a tsunami a sea wave generated by an earthquake, landslide, or other large displacement of water in the ocean. Due to the project site's inland location and distance from large bodies of water (i.e., the San Francisco Bay), it is not subject to seiche or tsunami hazards, or sea level rise. Areas subject to mudflows are typically located on or adjacent to hillsides. The project site is located on the valley floor and is not adjacent to any hillside, therefore, the site is not subject to mudflows.

Water Quality

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

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

Groundwater

Groundwater levels fluctuate seasonally depending on the variations in rainfall, irrigation from landscaping, and other factors. Groundwater was encountered at the site at levels ranging from seven to nine feet below the ground surface during the 2018 geotechnical investigation.

4.10.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	☐	☐	☒	☐
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☒	☐

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:	☐	☐	☒	☐
- result in substantial erosion or siltation on- or off-site;	☐	☐	☒	☐
- substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;	☐	☐	☒	☐
- create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	☐	☐	☒	☐
- impede or redirect flood flows?	☐	☐	☒	☐
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☐	☒
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☒	☐

a) **Would the project violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?**

Construction-Related Water Quality Impacts

Construction activities (e.g., grading and excavation) on the project site may result in temporary impacts to surface water quality. When disturbance to underlying soils occurs, the surface runoff that flows across the site may contain sediments that are ultimately discharged into the storm drainage system. Construction of the proposed project would disturb approximately 0.9 acre of soil. Since less than one acre of soil would be disturbed, the project would not require a NPDES Construction General Permit.

All development projects in the City are required to comply with the City's Grading Ordinance. The City of San José Grading Ordinance requires the use of erosion and sediment controls to protect water quality while a site is under construction. Prior to issuance of a permit for grading activity occurring during the rainy season (October 1st to April 30th), the applicant would be required to submit an Erosion Control Plan to the Director of Public Works for review and approval. The Erosion Control Plan detail the BMPs that would be implemented to prevent the discharge of stormwater pollutants, as described below in the standard permit condition.

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

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust, as necessary.
- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be required to cover all trucks or maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas, and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- Vegetation is disturbed areas shall be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to remove mud from truck tires prior to entering City streets. A tire wash system may also be employed at the request of the City.
- The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

Construction of the proposed project, with the implementation of the above standard permit condition, would not result in significant construction-related water quality impacts. **(Less Than Significant Impact)**

PCBs in Demolition Materials

During demolition, polychlorinated biphenyls (PCBs) in building materials could be released and exposed to stormwater runoff from the project site during rain events. The project would comply with the regulatory requirements in the standard permit condition, discussed in Section 4.9, *Hazards and Hazardous Materials*, to reduce the impacts of PCBs on water quality. Construction of the proposed project, with the implementation of the standard permit conditions, would not result in significant construction-related water quality impacts from the release of PCBs.

Post-Construction Water Quality Impacts

The proposed project would comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and Provision C.3 of the MRP, as applicable. Stormwater runoff from the proposed development would drain into treatment areas, including media filter systems, prior to entering the storm drainage system. Details of specific site design, pollutant source control, and stormwater treatment control measures demonstrating compliance with Provision C.3 of the MRP (NPDES Permit Number CAS612008) would be included in the project design, to the satisfaction of the

Director of Planning, Building and Code Enforcement. Since the project site is an infill project in an area that is greater than or equal to 65 percent impervious, the project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).

The project site is currently developed, with approximately 31,394 square feet (78 percent) of impervious surfaces and 9,083 square feet (22 percent) of pervious surfaces. The proposed project would increase the impervious area by 5,008 square feet and replace 28,960 square feet of impervious area, resulting in 36,402 square feet of impervious surfaces and 4,075 square feet of pervious surfaces.

The proposed project is within one-half mile of a transit hub (Alum Rock Avenue/King Road BRT Station) and is a high-density project. The project meets the Special Projects Category C criteria (under the MRP), and, therefore, is allowed to use non-LID stormwater treatment (e.g., a media filter). The project proposes media filter systems to treat runoff prior to entering the storm drainage system, which is consistent with the MRP requirements.

The General Plan EIR 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 the implementation of a stormwater control plan consistent with RWQCB requirements and in compliance with the City's regulatory policies pertaining to stormwater runoff, the proposed project would have a less than significant water quality impact post-construction. **(Less Than Significant Impact)**

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

The depth to groundwater at the project site is approximately seven to nine feet below the ground surface. The maximum depth of excavation to construct the underground parking levels would be 29 feet below the ground surface. The proposed project does not include installation of new groundwater wells and would not deplete groundwater supplies. It is possible that groundwater would be encountered on-site during construction of the below-grade parking, therefore, dewatering may be required. Although dewatering may temporarily reduce groundwater levels at the site, the project would not significantly affect the levels of the region's aquifer.

The project site is not within a designated groundwater recharge zone for the Santa Clara Subbasin (groundwater basin).[65] Therefore, the project would not interfere with recharge that would impede sustainable groundwater management of the basin**. (Less Than Significant Impact)**

[65] Santa Clara Valley Water District (Valley Water). 2016 Groundwater Management Plan. Chapter 2. Accessed January 15, 2020. https://www.valleywater.org/your-water/where-your-water-comes-from/groundwater/groundwater-management.

c) **Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site; substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or impede or redirect flood flows?**

Construction of the proposed project would not substantially alter the drainage pattern of the site or surrounding area. The project would increase the total impervious surface area of the project site by approximately 4,872 square feet. Stormwater runoff from the site would be collected via storm drains which would be directed to media filter systems for treatment on the southwest corner of the site. Stormwater would then be directed to a new 12-inch storm drain, which would connect to the City's existing 12-inch storm drain on Alum Rock Avenue. The project would also comply with the MRP and City of San José Policy 6-29, which would remove pollutants and reduce the rate and volume of runoff from the project site, reducing the potential for erosion or siltation on and off the site. The project would not be located in a FEMA flood hazard zone and, therefore, runoff from the site would not impede or redirect flows. For these reasons, the project would not substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site nor would it cause the City's existing storm drainage system to exceed capacity. **(Less Than Significant Impact)**

d) **Would the project risk release of pollutants due to project inundation in flood hazard, tsunami, or seiche zones?**

The project site is not located within a FEMA-designated 100-year flood plain or hazard area, or a tsunami inundation zone. The site is not proximate to a large body of water and, therefore, the potential for the project site to be subject to seiches is considered low. The project site is not located within a dam inundation zone. For these reasons, the proposed project would not risk release of pollutants due to project inundation. **(No Impact)**

e) **Would the project conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?**

As discussed in response to question b), groundwater at the project site could be encountered at the site during construction of the underground parking. The project would, however, not significantly affect groundwater levels of the region's aquifer. The project site is not in a designated groundwater recharge area and, therefore, would not affect groundwater recharge. In addition, the project would implement stormwater BMPs (standard permit conditions) to prevent pollution, and would not result in significant water quality impacts during construction or operation with compliance of the City of San José's Grading Ordinance, Post-Construction Urban Runoff Policy 6-29, and Provision C.3 of the RWQCB MRP. For these reasons, the project would not conflict with water quality control plan or the Santa Clara Valley Water District's Groundwater Management Plan. **(Less Than Significant Impact)**

4.11 LAND USE AND PLANNING

4.11.1 Environmental Setting

4.11.1.1 *Regulatory Framework*

Little Portugal Urban Village Plan

The project site is located within the area of the adopted Little Portugal Urban Village Plan. The Plan establishes a land use goal of a complete, pedestrian oriented community consisting of high-density housing integrated with public-serving and commercial-use spaces to serve surrounding neighborhoods.

The Little Portugal Urban Village Plan outlines overall commercial square footage and residential unit capacity for the area and establishes building height restrictions based on land-use designation. The project site is designated for use as an Urban Village under the Plan, with no restriction on density and a maximum height of 70 feet. The FAR of residential development within the Urban Village area must be at least 0.35 in order to meet the Plan objectives for commercial square footage.

Little Portugal Urban Village Land Use Policies

Policies	Description
LU-1.2	The minimum FAR for the commercial portion of a mixed use project should be 0.35 in Area B and 0.24 in Area C..
LU-1.4	Development of ground floor neighborhood-serving uses along Alum Rock Avenue is strongly encouraged.
LU-1.8	Mixed-use residential projects are encouraged to build at densities of 55 dwelling units to the acre or greater in locations and with designs that are compatible with the surrounding neighborhoods.
LU-1.9	The combining of parcels along Alum Rock Avenue is encouraged to facilitate new development, especially mixed-uses, at a higher density or intensity, and to provide for the inclusion of public plazas and other private but publicly-accessible open spaces into new development.
UD-1.1	New development along the north side of Alum Rock Avenue shall not exceed a height limit of 70 feet.
UD-1.3	Non-habitable architectural projections, and mechanical and equipment rooms, and special treatments (e.g., chimneys, weather vanes, cupolas, pediments, etc.) shall be permitted to project above the maximum height limit by 10 feet. Mechanical and building equipment should not be visible from the surrounding streets, and should be set back from the rood edge and/or by screened with architectural elements.
UD-4.2	Greater setbacks along a public right-of-way should be accommodated in order to; (1) provide any additional needed pedestrian walkway/sidewalk to widen the public right-of-way to the desired consistent sidewalk width of 16 feet; (2) provide one or more recessed pedestrian entries; (3) a pedestrian plaza; (4) to accommodate pedestrian ramps; or (5) recessed pedestrian entries at the ground level or residential balconies at the elevation of the second finished floor or above.

UD-4.3	Parking lots or structures should be located behind or under buildings, and surface parking should not be located between the sidewalk and the front building façades along Alum Rock Avenue.

Envision San José 2040 General Plan

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

Envision San José 2040 Relevant Land Use Policies

Policies	Description
Policy CD-1.12	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
Policy CD-4.9	For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
Policy CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.
Policy LU-9.2	Facilitate the development of complete neighborhoods by allowing appropriate commercial uses within or adjacent to residential and mixed-use neighborhoods.
Policy LU-9.4	Prohibit residential development in areas with identified hazards to human habitation unless these hazards are adequately mitigated.
Policy LU-9.5	Require that new residential development be designed to protect residents from potential conflicts with adjacent land uses.
Policy LU-9.7	Ensure that new residential development does not impact the viability of adjacent employment uses that are consistent with the Envision General Plan Land Use / Transportation Diagram.
Policy TR-14.2	Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.
Policy TR-14.4	Require avigation and "no build" easement dedications, setting forth maximum elevation limits as well as for acceptable of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.

4.11.1.2 *Existing Conditions*

The project site is zoned Commercial General (CG), Commercial Pedestrian (CP), and Two-Family Residence (R-2). The CG Zoning District is intended for a full range of retail and commercial uses with a local or regional market and the CP Zoning District is intended to serve pedestrian-oriented

retail activity at a scale compatible with surrounding residential neighborhoods. Allowed uses in R-2 Zoning District permits single-family dwelling units, secondary dwelling units, and two-family dwelling units.

The site is designated as Urban Village in the General Plan and is within the Little Portugal Urban Village Plan. The Urban Village designation is intended to support a variety of commercial uses, including general office space, retail sales and service, and institutional uses. Mixed-use development is encouraged, with residential and commercial uses mixed vertically or horizontally.

Currently the project site is developed with six buildings that include residential and commercial uses; existing on-site uses include a restaurant, a tire store, an automotive repair business, and ancillary structures. Surrounding uses include a single-family residential property to the north, residential and commercial uses to the west, Alum Rock Avenue, residential and commercial uses to the south, and a church building and surface parking lot to the east.

4.11.2 Impact Discussion

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

a) **Would the project physically divide an established community?**

Examples of projects that have the potential to physically divide an established community include new freeways and highways, major arterial streets, and railroad lines. The project, which proposes a six-story mixed-use development with 123 apartment units and 13,650 square feet of retail space, consistent with the General Plan and Little Portugal Urban Village Plan, would not include construction of dividing infrastructure. The project area consists of a mix of commercial and residential land uses and the proposed use would not introduce new or incompatible land use to the area. For these reasons, the project would not physically divide an established community. **(No Impact)**

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

General Plan and Little Portugal Urban Village Plan Consistency

According to the Envision San Jose 2040 General Plan, appropriate uses for an Urban Village site consists of a wide variety of commercial, residential, mixed-use, or public serving uses compatible

with any applicable Urban Village Plan. The project site has a General Plan land use designation of Urban Village, allowing for a maximum density of 250 dwelling units per acre and a FAR of up to 10.0. The proposed mixed-use development project would have a density of 137 residential units per acre and a FAR of 0.35. The project's use and density are consistent with the existing General Plan land use designation.

The Little Portugal Urban Village includes parcels along Alum rock avenue from the area immediately east of US 101 to King Road. The Urban Village is broken into Areas A, B, and C. Area A is located on the western end of the Little Portugal Urban Village, just east of US Highway 101 extending approximately 200 feet. The majority of the Urban Village is located to the east of Area A and is broken into Area B, north of Alum Rock Avenue, and Area C, south of Alum Rock Avenue. New developments proposed within Area B are allowed a maximum building height of 70 feet above the ground surface with a 10-foot architectural projection (resulting in a total height of 80 feet). A commercial FAR of 0.35 is also allowed in Area B. The project site is located in Area B of the Urban Village Plan and would comply with the Plan's design and density standards for this area.

In addition, based on Land Use Policy 8 in the Urban Village Plan, mixed-use residential projects are encouraged to build at densities of 55 dwelling units per acre or greater in locations and with designs that are compatible with the surrounding neighborhoods.

The proposed mixed-use development project would result in 133 residential units per acre, which meets the Urban Village minimum requirement of 55 dwelling units per acre in the Little Portugal Urban Village Plan. The proposed development's design (refer to Section 4.1, Aesthetics) and uses are compatible with the existing neighborhood, as the project site is surrounded by other residential and commercial uses. The proposed project would contain 13,650 square feet of retail space, resulting in a commercial FAR of 0.35 (consistent with Building Height Policy 3). The maximum building height would be 70 feet with a 10-foot architectural projection at the southeast and southwest corners of the building, and the street setback would accommodate a 16-foot sidewalk (consistent with the Little Portugal Urban Village Plan Policies UD-1.1 and UD-4.2, and building height standards). The project is consistent with the General Plan and Little Portugal Urban Village Plan policies. For these reasons, the proposed project would not cause a significant environmental impact due to conflict with any land use plan, policy, or regulation. **(Less than Significant Impact)**

Zoning Ordinance

The project site is currently zoned CG, CP, and R-2. The project applicant proposes a Planned Development Rezoning to CP Commercial Pedestrian PD Planned Development to allow development of the proposed mixed-use development and to include design standards specified in the Little Portugal Urban Village Plan. With adherence to the design standards outlined in the Urban Village Plan, rezoning the project site would not result in a land use impact due to a conflict with zoning. **(Less than Significant Impact)**

4.12 MINERAL RESOURCES

4.12.1 Environmental Setting

4.12.1.1 *Existing Conditions*

The Communications Hill area in central San José is the only area within the City of San José that is designated by the State Mining and Geology Board as containing mineral deposits of regional significance. The project site is not on or adjacent to Communications Hill.

4.12.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state?	☐	☐	☐	☒
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?	☐	☐	☐	☒

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

The Communications Hill area in central San José is the only area within the City that is designated by the State Mining and Geology Board as containing mineral deposits of regional significance. The project site is four miles northeast of Communications Hill. Given the distance of the site from designated mineral resources, the project would not result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state. **(No Impact)**

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

The project site is not included in the General Plan or other land use plan as a locally important mineral resource recovery site. For this reason, the project would not result in the loss of availability of locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan. **(No Impact)**

4.13 NOISE

The following discussion is based in part upon the Noise and Vibration Assessment completed by *Illingworth & Rodkin* on January 16, 2020. The report is included in Appendix F of this Initial Study.

4.13.1 Environmental Setting

4.13.1.1 *Background Information*

Noise

Factors that influence sound as it is perceived by the human ear, include the actual level of sound, period of exposure, frequencies involved, and fluctuation in the noise level during exposure. Noise is measured on a decibel scale, which serves as an index of loudness. The zero on the decibel scale is based on the lowest sound level that the healthy, unimpaired human ear can detect. Each 10 decibel increase in sound level is perceived as approximately a doubling of loudness. Because the human ear cannot hear all pitches or frequencies, sound levels are frequently adjusted or weighted to correspond to human hearing. This adjusted unit is known as the A-weighted decibel, or dBA.

Since excessive noise levels can adversely affect human activities and human health, federal, state, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. Noise guidelines are generally expressed using one of several noise averaging methods, including L_{eq}, DNL, or CNEL.[66] These descriptors are used to measure a location's overall noise exposure, given that there are times when noise levels are higher (e.g., when a jet is taking off from an airport or when a leaf blower is operating) and times when noise levels are lower (e.g., during lulls in traffic flows on freeways or in the middle of the night). L_{max} is the maximum A-weighted noise level during a measurement period.

Vibration

Ground vibration consists of rapidly fluctuating motions or waves with an average motion of zero. Vibration amplitude can be quantified using Peak Particle Velocity (PPV), which is defined as the maximum instantaneous positive or negative peak of the vibration wave. PPV has been routinely used to measure and assess ground-borne construction vibration. Studies have shown that the threshold of perception for average persons is in the range of 0.008 to 0.012 inches/second (in/sec) PPV.

[66] L_{eq} is a measurement of average energy level intensity of noise over a given period of time. Day-Night Level (DNL) is a 24-hour average of noise levels, with a 10 dB penalty applied to noise occurring between 10:00 PM and 7:00 AM. Community Noise Equivalent Level (CNEL) includes an additional five dB applied to noise occurring between 7:00 PM and 10:00 PM. Where traffic noise predominates, the CNEL and DNL are typically within two dBA of the peak-hour L_{eq}.

4.13.1.2 *Regulatory Framework*

State and Local

California Building Standards Code

The CBC establishes uniform minimum noise insulation performance standards to protect persons within new buildings housing people, including hotels, motels, dormitories, apartments, and dwellings other than single-family residences. Title 24 mandates that interior noise levels attributable to exterior sources do not exceed 45 L_{dn}/CNEL in any habitable room. Exterior windows must have a minimum Sound Transmission Class (STC) of 40 or Outdoor-Indoor Transmission Class (OITC) of 30 when the property falls within the 65 dBA DNL noise contour for a freeway or expressway, railroad, or industrial source.

California Green Building Standards Code

For commercial uses, CalGreen (Section 5.507.4.1 and 5.507.4.2) requires that wall and roof-ceiling assemblies exposed to the adjacent roadways have a composite STC rating of at least 50 or a composite OITC rating of no less than 40, with exterior windows of a minimum STC of 40 or OITC of 30 when the commercial property falls within the 65 dBA L_{dn} or greater noise contour for a freeway or expressway, railroad, or industrial or stationary noise source. The state requires interior noise levels to be maintained at 50 dBA $L_{eq(1\text{-}hr)}$ or less during hours of operation at a proposed commercial use.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The following policies are specific to noise and vibration and are applicable to the proposed project. In addition, the noise and land use compatibility guidelines set forth in the General Plan are shown in Table 4.13-1.

Envision San José 2040 Relevant Noise Policies

Policies	Description
Policy EC-1.1	Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include: Interior Noise Levels • The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected *Envision General Plan* traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan.

Exterior Noise Levels

- The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (refer to Table EC-1 in the General Plan or Table 4.13-1 in this Initial Study). Residential uses are considered "normally acceptable" with exterior noise exposures of up to 60 dBA DNL and "conditionally compatible" where the exterior noise exposure is between 60 and 75 dBA DNL such that the specified land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features are included in the design.

Policy EC-1.2 Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Land Use Categories 1, 2, 3 and 6 in Table EC-1 in the General Plan or Table 3.13-1 in this Initial Study) 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 uses through noise standards in the City's Municipal Code.

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

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

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

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

Table 4.13-1: General Plan Land Use Compatibility Guidelines

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

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

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

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

Unacceptable:
New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies.

City of San José Municipal Code

The Municipal Code restricts construction hours within 500 feet of a residential unit to 7:00 AM to 7:00 PM Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval.[67]

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

4.13.1.3 *Existing Conditions*

The site is located on the north side of Alum Rock Avenue, between North 34th Street and North King Road. Alum Rock Avenue is the primary noise source in the project vicinity.

A noise monitoring survey was completed between Tuesday, September 17, 2019 and Friday, September 20, 2019. The monitoring survey included two long-term (LT-1 and LT-2) noise

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

measurements and one short-term (ST-1) noise measurement. The measurement locations are shown in Figure 4.13-1. The existing noise environment at the project site results primarily from vehicular traffic on Alum Rock Avenue and other nearby roadways. Aircraft associated with Mineta San José International Airport are also intermittently audible.

Reid-Hillview Airport is a public-use airport located approximately two miles southeast and the Norman Y. Mineta San José International Airport is three miles west of the project site. The project site lies outside the 60 dBA CNEL 2027 noise contours for the San José airport and 60 dBA CNEL noise contours for the Reid-Hillview airport, based on the airports' Comprehensive Land Use Plans.[68] Although aircraft-related noise could occasionally be audible at the project site, noise from aircraft does not substantially contribute to ambient noise levels.

Long-Term Noise Measurements

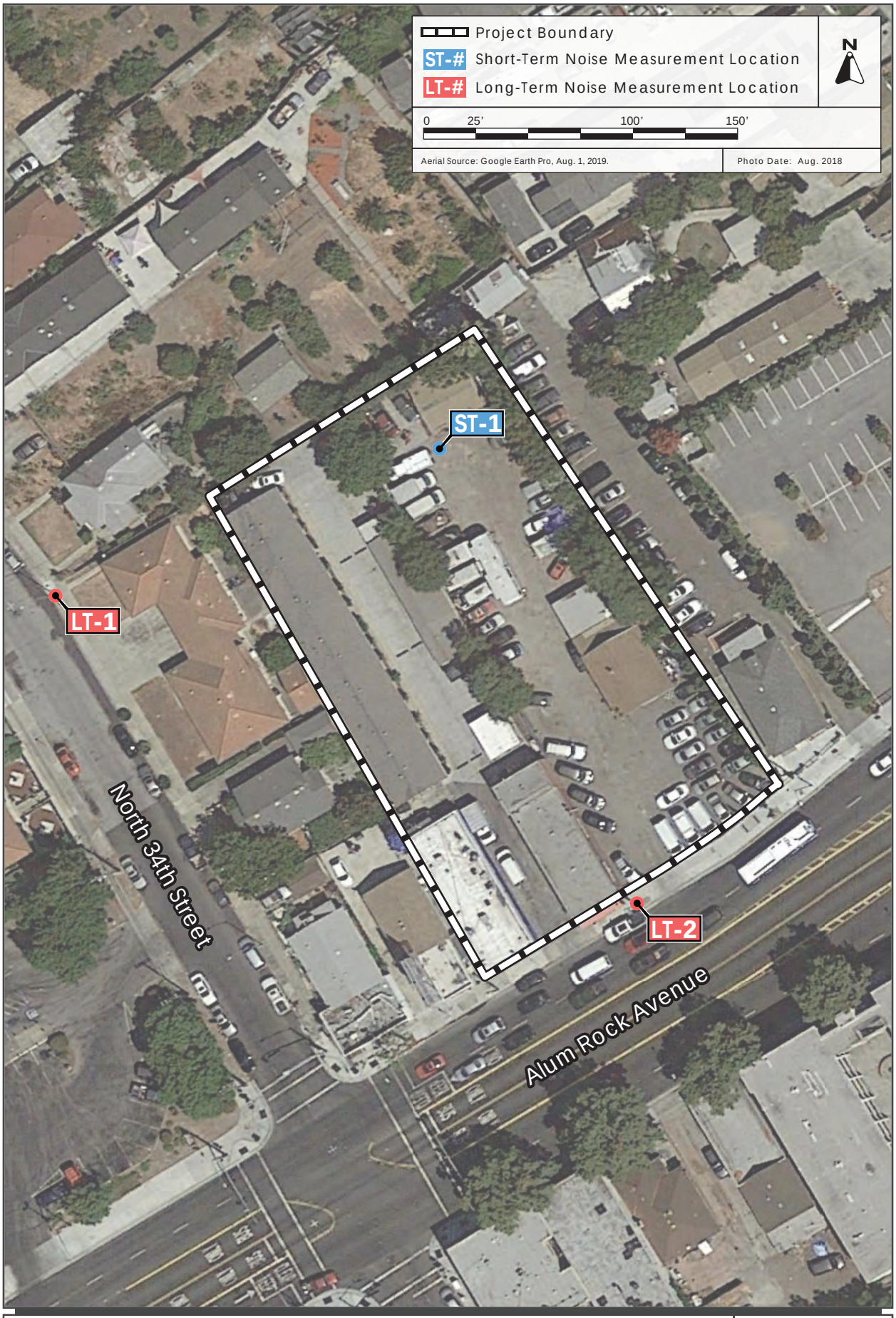
Long-term noise measurement LT-1 was collected 22 feet from the centerline of North 34th Street, just west of the project site to represent the ambient noise environment at residential land uses bordering the site. Vehicular traffic on North 34th Street and Alum Rock Avenue was the primary source of noise affecting ambient noise levels, which typically ranged from 57 to 65 dBA Leq during the day and from 48 to 61 dBA Leq at night. The day-night average noise level on September 18, 2019 was 64 dBA DNL and 63 dBA DNL on Thursday, September 19, 2019.

Long-term noise measurement LT-2 was collected 44 feet from the centerline of Alum Rock Avenue to represent ambient noise levels at the front of the project site. Hourly average noise levels typically ranged from 65 to 72 dBA L_{eq} during the day and from 58 to 69 dBA L_{eq} at night. The day-night average noise level was 72 dBA DNL on both Wednesday, September 18, 2019 and Thursday, September 19, 2019.

Short-Term Noise Measurement

A short-term noise measurement (ST-1) was collected at the rear of the site in order to complete the noise survey. ST-1 was made over a 10-minute period between 2:10 PM and 2:20 PM on Friday, September 20, 2019. Local traffic was the predominant source of noise at the short-term noise measurement site ST-1. During the collection of the measurement, three jet aircraft resulted in noise levels ranging from 54 to 63 dBA. Table 4.13-2 summarizes the data collected at the short-term measurement location.

[68] Santa Clara County Airport Land Use Commission. *Comprehensive Land Use Plan, Santa Clara County. Norman Y. Mineta San José International Airport and Reid-Hillview Airport*. Figure 5. amended November 16, 2016. Accessed May 5, 2019. https://www.sccgov.org/sites/dpd/Commissions/ALUC/Pages/ALUC.aspx.
City of San José. *Norman Y. Mineta San José International Airport Master Plan Update Project: Eighth Addendum to the Environmental Impact Report*. February 10, 2010.



NOISE MEASUREMENT LOCATIONS | FIGURE 4.13-1

Table 4.13-2: Short-Term Noise Measurement Data						
Noise Measurement Location	**Measured Noise Levels, dBA**					
	L_{max}	**L_1**	**L_{10}**	**L_{50}**	**L_{90}**	**L_{eq}**
ST-1: At Rear of Project Site (September 20, 2019, 2:10 PM - 2:20 PM)	63	61	57	53	49	54

4.13.2 Impact Discussion

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

Significance Criteria

Noise

A significant impact would be identified if project construction or operations would result in a substantial temporary or permanent increase in ambient noise levels at sensitive receivers in excess of the local noise standards contained in the San José General Plan or Municipal Code, as follows:

- **Operational Noise in Excess of Standards**: A significant noise impact would be identified if on-site project operations (i.e., mechanical equipment or parking) would exceed 55 dBA DNL at adjacent residential property lines or 60 dBA DNL at adjacent commercial property lines.

- **Permanent Noise Increase:** A significant permanent noise increase would occur if project traffic resulted in an increase of 3 dBA DNL or greater at noise-sensitive land uses where existing or projected noise levels would equal or exceed the noise level considered

satisfactory for the affected land use (60 dBA DNL for single-family residential areas) and/or an increase of 5 dBA DNL or greater at noise-sensitive land uses where noise levels would continue to be below those considered satisfactory for the affected land use.

- **Temporary Noise Increase:** A significant temporary noise impact would be identified if construction would occur outside of the hours specified in the City's Municipal Code or if construction noise levels were to exceed the City's construction noise limits at adjacent noise sensitive land uses.

Groundborne Vibration

A significant impact would be identified if the construction of the project would expose persons to excessive vibration levels. Groundborne vibration levels exceeding 0.2 in/sec PPV would have the potential to result in cosmetic damage to buildings.

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

Permanent Noise Increase from On-Site Operational Noise

Parking Lot Noise

A surface parking lot with seven uncovered parking spaces is proposed on the north side of the building. Seven ground-floor covered parking spaces would be located adjacent to the proposed retail space. This portion of the site is currently being used as a parking lot. The nearest residence would be located approximately 70feet west of the proposed parking lot. Noise levels at this location (ST-1) were measured at 54 dBA L_{eq} during the noise monitoring survey. The noise levels at the residences immediately to the north of the proposed parking lot would be reduced by up to five dBA over the current levels by a proposed six-foot-tall stucco wall along the northern boundary of the site.

The major noise sources attributed to parking lot activities is the sound of vehicles as they drive by, noise generated when vehicles start their engines, door slams, and the occasional sound of car alarms. Sounds of voices generally produce less noise. Typical parking lot activities generate maximum noise levels of 50 to 60 dBA L_{max} when measured at 50 feet from the source. Car alarms generate maximum noise levels of 63 to 70 dBA L_{max} at 50 feet. The hourly average noise level resulting from these noise-generating activities in a small parking lot would reach 40 dBA L_{eq} at a distance of 50 feet from the parking area. The covered ground-level parking would be partially shielded and would result in a noise level lower than 40 dBA L_{eq} at a distance of 50 feet. Parking lot activities could result in intermittent, loud noises at adjacent residential land uses, however, these sounds would not exceed existing noise levels due to parking lot activities in the area, nor result in noise levels exceeding the 55 dBA DNL noise limit established in the General Plan. **(Less than Significant Impact)**

Mechanical Equipment

Under the City's Noise Element, noise levels produced by the operation of mechanical equipment shall not exceed a noise level of 55 dBA DNL at receiving noise-sensitive land uses.

Due to the limited ground space proposed around the mixed-use building, HVAC units would be located on the rooftop level of the building. It is assumed that one HVAC unit would be provided per residential unit at the rooftop level of the building, resulting in a total which would cause most of the noise to be projected upward and away from neighboring properties. Noise levels produced by a typical residential heat pump are approximately 56 dBA at three feet during operation. Noise levels produced by a typical residential air conditioning condenser are approximately 66 dBA at three feet during operation. The project site is approximately 20 feet east of the nearest residence. Since the HVAC units would be located on the roof of the building, which is seven stories above ground level, and shielded by the roof and parapet, any noise from the HVAC units would not be perceivable at the nearest residence.[70]

During the final design of the mechanical systems, the noise levels from the various pieces of equipment on the rooftop shall be calculated to ensure compliance with the City's 55 dBA DNL threshold, as a part of the standard permit condition below.

Standard Permit Condition: Prior to the issuance of any building permits, a detailed acoustical study shall be prepared during building design to evaluate the potential noise generated by building mechanical equipment and to identify the necessary noise controls that are included in the design to meet the City's 55 dBA DNL noise limit at the shared property line. The study shall evaluate the noise from the equipment and predict noise levels at noise-sensitive locations. Noise control features, such as sound attenuators, baffles, and barriers, shall be identified and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL at noise-sensitive locations, such as residences. The study shall be submitted to the City of San José for review and approval prior to issuance of any building permits.

With implementation of the above standard permit condition, the project would result in a less than significant mechanical equipment noise impact. **(Less than Significant Impact)**

Permanent Noise Increase from Project Traffic

A significant permanent noise increase would be identified if traffic noise generated by the project would substantially increase noise levels at noise-sensitive receptors in the vicinity. A substantial increase would occur if: a) the noise level increase is five dBA DNL or greater, with a future noise level of less than 60 dBA DNL, or b) the noise level increase is three dBA DNL or greater, with a future noise level of 60 dBA DNL or greater.

Existing ambient noise levels, based on the measurements made in the project vicinity, exceed 60 dBA DNL near Alum Rock Avenue. Therefore, a significant impact would occur if traffic due to the proposed project would permanently increase ambient levels by three dBA DNL. A three dBA DNL noise increase would be expected if the project would double existing traffic volumes along a

[70] Personal Communications: Black, Micah, Illingworth & Rodkin (Noise Consultant). *RE: Little Portugal Mixed Use Project* - Noise Study. April 13, 2020.

roadway. The project's contribution to permanent noise level increases along roadways serving the site was calculated to be one dBA DNL or less. The proposed project would not result in a permanent noise increase of three dBA DNL or more. As a result, the permanent noise increase from project traffic would not be significant and would comply with the City's standards. **(Less Than Significant Impact)**

Temporary Noise Increase from Project Construction

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

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. Project construction would have a duration of 18 months and would include demolition of the existing buildings and pavement, site preparation, grading and excavation, the hauling of excavated materials and construction materials, new building construction, and paving.

During each stage of construction, there would be a different mix of equipment operating, and noise levels would vary by stage and vary within stages, based on the amount of equipment in operation and the location at which the equipment is operating. Most demolition and construction noise falls within the range of 80 to 90 dBA L_{max} at a distance of 50 feet from the source. Average noise levels produced by the construction of residential projects generally fall within the range of 65 to 88 dBA L_{eq} at the nearest receptors located approximately 50 feet from the construction work area. Such noise levels would be expected at the nearest receptors to the site. Construction-generated noise levels drop off at a rate of about six dBA per doubling of the distance between the source and receptor. Shielding by buildings or terrain often result in lower construction noise levels at distant receptors.

Table 4.13-3 summarizes the construction noise levels calculated with the Federal Highway Administration's Roadway Construction Noise Model (RCNM v1.1) based on the project's construction equipment assumptions. The maximum instantaneous noise level (L_{max}) and average noise level (L_{eq}) are shown for each type of equipment. The average noise levels for the construction phase was conservatively calculated assuming all construction equipment would operate simultaneously.

Table 4.13-3: Construction Noise Levels Calculated at 50 Feet (dBA)				
Construction Phase	**Equipment Type**	**Equipment L_{max}**	**Equipment L_{eq}**	**Construction Phase L_{eq}**
Demolition	Concrete/Industrial Saws	90	83	86
	Excavators	80	77	
	Rubber-Tired Dozers	82	78	
	Tractors/Loaders/Backhoes	84	80	
Site Preparation	Graders	85	81	85
	Rubber Tired Dozers	82	78	
	Tractors/Loaders/Backhoes	84	80	
Grading/ Excavation	Scrapers	84	80	86
	Excavators	81	77	
	Graders	85	81	
	Rubber Tired Dozers	82	78	
	Tractors/Loaders/Backhoes	84	80	
Trenching	Tractor/Loader/Backhoe	84	80	82
	Excavators	81	77	
Building Exterior	Cranes	81	73	83
	Forklifts	75	68	
	Generator Sets	81	78	
	Tractors/Loaders/Backhoes	84	80	
	Welders	74	70	
Building Interior	Air Compressors	78	74	75
	Aerial Lift	75	68	
Paving	Cement and Mortar Mixers	80	77	86
	Pavers	77	74	
	Paving Equipment	90	83	
	Rollers	80	73	
	Tractors/Loaders/Backhoes	84	80	

Adjacent commercial land uses are exposed to ambient daytime noise levels typically ranging from 65 to 72 dBA L_{eq} due to traffic along Alum Rock Avenue. Existing residential land uses bordering the site are exposed to lower ambient noise levels because they are located further from Alum Rock Avenue and shielded by intervening buildings. Typical daytime noise levels at nearby residences range from 57 to 68 dBA L_{eq}. During busy construction periods, noise levels would generally fall within the range of 75 to 86 dBA L_{eq} at the nearest receptors located approximately 50 feet from the construction work area.

Impact NOI-1: Noise levels from construction activities would substantially exceed ambient conditions at adjacent residences and commercial businesses (within 50 feet) for a period exceeding 12 months. **(Significant Impact)**

Mitigation Measures: The project would implement the following measures to reduce the impacts of construction-generated noise.

MM NOI-1.1: The project applicant shall implement a construction noise logistics plan. The logistics plan shall include, but not be limited to, the following measures to reduce construction noise levels:

- Limit construction to the hours of 7:00 AM to 7:00 PM Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.

- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.

- Prohibit unnecessary idling of internal combustion engines.

- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.

- Utilize "quiet" air compressors and other stationary noise sources where technology exists.

- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.

- Notify all adjacent 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.

- If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.

- Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone

number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

Implementation of MM NOI-1.1 would reduce short-term construction noise levels generated at the site, limit construction hours, and minimize disruption and annoyance. With the inclusion of this mitigation measure and recognizing that noise generated by construction activities would occur over a finite period, the temporary increase in ambient noise levels would be reduced to a less than significant level. **(Less Than Significant Impact with Mitigation Incorporated)**

b) **Would the project result in generation of excessive groundborne vibration or groundborne noise levels?**

Operation

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

Construction

The construction of the project may generate vibration when heavy equipment or impact tools are used. Construction activities would include the demolition of existing structures, site preparation work, excavation of the below-grade parking levels, foundation work, and new building framing and finishing. Pile driving is not proposed as a foundation construction technique.

General Plan Policy EC-2.3 establishes a vibration limit of 0.08 in/sec PPV to minimize the potential for cosmetic damage to sensitive historic structures, and a vibration limit of 0.2 in/sec PPV to minimize damage at buildings of normal conventional construction. Vibration levels exceeding these thresholds would be capable of cosmetically damaging adjacent buildings.

As stated in Section 4.5, Cultural Resources, the nearest historic structure to the site is 0.2 miles (960 feet) east of the site. Groundborne vibration levels from project construction activities would not exceed 0.08 in/sec PPV at distances greater than 60 feet. Therefore, the project would not have a significant vibration impact on historic structures.

Some construction activities such as drilling, the use of jackhammers, rock drills and other high-power or vibratory tools, and rolling stock equipment (tracked vehicles, compactors, etc.) would occur at a distance of approximately five feet from adjacent residential and commercial buildings. At this distance, vibration levels due to construction are conservatively calculated to reach up to 1.2 in/sec PPV. Project construction vibration levels could reach up to 0.37 in/sec PPV at buildings 15 feet and 0.21 in/sec PPV at buildings 25 feet from the site. Construction of the project would exceed the threshold 0.2 in/sec PPV threshold at buildings of normal conventional construction within 30 feet of the project site. Such vibration levels would be capable of cosmetically damaging the adjacent buildings.

Impact NOI-2: Implementation of the proposed project would result in construction vibration levels that exceed the construction related groundborne vibration threshold of 0.2 in/sec peak particle velocity (PPV) at the nearest structures. **(Significant Impact)**

Mitigation Measures: The project would implement the following measures to reduce the impacts of groundborne vibration during construction.

MM NOI-2.1: The project applicant shall implement a construction vibration monitoring plan to document conditions prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. The construction vibration monitoring plan shall include, but not be limited to, the following measures:

- The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations.
- A list of all heavy construction equipment to be used for this project known to produce high vibration levels (tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.) shall be submitted by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort required for continuous vibration monitoring. Where possible, use of the heavy vibration-generating construction equipment shall be prohibited within 25 feet of any adjacent building.
- Place operating equipment on the construction site as far as possible from vibration-sensitive receptors.
- Use smaller equipment to minimize vibration levels below the limits.
- Avoid using vibratory rollers and tampers near sensitive areas.
- Select demolition methods not involving impact tools.
- Modify/design or identify alternative construction methods to reduce vibration levels below the limits.
- Avoid dropping heavy objects or materials.
- A construction vibration-monitoring plan shall be implemented to document conditions conventional properties within 30 feet of the project site prior to, during, and after vibration generating

construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry accepted standard methods. The construction vibration monitoring plan should be implemented to include the following tasks:

- Identification of sensitivity to ground-borne vibration of the property. A vibration survey (generally described below) would need to be performed.

- Performance of a photo survey, elevation survey, and crack monitoring survey for the structures within 30 feet of the site. Surveys shall be performed prior to, in regular intervals during, and after completion of vibration generating construction activities and shall include internal and external crack monitoring in the structure, settlement, and distress and shall document the condition of the foundation, walls and other structural elements in the interior and exterior of said structure.

- Development of a vibration monitoring and construction contingency plan to identify where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction. Construction contingencies would be identified for when vibration levels approach the limits.

- If vibration levels approach limits, suspend construction and implement contingencies to either lower vibration levels or secure the affected structure.

- Conduct a post-survey on the structure where either monitoring has indicated high levels or complaints of damage. Make appropriate repairs where damage has occurred as a result of construction activities.

- The results of all vibration monitoring shall be summarized and submitted in a report shortly after substantial completion of each phase identified in the project schedule. The report will include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. An explanation of all events that exceeded vibration limits will be included together with proper documentation supporting any such claims.

- Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.

With implementation of mitigation measure MM NOI-2.1, vibration from construction of the proposed project would be less than significant. **(Less than Significant Impact with Mitigation Incorporated)**

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?**

Reid-Hillview Airport and Mineta San José International Airport are public airports located approximately two and three miles from the project site, respectively. The project site lies outside both Reid-Hillview Airport's 2022 60 dBA CNEL noise contour and Mineta San José International Airport's 2027 60 dBA CNEL noise contour. The project site is not located in the vicinity of a private airstrip; therefore, the project would not expose people residing or working in the vicinity of a private airstrip to excessive noise levels. **(No Impact)**

4.13.3 Non-CEQA Effects

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

The future noise environment at the project site would continue to result primarily from vehicular traffic along Alum Rock Avenue. Cumulative plus project traffic conditions are expected to result in traffic noise level increases of one dBA DNL or less at the project site resulting in future noise levels of 72 dBA DNL at a distance of 57 feet from the centerline of Alum Rock Avenue.

Exterior Noise Levels

The City of San José's General Plan sets forth noise-related policies that support the City's goal of minimizing the impact of noise on people through noise reduction and suppression techniques. City Policy EC-1.1 requires new development to be located in areas where noise levels are appropriate for the proposed uses, considering federal, state and City noise standards and guidelines as a part of new development review.

Within the City of San José, the "normally acceptable" noise level threshold for common outdoor use areas at new multi-family residential uses, as established in the City of San José General Plan, is 60 dBA DNL. Communal open space for the residents would be provided on the second-floor podium, sixth floor balcony area, and roof garden of the proposed development. The podium level would contain lounge and group dining areas on the western side of the building. The roof level of the

building would also contain a communal lounge and dining area on the east side of the building. The sixth floor would also have a common open space balcony area, the west side of the building.

The common open space areas would be effectively shielded from traffic noise by the building itself. When accounting for distance from the noise sources and acoustical shielding, exterior noise levels from local traffic would be less than 55 dBA DNL. As a result, the future exterior noise levels at residential common use areas would be less than 60 dBA DNL and compatible with the City's General Plan threshold for exterior noise levels at multi-family residential land uses.

Interior Noise Levels

Residential Use

The proposed residential units (at the southern façade of the building) having direct line-of-sight to Alum Rock Avenue would be exposed to future exterior noise levels up to 72 dBA DNL. The western and eastern façades of the building would be exposed to future exterior noise levels ranging from 60 to 69 dBA DNL. Exterior noise levels at the northernmost façade of the building would be 55 dBA DNL or less.

Standard residential construction provides approximately 15 dBA of exterior-to-interior noise reduction, assuming the windows are partially open for ventilation. Standard construction with the windows closed provides approximately 20 to 25 dBA of noise reduction in interior spaces. Where exterior noise levels range from 60 to 65 dBA DNL, the inclusion of adequate forced-air mechanical ventilation is typically used to reduce interior noise levels to acceptable levels by closing the windows to control noise. Where noise levels exceed 65 dBA DNL, forced-air mechanical ventilation systems and sound-rated construction methods are normally required. Such methods or materials may include a combination of smaller window and door sizes as a percentage of the total building façade facing the noise source, sound-rated windows and doors, sound rated exterior wall assemblies, and mechanical ventilation so that windows may be kept closed at the occupant's discretion.

Assuming windows would be partially open for ventilation, the interior noise levels for the proposed project would be up to 54 dBA DNL at the units along the western and eastern façades of proposed building nearest to Alum Rock Avenue, and up to 57 dBA DNL at the southern façade, facing Alum Rock Avenue. This would exceed the 45 dBA DNL threshold for interior noise. Consistent with General Plan Policy EC-1.1, the proposed project will be required, as a Condition of Project Approval, to implement the following measures.

Condition of Project Approval: The following Conditions of Approval are required to reduce interior noise levels within residences to 45 dBA DNL or less and interior noise levels within commercial uses to 50 dBA L_{eq} or less:

- Provide all residential units with a suitable form of forced-air mechanical ventilation (as determined by the local building official) so that windows can be kept closed at the occupant's discretion to control interior noise levels and achieve the interior noise level standards.

- A qualified acoustical specialist shall prepare a detailed analysis of interior noise levels resulting from all exterior sources during the design phase of the project pursuant to requirements set forth in the State Building Code and submit a description of the necessary noise control treatments to the City prior to issuance of a building permit. The study will review the final site plan, building elevations, and floor plans and recommend building treatments to reduce residential interior noise levels to 45 dBA DNL. Treatments would likely include, but are not limited to, sound-rated windows and doors, sound-rated wall and window construction, acoustical caulking, and protected ventilation openings. Preliminary acoustical glazing recommendations for the project indicate that residential uses would require windows and doors rated from STC 28 to STC 33 to achieve the 45 dBA DNL standard.

The implementation of the above conditions of approval would reduce interior noise levels to 45 dBA DNL or less.

Commercial/Retail Use

The Cal Green Code performance method requires that interior noise levels within non-residential land uses be maintained at 50 dBA $L_{eq(1\text{-}hr)}$ or less during hours of operation. The proposed retail uses would be located on the first floor of the proposed building and exposed to future exterior noise levels reaching 72 dBA $Leq_{(1\text{-}hr)}$ during daytime hours. Interior noise levels for the proposed retail uses would range from 41 to 44 dBA $L_{eq(1\text{-}hr)}$ assuming standard construction methods, which would be less than the 50 dBA $L_{eq(1\text{-}hr)}$ Cal Green Code performance method standard.

4.14 POPULATION AND HOUSING

4.14.1 Environmental Setting

4.14.1.1 *Regulatory Framework*

State

In order to attain the state housing goal, cities must make sufficient suitable land available for residential development, as documented in an inventory, to accommodate their share of regional housing needs. California's Housing Element Law requires all cities to: 1) zone adequate lands to accommodate its Regional Housing Needs Allocation (RHNA); 2) produce an inventory of sites that can accommodate its share of the RHNA; 3) identify governmental and non-governmental constraints to residential development; 4) develop strategies and work plan to mitigate or eliminate those constraints; and 5) adopt a housing element and update it on a regular basis.[71] The City's Housing Element and related land use policies were last updated in January 2015.[72]

Regional

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

Plan Bay Area 2040 is a state-mandated, integrated long-range transportation, land-use and housing plan intended support a growing economy, provide more housing and transportation choices, and reduce transportation-related pollution and GHG emissions in the Bay Area. Plan Bay Area promotes compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).

4.14.1.2 *Existing Conditions*

According to a May 2019 estimate from the California Department of Finance, the City of San Jose has a population of 1,043,058 residents, distributed over 1,029,754 households. The most common housing types in the City are estimated to be single detached housing and housing consisting of five or more units, of which there are an estimated 176,833 units and 92,196 units, respectively. Out of 335,887 total housing units there are estimated to be 321,556 occupied, with a vacancy rate of 4.4

[71] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements". Accessed March 29, 2019. http://hcd.ca.gov/community-development/housing-element/index.shtml.
[72] City of San José. *City of San José 2014-2023 Housing Element*. Accessed April 24, 2019. http://www.sanjoseca.gov/DocumentCenter/View/43711.

percent.[73] ABAG projects that there will be an approximate City population of 1,377,145 and 448,310 households by the year 2040.[74]

The jobs/housing balance is the relationship between the number of housing units required as a result of local jobs and the number of residential units available in the City. This relationship is quantified by the jobs/employed resident ratio. When the ratio reaches 1.0, a balance is struck between the supply of local housing and local jobs. The jobs/employed resident ratio is determined by dividing the number of local jobs by the number of employed residents that can be housed in local housing. In 2015, there were approximately 457,075 jobs in San José. Based on ABAG projections, the total number of jobs is estimated to be 554,875 and the total number of employed residents is estimated to be 624,620 by 2040 .[75] This results in a jobs/employed resident ratio of 0.9/1. The City is projected to have slightly a higher number of employed residents than jobs (approximately 0.9 jobs per employed resident) in 2040.

The Envision General Plan identifies areas for mixed-use and residential development to accommodate 120,000 new dwelling units by 2040.[76] The site is designated as part of an Urban Village in the Envision San Jose 2040 General Plan. The stated land use goal of the Urban Village is a complete, pedestrian oriented community including retail sales and services, public facilities, office, and commercial uses. Commercial and retail development will be mixed with high density housing, providing commercial and employment opportunities to Urban Village residents and surrounding neighborhoods. The project site is located within the boundaries of the Little Portugal Urban Village. The Little Portugal Urban Village has a planned job capacity of 270 jobs and 400 housing units by 2040[77].

[73] California Department of Finance. "E-5 City/County Population and Housing Estimates." May 2019. Accessed: December 20, 2019. Available at: http://dof.ca.gov/Forecasting/Demographics/Estimates/E-5/documents/E-5_2019_Internet%20Version.xlsx
[74] Association of Bay Area Governments. *Projections 2019.* 2019.
[75] City of San José. *Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report and Supplemental Program Environmental Impact Report*. November 2016. Page 16.
ABAG. Projections 2019. 2019. The number of employed residents in San José is projected to be 624,620 by 2040.
[76] City of San Jose. *Envision San Jose 2040 General Plan.* November 2011.
[77] City of San Jose. *Little Portugal Urban Village Plan.* November 19, 2013.

4.14.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with 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)?	☐	☐	☒	☐
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☒	☐

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

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

The project proposes to construct a mixed-use development with 123 residential units and 13,650 square feet of retail space. Based on the current average occupancy in San José of 3.2 persons per household, the project would result in a maximum of 394 residents. [78] The project would result in a net increase in 116 residential units and 371 residents, when compared to existing uses. The existing 5,490 square feet of retail/commercial use on-site accommodates approximately 22 employees and the proposed project would accommodate 56 employees for the retail space, resulting in an increase of 34 employees.[79] The growth resulting from the proposed project would be consistent with both employment and housing growth goals of the City of San Jose 2040 General Plan and Little Portugal Urban Village Plan. The project would not extend a road or other infrastructure that would indirectly induce growth. Therefore, the proposed project would not induce substantial unplanned growth either directly or indirectly. **(Less than Significant Impact)**

[78] California Department of Finance. *E-5 Population and Housing Estimates for Cities, Counties and the State — January 1, 2011-2019.* May 2019. Accessed January 16, 2020. http://dof.ca.gov/Forecasting/Demographics/Estimates/E-5/

[79] Assuming one employee per 250 square feet for retail = 13,650 square feet/250 square feet 55 employees for the proposed project.
5,490 square feet of existing retail/commercial/250 square feet = 22 employees

b) **Would the project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?**

The proposed project would demolish the existing seven-unit apartment building and construct a mixed-use development with 123 apartment units, increasing the total number of residential units at the site. Therefore, the number of existing units displaced would not necessitate the construction of replacement housing elsewhere. **(Less than Significant Impact)**

4.15 PUBLIC SERVICES

4.15.1 Environmental Setting

4.15.1.1 *Regulatory Framework*

California Government Code Section 65996

California Government Code Section 65996 specifies that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to issuance of a building permit. The legislation states that payments of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA [§65996(b)]. The school district is responsible for implementing the specific methods of school impact mitigation under the Government Code. The CEQA documents must identify that school impact fees and the school districts' methods of implementing measures specified by Government Code 65996 would adequately mitigate project-related increases in student enrollment.

Quimby Act – California Code Sections 66475-66478

The Quimby Act (California Government Code Sections 66475-66478) was approved by the California legislature to preserve open space and parkland in the State. The Quimby Act authorizes local governments to establish ordinances requiring developers of new subdivisions to dedicate parks, pay an in-lieu fee, or perform a combination of the two. As described below, the City has adopted a Parkland Dedication Ordinance and a Park Impact Ordinance, consistent with the Quimby Act.

Parkland Dedication Ordinance and Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25), requiring new residential development to either dedicate sufficient land to serve new residents or pay fees to offset the increased costs of providing new park facilities for new development. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities on-site. For projects exceeding 50 units, the City decides whether the project will dedicate land for a new public park site or provide a fee in-lieu of land dedication.

Envision San José 2040 General Plan

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

Envision San José 2040 Relevant Public Service Policies

Policies	Description
Policy FS-5.7	Encourage school districts and residential developers to engage in early discussions regarding the nature and scope of proposed projects and possible fiscal impacts and mitigation measures early in the project planning stage, preferably immediately preceding or following land acquisition.
ES-2.2	Construct and maintain architecturally attractive, durable, resource-efficient, and environmentally healthful library facilities to minimize operating costs, foster learning, and express in built form the significant civic functions and spaces that libraries provide for the San José community. Library design should anticipate and build in flexibility to accommodate evolving community needs and evolving methods for providing the community with access to information sources. Provide at least 0.59 SF of space per capita in library facilities.
ES-3.1	Provide rapid and timely Level of Service (LOS) response time to all emergencies: 1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.
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.
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.
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.
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.
PR-1.12	Regularly update and utilize San José's Parkland Dedication Ordinance/Parkland Impact Ordinance (PDO/PIO) to implement quality facilities.
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.
PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

4.15.1.2 *Existing Conditions*

Fire Protection Services

Fire protection services for the project site are provided by the San José Fire Department (SJFD). The SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the City. There are 34 active fire stations in the City. The closest stations to the project site are San José Fire Department Station Number 34 located at 1634 Las Plumas Avenue, approximately 0.8 miles north of the project site, and Number 8 located at 802 Santa Clara Street, approximately one mile west of the project site.

Police Protection Services

Police protection services for the project site are provided by the San José Police Department (SJPD), which is headquartered at 201 West Mission Street, approximately four miles northeast of the project site. SJPD is divided into four geographic divisions: Central, Western, Foothill, and Southern. The project site is directly served by the SJPD Foothill Division. Patrols are dispatched from police headquarters, and the patrol districts consist of 83 patrol beats.

Schools

The project site is located within the attendance boundaries of the San José Unified School District (SJUSD).[80] The school district operates 41 schools (26 elementary, one K-8 school, six middle schools, six high schools, and two alternative education programs) serving over 30,000 students.[81] The project site is within the Anne Darling Elementary, Muwekma Ohlone Middle School (formerly Burnett Middle School), and San José High School attendance boundaries assigned by the SJUSD. Anne Darling Elementary School is located at 333 N. 33rd Street, Muwekma Ohlone Middle School is located at 850 N. 2nd Street, and San José High School is located at 275 N. 24th Street.[82] The student enrollment and capacity of the schools is shown in Table 4.15-1. [83,84]

[80] City of San José. *San Jose Area School Districts Map*. May 2011.
[81] San José Unified School District. *Information Guide.* September 2019. Accessed December 30, 2019. https://www.sjusd.org/docs/district_information/2019-20_Info_Guide_ENG.pdf.
[82]San José Unified School District. *Find your school.* Accessed December 30, 2019. https://web.sjusd.org/our-schools/schools/.
[83] San José Unified School District. *7-Year Student Population Projections by Residence. Fall 2017-2023*. June 5, 2017.
[84] California Department of Education. DataQuest. Accessed December 30, 2019. https://dq.cde.ca.gov/dataquest/

Table 4.15-1: Student Enrollment and Capacity at Assigned SJUSD Schools		
SJUSD School	Fall 2018/Spring 2019 Student Enrollment	Student Capacity
Anne Darling Elementary School	376	840
Muwekma Ohlone (formerly Burnett) Middle School	687	930
San José High School	1051	1,420

Parks

The City of San José owns and maintains over 3,500 acres of parkland, including neighborhood parks, community parks, and regional parks.[86] The City also manages 51 community centers, 17 community gardens, and six pool facilities. Other recreational facilities include seven public skate parks and 57.5 miles of interconnected trails.

The nearest public parks are Plata Arroyo Park, located on King Road, approximately 0.3 miles northeast of the site, and Hacienda Park located on West Court, approximately 0.7 miles northwest of the site. Plata Arroyo Park is 10.6 acres and includes a barbeque area, basketball courts, a skate park, exercise course, and a youth playground. Hacienda Park is 0.3 acres and includes a youth playground area.[87]

In addition, the City plans to complete the Five Wounds Trail, which would be mostly adjacent to Coyote Creek, with the nearest trailhead located at Alum Rock Avenue and Checkers Drive (approximately 0.4 miles east of the site). The trail is intended to be a regional trail facility that would provide recreational opportunities and an improved bicycle transportation corridor for people living and working within and adjacent to the Little Portugal Urban Village.

Library and Community Centers

The City of San José is served by the San José Public Library System. The San José Public Library System consists of one main library (Dr. Martin Luther King Jr.) and 22 branch libraries. The nearest public library is the East San José Carnegie Branch Library, approximately 0.75 miles west of the project site. The nearest community center is Mayfair Community Center, located at 2039 Kammerer Street, approximately 0.75 miles southeast of the site.

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

[87] City of San Jose, Parks Recreation and Neighborhood Services. *Search Parks and Playgrounds.* Accessed December 30, 2019. https://www.sanjoseca.gov/your-government/departments/parks-recreation-neighborhood-services/outdoor-activities/search-parks-playgrounds.

4.15.2 Impact Discussion

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

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 fire protection services?**

The proposed project would redevelop the project site with a mixed-use use development that includes 123 residential units and 13,650 square feet of retail space and would incrementally increase the demand for fire protection services compared to existing conditions. The proposed project is consistent with the existing General Plan designation; therefore, it would not increase the City's resident or employee population above what was assumed in the General Plan. The project would not, by itself, preclude the SJFD from meeting their response time goals and would not require the construction of new or expanded fire facilities. The proposed development would be constructed in accordance with current building codes and SJFD would review project plans to ensure appropriate safety features are incorporated to reduce fire hazards. In accordance with General Plan Policy ES-3.11, the project would provide adequate fire suppression infrastructure, including a new fire hydrant and water lines that connect to the site. For these reasons, the proposed project would not result in a significant impact on fire protection services. **(Less Than Significant Impact)**

b) **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 police protection services?**

The project site is currently served by SJPD. Similar to fire protection services, the proposed development would incrementally increase the demand for police protection services to the site.

The proposed project is consistent with the existing General Plan designation; therefore, it would not increase the City's resident or employee population above what was assumed in the General Plan. The incremental increase in police protection services would not require new or expanded police protection facilities (the construction of which could cause significant environmental impacts) in order to maintain acceptable service ratios, response times, or other performance objectives for police protection services. In addition, SJPD would review the final site design, including proposed landscaping, access, and lighting, to ensure that the project provides adequate safety and security measures. For the reasons discussed above, the proposed project would not result in a significant impact on police protection services. **(Less than Significant Impact)**

c) **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 schools?**

According to the SJUSD student generation factors, multi-family residential development generates 0.272 students per dwelling unit. [88] Based on this generation factor, the proposed 123-unit apartment building would increase the student population in the project area by approximately 33 students. This would result in a net increase in 31 students (since the existing seven-unit apartment building is estimated to generate two students). The project is consistent with the General Plan and would not cause an exceedance of student attendee projections in the SJUSD (including the Anne Darling Elementary, Muwekma Ohlone Middle, and San José High Schools). The schools are currently not at capacity, and, therefore, have existing capacity to support the proposed project.

In addition, the project shall implement the following standard permit condition to off-set impacts to school facilities within SJUSD.

Standard Permit Condition: In accordance with California Government Code Section 65996, the developer shall pay a school impact fee to the School District, to offset the increased demands on school facilities caused by the proposed project. Although residential development under the proposed project could generate students in the area, the project would conform to Government Code Section 65996, which requires the project to pay school impact fees and is considered adequate mitigation for increased demands upon school facilities. **(Less Than Significant Impact)**

d) **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 parks?**

The proposed project would not result in a population increase beyond the projected growth objectives for the Urban Village area where it is located. New residents of the site would use existing recreational facilities in the area, including Plata Arroyo Park. The project could generate up to 394

[88] San José Unified School District. *Development Fee Justification Study.* April 2014. Appendix 1.

new residents. The new residents would incrementally increase the use of existing recreational facilities in the project area. The proposed development would include 10,400 square feet of common active and passive open space areas, which would reduce the use of existing parks by residents of the proposed development.

The project would conform to the City's Parkland Dedication Ordinance and Park Impact Ordinance and the project applicant would be required to pay PDO/PIO fees to offset the increased demand for parks and recreational facilities. The project applicant shall implement the following standard permit condition as a condition of approval for the project.

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

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

e) **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 other public facilities?**

There are 22 libraries serving neighborhoods located throughout San José. Development approved under the General Plan is projected to increase the City's residential population to 1,313,811. The existing and planned library facilities in the City will provide approximately 0.68 square feet of library space per capita for the anticipated population under build out of the General Plan by the year 2035, which is above the City's service goal. Although the proposed project would incrementally increase residential development and population growth and, therefore, increase the use of public facilities such as the East San José Carnegie Branch Library, the proposed project would not substantially increase use of San José facilities or otherwise require the construction of new library facilities. **(Less than Significant Impact)**

4.16 RECREATION

4.16.1 Environmental Setting

4.16.1.1 *Regulatory Framework*

State

Quimby Act – California Code Sections 66475-66478

The Quimby Act (California Government Code Sections 66475-66478) was approved by the California legislature to preserve open space and parkland in the State. The Quimby Act authorizes local governments to establish ordinances requiring developers of new subdivisions to dedicate parks, pay an in-lieu fee, or provide a combination of the two. As described in *Section 3.15, Public Services*, the City of San José has adopted a Parkland Dedication Ordinance and a Park Impact Ordinance, consistent with the Quimby Act.

Local

Envision San José 2040 General Plan Policies

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

Envision San José 2040 Relevant Recreation Policies

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

Greenprint

To implement the park and recreation policies of the General Plan, the 2000 Greenprint was adopted by the San José City Council in September 2000 to provide staff and decision makers with a strategic plan for expanding recreation opportunities in the City. The 2000 Greenprint identified areas of the City that were underserved by park and recreation facilities and included policies and strategies to correct those deficiencies through the development of additional facilities in those locations. The City adopted the 2009 Greenprint as an update to the 2000 version. The City is currently in the process of another revision to the plan known as Greenprint Update 2018.

4.16.1.2 *Existing Conditions*

The City of San José owns and maintains over 3,500 acres of parkland, including neighborhood parks, community parks, and regional parks.[89] The City also manages 51 community centers, 17 community gardens, and six pool facilities. Other recreational facilities include seven public skate parks and 57.5 miles of interconnected trails.

The project site is located within the Alum Rock Planning Area of San José; portions of this area are currently underserved with respect to parklands for the population. The project site is not located within the portions underserved with respect to parklands or community centers. [90]

The nearest public parks are Plata Arroyo Park, located on King Road, approximately 0.3 miles northeast of the site and Hacienda Park located on West Court, approximately 0.7 miles northwest of the site. Plata Arroyo Park is 10.6 acres and includes a barbeque area, basketball courts, a skate park, exercise course, and a youth playground. Hacienda Park is 0.3 acres and includes a youth playground area.[91] The nearest community center is Mayfair Community Center, located at 2039 Kammerer Street, approximately 0.75 miles southeast of the site.

In addition, the City plans to complete the Five Wounds Trail, which is mostly adjacent to Coyote Creek, with the nearest trailhead located at Alum Rock Avenue and Checkers Drive, approximately 0.4 miles east of the site. The trail is intended to be a regional trail facility that would provide recreational opportunities and an improved bicycle transportation corridor for people living and working within and adjacent to the Little Portugal Urban Village.

[89] City of San José Parks, Recreation, and Neighborhood Services. *Building Community Through Fun: 2017 Community Impact Report*. Accessed January 18, 2020. https://www.sanjoseca.gov/home/showdocument?id=9657.
[90] City of San José. *Greenprint 2009 Update*. December 8, 2009.
[91] City of San Jose, Parks Recreation and Neighborhood Services. *Search Parks and Playgrounds.* Accessed December 30, 2019. https://www.sanjoseca.gov/your-government/departments/parks-recreation-neighborhood-services/outdoor-activities/search-parks-playgrounds.

4.16.2 Impact Discussion

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
a)	Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility will occur or be accelerated?	☐	☐	☒	☐
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?	☐	☐	☒	☐

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?**

The proposed project would construct 123 new dwelling units which would result in approximately 394 new residents. The proposed development and population increase are consistent with the growth projections of the General Plan and Little Portugal Urban Village Plan. As described in Section 4.15, Public Services of this Initial Study, the project would conform to the City's PDO/PIO.

With the implementation of the City's PDO/PIO (which includes project applicant payment toward planned facilities discussed in Section 4.15, Public Services) and planned recreational facilities, the proposed project would not significantly impact or result in the substantial deterioration of existing neighborhood and regional park facilities. **(Less Than Significant Impact)**

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?**

The project applicant would pay PDO/PIO fees to offset increased demand for parks and recreational facilities as discussed in Section 4.15, Public Services. The proposed project would include recreational facilities including a gym, community room, outdoor kitchen, and dining areas, and other active open space. According to the Greenprint 2009 Update, the project area is adequately served by neighborhood/community parkland or community centers. New residents would be adequately served by existing parks in the area, including Plata Arroyo Park. The on-site recreational facilities would reduce the demand on existing neighborhood facilities. The project would be consistent with the existing General Plan designation and, therefore, would not increase the City's resident population above what was assumed in the General Plan, and would not require new or expanded park facilities beyond what is already planned.

For these reasons, the project would not result in the construction or expansion of recreational facilities that have an adverse physical effect on the environment. **(Less than Significant Impact)**

4.17 TRANSPORTATION

The following discussion is based upon a Transportation Analysis (including the Transportation Demand Management Plan) prepared by *Hexagon Transportation Consultants, Inc.* on March 24, 2020. A copy of the Traffic Analysis included in Appendix G of this document.

4.17.1 Environmental Setting

4.17.1.1 *Regulatory Framework*

State

Regional Transportation Plan

MTC is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted Plan Bay Area 2040 in July 2017, which includes a Regional Transportation Plan to guide regional transportation investment for revenues from federal, state, regional and local sources through 2040.

Senate Bill 743

SB 743 establishes criteria for determining the significance of transportation impacts using a vehicle miles traveled (VMT) metric intended to promote the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses. Specifically, SB 743 requires analysis of VMT in determining the significance of transportation impacts. Local jurisdictions are required by the Governor's Office of Planning and Research (OPR) to implement a VMT policy by July 1, 2020.

SB 743 did not authorize OPR to set specific VMT impact thresholds, but it did direct OPR to develop guidelines for jurisdictions to utilize. CEQA Guidelines Section 15064.3(b)(1) describes factors that might indicate whether a development project's VMT may be significant. Notably, projects located within 0.50 mile of transit should be considered to have a less than significant transportation impact based on OPR guidance.

Regional and Local

Congestion Management Program

VTA oversees the Congestion Management Program (CMP), which is aimed at reducing regional traffic congestion. The relevant state legislation requires that urbanized counties in California prepare a CMP in order to obtain each county's share of gas tax revenues. State legislation requires that each CMP define traffic LOS standards, transit service standards, a trip reduction and transportation demand management plan, a land use impact analysis program, and a capital improvement element. VTA has review responsibility for proposed development projects that are expected to affect CMP-designated intersections.

Transportation Analysis Policy (City Council Policy 5-1)

As established in City Council Policy 5-1, Transportation Analysis Policy, the City of San José uses VMT as the metric to assess transportation impacts from new development. According to the policy, an employment (e.g., office or research and development) or residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing regional average VMT per employee or the citywide average VMT per capita, respectively. 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. Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to a have a less than significant VMT impact.

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 to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access, and recommended or conditioned transportation improvements. . New projects in San José would no longer be subject to Area Development Policies such as the Evergreen, Edenvale, and North San José policies. Projects within the Downtown area would continue to be subject Downtown Strategy 2040 policies.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts from planned development in the City. The policies below are specific to transportation and are applicable to the proposed project.

Envision San José 2040 Relevant Transportation Policies

Policy	Description
Policy TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).
Policy TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
Policy TR-1.4	Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.
Policy TR-1.5	Design, construct, operate, and maintain public streets to enable safe, comfortable, and attractive access and travel for motorists and for pedestrians, bicyclists, and transit users of all ages, abilities, and preferences.

Policy TR-1.6	Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.
Policy TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
Policy TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
Policy TR-8.4	Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.
Policy TR-8.6	Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive transportation demand management program, or developments located near major transit hubs or within Villages and other Growth Areas.
Policy TR-8.8:	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-9.1	Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.
Policy CD-2.3	Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Main Streets, and other locations where appropriate. o 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. o Create easily identifiable and accessible building entrances located on street frontages or paseos. o Accommodate the physical needs of elderly populations and persons with disabilities. o Integrate existing or proposed transit stops into project designs.
Policy CD-2.10	Recognize that finite land area exists for development and that density supports retail vitality and transit ridership. Use land use regulations to require compact, low-impact development that efficiently uses land planned for growth, especially for residential development which tends to have a long life-span. Strongly discourage small-lot and single-family detached residential product types in growth areas.

Policy CD-3.3	Within new development, create a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.
Policy CD-3.6	Encourage a street grid with lengths of 600 feet or less to facilitate walking and biking. Use design techniques such as multiple building entrances and pedestrian paseos to improve pedestrian and bicycle connections.

4.17.1.2 *Existing Conditions*

The discussion below summarizes the existing conditions for major transportation facilities in the vicinity of the site, including the roadway network, transit services, and bicycle and pedestrian facilities.

Roadway Network

Regional Access

Regional access to the project site is provided via Highway 101 (US 101), Interstate-280 (I-280) and I-680. These facilities are described below.

US 101 is an eight-lane freeway in the vicinity of the site. It extends northwest to San Francisco and south to Gilroy. North of Morgan Hill, US 101 has high occupancy vehicle (HOV) lanes in both directions. Access to the site from US 101 is provided via its interchange with Alum Rock Avenue/Santa Clara Street.

I-280 is generally a north-south freeway that extends from I-80 in San Francisco to US 101 in San José. In San José, I-280 is oriented in an east-west direction, and transitions to I-680 at US 101. In the vicinity of the project site, the freeway is an eight-lane freeway with auxiliary lanes between some interchanges. The section of I-280 just north of the Bascom Avenue overcrossing has six mixed-flow lanes and two HOV lanes. I-280 provides access to the project site via US-101 and its extension as I-680.

I-680 is a north-south freeway that begins at US 101 in San José, where I-280 transitions to I-680, and ends at I-80 in Solano County. The section of I-680 near the project site is an eight-lane freeway, with four mixed-flow lanes in both directions. I-680 provides access to the project site via US-101 and its interchange with Alum Rock Avenue. Access also is provided via an interchange with King Road.

Local Access

Local access to the site is provided by Alum Rock Avenue, King Road, 33rd Street, and 34th Street. These roadways are described below:

Alum Rock Avenue is a four-lane east-west roadway in the vicinity of the project site and is a designated Grand Boulevard. It extends eastward from downtown San Jose as Santa Clara Street to

US 101, at which point it transitions to Alum Rock Avenue. In the project vicinity, Alum Rock Avenue has a posted speed limit of 30 miles per hour with sidewalks and limited on-street parking on both sides of the street. Bicycle lanes are not provided. Bus-only lanes are located within the median of Alum Rock Avenue between 34thStreet and Capitol Avenue. Alum Rock Avenue runs along the south project frontage and provides direct access to the project site via one right-in/right-out only driveway.

King Road is generally a four-lane north-south roadway that transitions from Lundy Avenue at its intersection with Commodore Drive (just south of Berryessa Road) and extends southward to Aborn Road, where it transitions to Silver Creek Road. King Road is a two-lane north-south roadway with a center median lane between Alum Rock Avenue and St. James Street. In the project vicinity, King Road has a posted speed limit of 35 miles per hour with sidewalks and bicycle lanes on both sides of the roadway. Access to the project site from King Road is provided via its intersection with Alum Rock Avenue.

Thirty Fourth (34th) Street is a two-lane north-south roadway that runs between McKee Road south to San Antonio Street. In the project vicinity, 34th Street has a posted speed limit of 25 miles per hour. Sidewalks and on-street parking are provided along both sides of the roadway; however, bicycle lanes are not provided. Access to the project site is provided via its intersection with Alum Rock Avenue.

Thirty Third (33rd) Street is a two-lane north-south roadway that runs between McKee Road and San Antonio Street. Sidewalks and on-street parking are provided along both sides of 33rd Street, however bicycle lanes are not provided. Access to the project site is provided via its intersection with Alum Rock Avenue.

Pedestrian, Bicycle Facilities, and Transit Services

The existing bicycle, pedestrian, and transit facilities in the study area are described below.

Pedestrian Facilities

Pedestrian facilities near the project site include sidewalks along all streets in the project vicinity. Sidewalks are located on both sides of Alum Rock Avenue, 33rd Street, 34th Street, and King Road. Other pedestrian facilities in the project area include crosswalks and pedestrian signals at all signalized study intersections.

Pedestrians in the project vicinity include transit riders coming from the Alum Rock/King Bus Rapid Transit (BRT) Station, pedestrians from the commercial areas along Alum Rock Avenue, and pedestrians coming from bus stops along the Alum Rock Avenue and King Road corridors. In addition, Anne Darling Elementary School, is approximately 0.7 miles walking distance from the project site. Existing sidewalks along Alum Rock Avenue, 34th Street, and King Road provide a pedestrian connection between the project site and pedestrian destinations in the project vicinity, including the Alum Rock/King BRT Station and Anne Darling Elementary School. Pedestrian access across US-101 is provided via sidewalks along the north and south sides of the Alum Rock Avenue overpass and crosswalks across the freeway ramp intersections.

Overall, the existing network of sidewalks and crosswalks provides good connectivity and provides pedestrians with safe routes to transit services and other points of interest in the area.

Bicycle Facilities

There are several bicycle facilities in the vicinity of the project site. Bicycle facilities are comprised of paths (Class I), lanes (Class II), and routes (Class III).

There are no Class I bikeways within the immediate vicinity of the project site. Class I bikeways are bicycle paths that are physically separated from motor vehicles and offer two-way bicycle travel on a separate path. The nearest continuous bicycle path is the Guadalupe River Trail, approximately 2.5 miles west of the site.

Class II Bikeways (Bike Lanes) are striped bike lanes on roadways that are marked by signage and pavement markings. Within the vicinity of the project site, striped bike lanes are present on the following roadway segments.

- King Road, along its entire extent
- San Antonio Street, between King Road and Jackson Avenue; between 34th Street and Bonita Avenue.

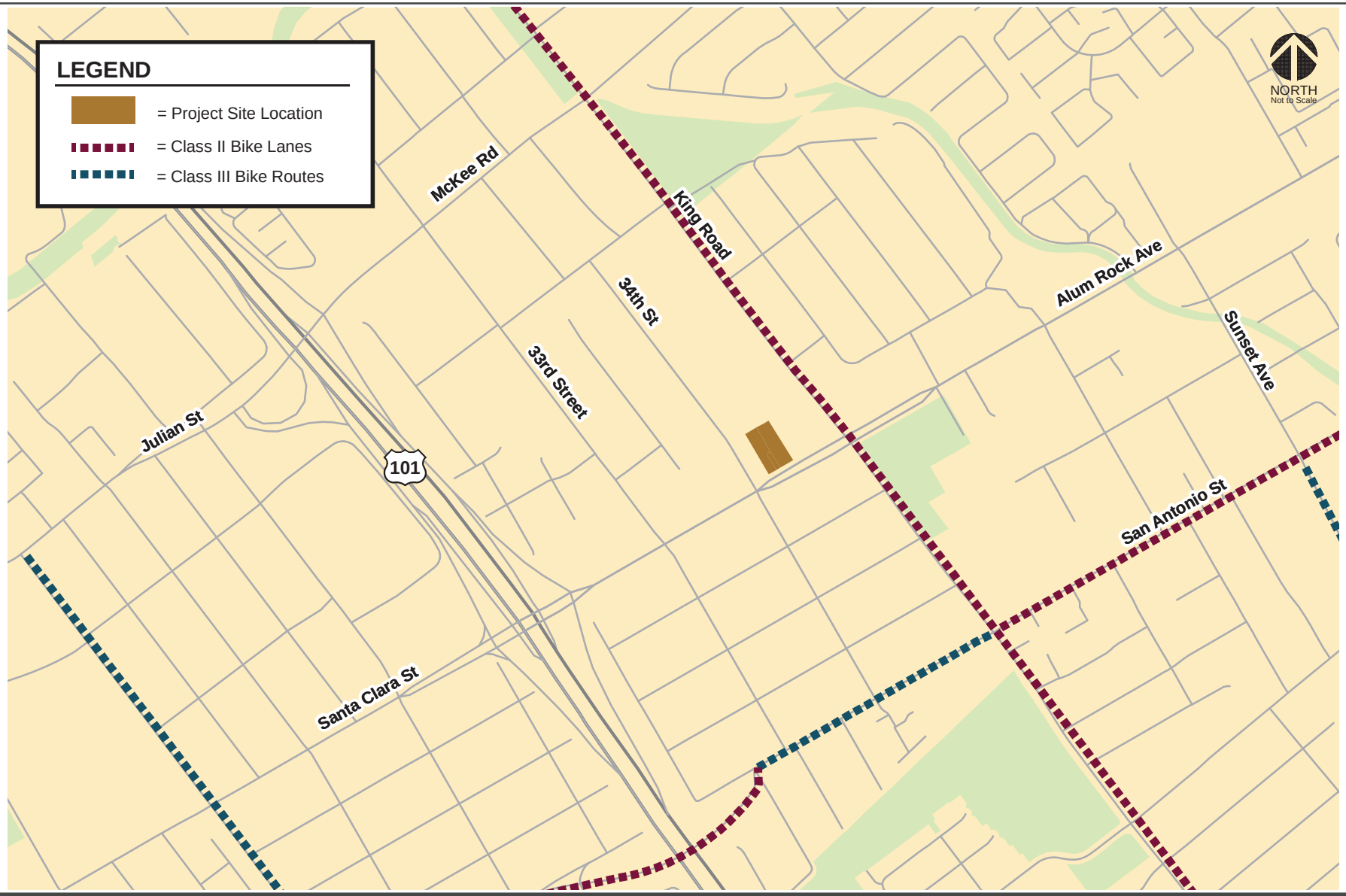
Class III Bikeways (Bike Routes) are bike routes designated only by signage. In the vicinity of the project site, the following roadway segments are designated as bike routes.

- San Antonio Street, between King Road and 34th Street; west of Bonita Avenue
- Sunset Avenue, between San Antonio Street and Lavonne Avenue; between Lyons Drive and Story Road (a freeway crossing across I-680 is provided between Lavonne Avenue and Lyons Drive)

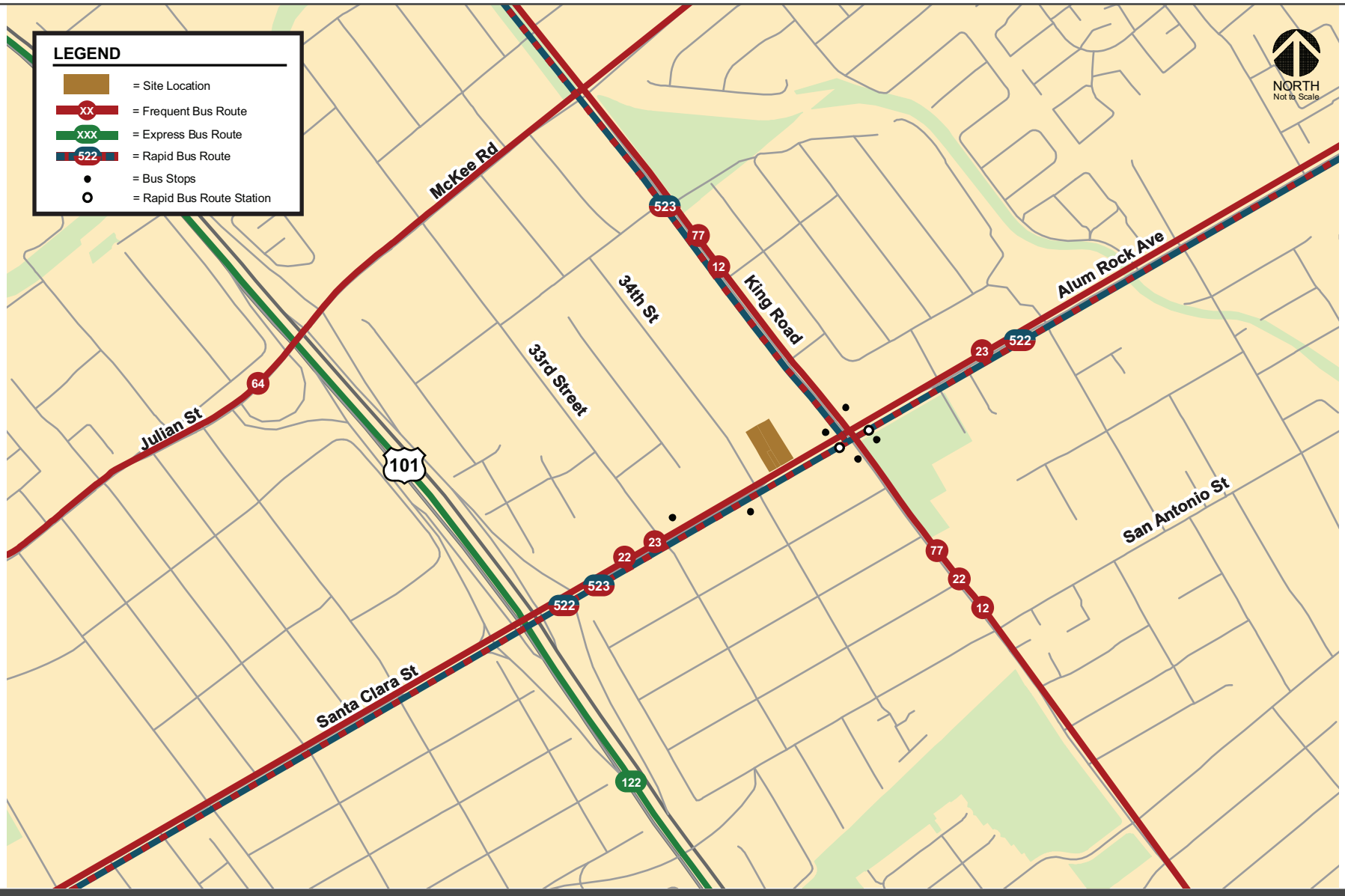
Existing bicycle facilities are shown on Figure 4.17-1.

Transit Facilities

Existing transit services in the project area are provided by the VTA and are shown on Figure 4.17-2. The project site is primarily served by seven VTA bus routes (22, 23, 64A, 64B, 77,522, and 523). These bus lines are listed in Table 3.17-1, including their terminus points, hours of operation, and commute hour headways. The nearest bus stops to the project site serve Frequent Routes 22 and 23, and Rapid Route 523 which are located along both sides of Alum Rock Avenue at its intersection with King Road and adjacent to the south project site frontage (approximately 150 feet southeast of the site).



EXISTING BICYCLE FACILITIES | FIGURE 4.17-1



EXISTING TRANSIT FACILITIES

FIGURE 4.17-2

Table 4.17-1: VTA Bus Services in the project area.			
Route	**Route Description**	**Hours of Operation**	**Headway[1] (minutes)**
Frequent Route 22	Palo Alto Transit Center to Eastridge Transit Center via El Camino Real	24 Hours	15
Frequent Route 23	De Anza College to Alum Rock Transit Center via Stevens Creek	4:57 AM to 1:28 AM	12-15
Local Route 64A	McKee Road/White Road to Ohlone-Chynoweth Station	5:14 AM to 12:28 :AM	15
Local Route 64B	McKee Road/White Road to Almaden Expressway and Camden Avenue	5:55 AM to 9:34 AM	15
Frequent Route 77	Milpitas BART to Eastridge Transit Center via King Road	5:19 AM to 11:18 PM	15-20
Rapid Route 522	Palo Alto Transit Center to Eastridge Transit Center	4:42 AM to 11:40 PM	10 to 15
Rapid Route 523	Berryessa BART to Lockheed Martin via De Anza College	5:05 AM to 11:30 PM	15 to 20
[1] Approximate headways during peak commute periods.			

Rapid Route 522 is a BRT service operating within dedicated bus-only lanes along the center median of Alum Rock Avenue and is served by platform bus stops between 34th Street and Capitol Avenue. The nearest eastbound and westbound bus stops serving Rapid Route 522 are located at the intersection of Alum Rock Avenue and King Road, less than 300 feet walking distance east of the project site. BRT stations serving Rapid Route 522 are enhanced bus stops consisting of upgraded shelters, live schedule displays, and passenger amenities. The Rapid 522 BRT line provides access to the Diridon Transit Center, located approximately three miles west of the project site. Connections between local and regional bus routes, light rail lines, and commuter rail lines are provided within the Diridon Transit Center. The Rapid 522 line also provides access to the Alum Rock Transit Center, located 1.5 miles east of the project site on Capitol Avenue, which provides access to the Alum Rock/Santa Teresa light rail transit (LRT) line.

The Alum Rock Avenue/King Road bus station is also served by the Rapid Route 523, which runs along Santa Clara Street/Alum Rock Avenue between Downtown San José and King Road.

4.17.1.3 *VMT Methodology*

Per City Council Policy 5-1, the effects of the proposed project on VMT was evaluated using the methodology outlined in the City's Transportation Analysis Handbook. VMT is the total miles of travel by personal motorized vehicles a project is expected to generate in a day. VMT measures the full distance of personal motorized vehicle trips with one end within the project. Typically, development projects that are farther from other, complementary land uses (such as a business park far from housing) and in areas without transit or active transportation infrastructure (bike lanes, sidewalks, etc.) generate more driving than development near complementary land uses with more

robust transportation options. Therefore, developments located in a central business district with high density and diversity of complementary land uses and frequent transit services are expected to internalize trips and generate shorter and fewer vehicle trips than developments located in a suburban area with low density of residential developments and no transit service in the vicinity.

To determine whether a project would result in CEQA transportation impacts related to VMT, the City has developed the San José VMT Evaluation Tool (evaluation tool) to streamline the analysis for development projects. Based on the location of a project, the evaluation tool identifies the existing average VMT per capita for the project area.

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

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

Projects that include residential uses would create a significant adverse impact when the estimated project generated VMT exceeds the existing citywide average VMT per capita minus 15 percent or existing regional average VMT per capita minus 15 percent, whichever is lower. Currently, the reported citywide average is 11.91 VMT per capita, which is less than the regional average. This equates to a significant impact threshold of 10.12 VMT per capita.

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

In addition, The City's Transportation Analysis Handbook identifies screening criteria that determines whether a CEQA transportation analysis would be required for development projects. The criteria are based on the type of project, characteristics, and/or location. If a project meets the City's screening criteria, the project is expected to result in less-than-significant VMT impacts and a detailed CEQA VMT analysis is not required. The type of development projects that may meet the screening criteria include the following:

1. Small infill projects
2. Local-serving retail
3. Local-serving public facilities
4. Projects located in *Planned Growth Areas* with low VMT and *High-Quality Transit*
5. Deed-restricted affordable housing located in *Planned Growth Areas with High-Quality Transit*

The screening criteria for residential and commercial mixed-use developments is summarized in Table 4.17-2.

Table 4.17-2: City of San José VMT Screening Criteria for Development Projects

Type	Screening Criteria
Local-Serving Retail	• 100,000 square feet of total gross floor area or less without drive-through operations
Residential/Office Projects or Components	• **Planned Growth Areas:** Located within a Planned Growth Area as defined in the Envision San José 2040 General Plan; AND • **High-Quality Transit:** Located within ½ a mile of an existing major transit stop or an existing stop along a high-quality transit corridor; AND • **Low VMT:** Located in an area in which the per capita VMT is less than or equal to the CEQA significance threshold for the land use; AND • **Transit-Supporting Project Density:** o Minimum Gross Floor Area Ratio (FAR) of 0.75 for office projects or components; o Minimum of 35 units per acre for residential projects or components; o If located in a Planned Growth Area that has a maximum density below 0.75 FAR or 35 units per acre, the maximum density allowed in the Planned Growth Area must be met; AND • **Parking:** o No more than the minimum number of parking spaces required; o If located in Urban Villages or Downtown, the number of parking spaces must be adjusted to the lowest amount allowed; however, if the parking is shared, publicly available, and/or "unbundled", the number of parking spaces can be up to the zoned minimum; AND • **Active Transportation:** Not negatively impact transit, bike, or pedestrian infrastructure.

Source: City of San José. *Transportation Analysis Handbook*. April 2018.

4.17.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with 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, roadways, bicycle lanes, and pedestrian facilities?	☐	☐	☒	☐
b) Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?	☐	☐	☒	☐
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	☐	☐	☒	☐
d) Result in inadequate emergency access?	☐	☐	☒	☐

a) **Would the project conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?**

New development projects in San José should encourage multi-modal travel, consistent with the goals and policies of the City's General Plan, to reduce vehicle trip generation and VMT. In addition, the adopted San José Bike Plan 2020 establishes goals, policies, and actions to facilitate bicycling and designates bicycle lanes along many City streets. The project's consistency with these plans and the Little Portugal Urban Village Plan is described below.

Pedestrian Facilities

As discussed in Section 4.17.1, pedestrian facilities in the project area include sidewalks, crosswalks, and pedestrian signals at signalized intersections. The project proposes to widen the sidewalk along the Alum Rock Avenue from 10 feet to 16 feet, which is consistent with the requirements for minimum frontage sidewalk width in the Little Portugal Urban Village Plan. The proposed project would not exceed the capacity of the existing pedestrian facilities or preclude the construction of planned improvements. The project would, therefore, not conflict with a program plan or policy addressing the pedestrian facilities. **(Less than Significant Impact).**

Bicycle Facilities

The bikeways within the vicinity of the project site would remain unchanged under project conditions. There are currently no bicycle lanes along Alum Rock in the vicinity of the project site. There are bicycle lanes provided along San Antonio Street and King Road, which are less than one half mile from the project site. Due to right-of-way limitations, neither the San Jose Bike Plan 2020 nor the Little Portugal Urban Village plan require additional bicycle circulation improvements along Alum Rock Avenue within the project vicinity. There are, however, relatively low vehicular volumes

along many residential streets, such as 34th Street and Shortridge Avenue, which are conducive to bicycle usage.

Planned bicycle/pedestrian facility improvements include improvements to the Lower Silver Creek Trail, a partially built pedestrian- and bike-only trail that is proposed to run between Lake Cunningham Park north to the Coyote Creek Trail is. The trail alignment would mostly follow the east/north bank of Coyote Creek. The nearest trailhead to the site would be located along Alum Rock Avenue near Checkers Drive, approximately 0.4 miles east of the project site. The Lower Silver Creek Master Plan was approved by the City in December 2007.

Other planned improvements include the Five Wounds Trail, a partially built pedestrian- and bicycle-only trail that would run between the intersection of Senter Road/Story Road north to the Berryessa BART station. A 1.5-mile stretch of the trail that runs from William Street to US 101 and Lower Silver Creek is an abandoned railroad right-of-way currently owned by VTA.

The abandoned railroad right-of-way runs along the west side of 28th Street at Santa Clara Street, approximately 0.5 mile west of the project site. The proposed alignment would provide direct pedestrian and bicycle access between the project site and the planned Alum Rock/28th Street BART station. The trail would also provide connections to other parts of the City's bicycle facility network, including the planned Lower Silver Creek Trail, the planned Three Creeks Trail, and an expanded Coyote Creek Trail.

The proposed project would not exceed the capacity of the existing bicycle facilities or preclude the construction of planned improvements. The project would not remove any bicycle facilities, nor would it conflict with any adopted plans or policies for new bicycle facilities. **(Less than Significant Impact)**

Transit Operations

The project site is adequately served by the existing VTA transit services. As discussed in Section 4.17.1, the project site is primarily served by VTA bus routes 22, 23, 64A, 64B, 77,522, and 523 which are within walking distance of the site.

Nearby planned transit facilities include the Alum Rock/28th Street BART Station, which would be located approximately one-half mile west of the site. The proposed station amenities would include passenger and bus/shuttle drop-off areas. The Five Wounds Trail would be located along the west side of 28th Street across from the west frontage of the station. The planned Five Wounds Trail would provide direct access between the 28th Street/Alum Rock Station and Santa Clara Street.

The new transit trips generated by the project would not create demand in excess of the transit service that is currently provided. The proposed project would not alter existing transit facilities or conflict with the operation of existing or planned facilities. Therefore, the proposed project would not interfere with the construction of planned transit facilities nor would the project exceed the capacity of the existing system. The project would not conflict with a program plan or policy addressing transit. **(Less than Significant Impact)**

b) **Would the project conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?**

As described above, the City's Transportation Analysis Handbook identifies screening criteria that screens out projects that would have a less than significant VMT impact.

The residential use of the proposed project would meet the applicable residential VMT screening criteria, as follows:

- **Planned Growth Area and Low VMT**: The project site is located within a planned Growth Area (Little Portugal Urban Village) with low VMT (8.99 per capita compared to the threshold VMT per capita of 10.12 for residential uses) as identified by the City of San José.

- **High Quality Transit**: Alum Rock Avenue, located along the south project frontage, is a high-quality transit corridor with the Alum Rock Avenue/King Road BRT Station within 400 feet walking distance. VTA bus services at this station have headways of less than 15 minutes during peak commute periods.

- **Parking:** The project proposes a total of 170 parking spaces on-site which will be less than the required 228 spaces as calculated per the City.

- **Transit-Supporting Project Density**: The residential density at the site would be 133 units per acre, which meets the 35 units per acre minimum listed in the VMT screening criteria.[92]

- **Active Transportation**: The project would not negatively impact transit, bicycle, or pedestrian infrastructure (see discussion under Impact TRN-1).

In addition, the proposed 13,650 square feet retail space[93] is less than the 100,000-square foot retail threshold screening criterion for local-serving retail. Therefore, both the residential and commercial land use components of the project are screened out and would have a less than significant VMT impact. A detailed CEQA transportation analysis that evaluates the project's effects on VMT is not required.

However, for informational purposes, a VMT evaluation for the project's residential component was completed. The results of the VMT evaluation, using the City's VMT Evaluation Tool, show that the proposed project would generate a daily per capita VMT of 8.85, which is below the significant impact threshold of 10.12 daily per capita VMT.

The project would, therefore, not result in a significant impact on the transportation system based on the City's VMT criteria. **(Less than Significant Impact)**

[92] The project site is approximately 0.93 acres. The residential density is 123 residential units/0.93 acres
[93] The Traffic Analysis analyzed 13,897 square feet of retail. This provides a more conservative analysis as the actual retail space proposed is 13,650 square feet.

c) **Would the project substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?**

The following site access and circulation evaluation is based on a review of the project site plan. Site access was evaluated to determine the adequacy of the site's access points with regards to the following: traffic volume, delays, geometric design, and corner sight distance.

Site Access

Vehicular access to the project site would be provided via one driveway on Alum Rock Avenue along the south side of the project site, approximately 100 feet east of the 34th Street and Alum Rock Avenue intersection (refer to Figure 3.2-1, Site Plan). Due to bus-only lanes located along the median of Alum Rock Avenue, driveway operations would be restricted to right-in/right-outs only. The project driveway, shown to be 26 feet wide, would meet the City's minimum driveway width for residential/mixed-use developments.

Driveway Operations

Based on the project trip generation and trip assignment, it is estimated that a maximum of 43 inbound trips (during the PM peak hour) and 36 outbound trips (during the PM peak hour) would enter and exit the site via one driveway on Alum Rock Avenue. The project driveway leads to a drive aisle which runs north along the west project frontage. Approximately 175 feet north of the driveway, an entrance to a ground-floor parking level is provided along the east side of the drive aisle. No gates are proposed and no inbound queueing into the parking levels would occur.

Sight Distance

Adequate sight distance would be required at the project driveway along Alum Rock Avenue. Adequate sight distance shall be provided at the project driveway in accordance with the American Association of State Highway Transportation Officials (AASHTO) standards. The minimum acceptable sight distance is often considered the AASHTO stopping sight distance. Sight distance requirements vary depending on the roadway speeds. Alum Rock Avenue has a posted speed limit of 30 miles per hour. The AASHTO stopping sight distance for a facility with a posted speed limit of 30 mph is 200 feet. As a result, a driver exiting the proposed project driveway on Alum Rock Avenue must be able to see 200 feet to the east along Alum Rock Avenue in order to stop and avoid a collision.

Vehicles making a right-turn out of the project site driveway would be able to see approaching traffic on westbound Alum Rock Avenue at least to King Road located approximately 400 feet to the east. Therefore, the project driveway would meet the AASHTO minimum stopping sight distance standards.

Truck Access

According to the City of San José Zoning Regulations, the project is not required to provide an off-street loading space for the residential nor the commercial uses. All truck loading activities would

occur along adjacent roadways. A trash enclosure would be located within the ground-floor parking area. The parking level, however, would not provide garbage truck access, requiring trash bins to be wheeled out of the parking garage for pickup. Placing the trash bins along Alum Rock Avenue may be hazardous given the narrow width of the roadway shoulder. Therefore, the following project condition shall be implemented.

> **Condition of Approval:** Trash Pick-Up. Trash bins shall be wheeled out to a designated location on-site, adjacent to the entry drive aisle and accessible to garbage trucks for pickup. The designated pickup location shall not inhibit vehicular or pedestrian on-site circulation along the sidewalks, drive aisle or parking garage.

The proposed project would be subject to City review to ensure compliance with traffic engineering standards and transportation planning principles. Since the project would comply with City design and AASHTO standards, the project would not increase hazards due to a design feature. **(Less than Significant Impact)**

d) **Would the project result in inadequate emergency access?**

Emergency vehicles would enter the site via the 26-foot driveway on Alum Rock Avenue. Based on the project site plan, the ground-floor drive aisle narrows to approximately 21 feet wide, starting approximately 50 feet north of Alum Rock Avenue.

Prior to issuance of Building Permit, the Fire Department and Building Division will review the project plan to confirm the project conforms with all applicable Fire and Building Codes. As such, the proposed project would have a less than significant emergency vehicle access impact. **(Less than Significant Impact)**

4.17.3 Non-CEQA Effects

As noted in Section 4.17.1, with the passage of SB 743 amending CEQA's evaluation of transportation impacts and the effective date of the Guidelines implementing SB 743, a project's effects on level of service shall no longer be considered an impact on the environment. The following discussion is included because the City of San José has policies that address level of service as a planning or growth management matter, outside the CEQA process. In the event a deficient LOS condition is identified, the City has discretion whether to require a project to address the deficiency by implementing roadway or other transportation improvements to restore or improve the level of service, and the relevant question under CEQA is whether those improvements would result in adverse physical changes to the environment, and not whether level of service has degraded below the condition considered acceptable.

Methodology

Consistent with City requirements, an LTA was completed for the project. The Institute of Transportation Engineers (ITE) Trip Generation Manual, 10th Edition (2017) was utilized to calculate the vehicle trips generated by the proposed project.

Trip Generation

In accordance with San José's Transportation Analysis Handbook, the project is eligible for adjustments and reductions from the gross trip generation. As shown in Table 4.17-3, after applying the ITE trip rates, appropriate trip reductions, it is estimated that the project would generate an additional 894 daily vehicle trips, with 46 trips (15 inbound and 31 outbound) occurring during the AM peak hour and 79 trips (43 inbound and 36 outbound) occurring during the PM peak hour.[94]

Table 4.17-3: Project Trip Generation Estimates

Land Use	Size	Daily Trips	AM Peak Hour			PM Peak Hour		
			In	Out	Total	In	Out	Total
Proposed Land Uses								
Multi-family Housing (Mid-Rise)[1]	123 dwelling units	669	11	33	44	33	21	54
- Residential – Retail Internal Reduction[2]		*-79*	*-1*	*-1*	*-2*	*-4*	*-4*	*-8*
Location Based Reduction[3]		*-77*	*-1*	*-4*	*-5*	*-4*	*-2*	*-6*
VMT Reduction[4]		*-8*	*0*	*0*	*0*	*0*	*0*	*0*
Shopping Center[1]	13,897 square feet	525	8	5	13	25	28	53
Residential – Retail Internal Reduction[2]		*-79*	*-1*	*-1*	*-2*	*-4*	*-4*	*-8*
Location Based Reduction[2]		*-58*	*-1*	*-1*	*-2*	*-3*	*-3*	*-6*
Baseline Trips (Before Reductions)		1,194	19	38	57	58	49	107
Gross Project Trips		**894**	**15**	**31**	**46**	**43**	**36**	**79**

Notes:
[1] Source: ITE Trip Generation Manual, 10th Edition 2017, average trip generation rates.
[2] As prescribed by the Transportation Impact Analysis Guidelines from VTA (October 2014), the maximum trip reduction for a mixed-use development project with residential and retail is equal to 15 percent off the smaller trip generator.
[3] The project site is located within an urban low-transit area based on the City of San José VMT Evaluation Tool (March 14, 2018). The location-based vehicle mode shares are obtained from Table 6 of the City of San José Transportation Analysis Handbook (April 2018). The trip reductions are based on the percent of mode share for all of the other modes of travel besides vehicle.
[4] VMT per capita for residential use. Existing and project VMTs were estimated using the City of San José VMT Evaluation Tool. It is assumed that every percent reduction in VMT per-capita is equivalent to one percent reduction in peak-hour vehicle trips.

Intersection Operations Analysis

Traffic conditions at intersections in the project area were evaluated using LOS and compared to the City's Transportation Analysis Handbook standards. LOS is a qualitative description of operating conditions ranging from LOS A, or free-flow conditions with little or no delay, to LOS F, or jammed conditions with excessive delays.

[94] Trip credits (or reductions) for trips generated by the existing on-site units were not applied to the estimated project trips. Based on site observations, on-site parking is limited. Therefore, it is likely that the majority of vehicles generated by existing uses at the site park off-site, along adjacent residential roadways. As a conservative measure, existing trip credits were not applied to the proposed project's trip generation estimates.

City of San José Definition of Adverse Intersection Operational Effects

Signalized study intersections are subject to the City of San José level of service standards. The City of San José has established LOS D as the minimum acceptable intersection operations standard for all signalized intersections unless superseded by an Area Development Policy.

According to the City of San Jose's Transportation Analysis Handbook 2018, an adverse effect on intersection operations occurs if for either peak hour:

- The level of service at the intersection degrades from an acceptable level (LOS D or better) under background conditions to an unacceptable level under background plus project conditions, or
- The level of service at the intersection is an unacceptable level (LOS E or F) under background conditions and the addition of project trips cause both the critical-movement delay at the intersection to increase by four or more seconds and the volume-to-capacity ratio (V/C) to increase by one percent (.01) or more.

The exception to this threshold is when the addition of project traffic reduces the amount of average control delay for critical movements, i.e., the change in average control delay for critical movements are negative. In this case, the threshold is when the project increases the critical v/c value by 0.01 or more.

Level of Service at Study Intersections

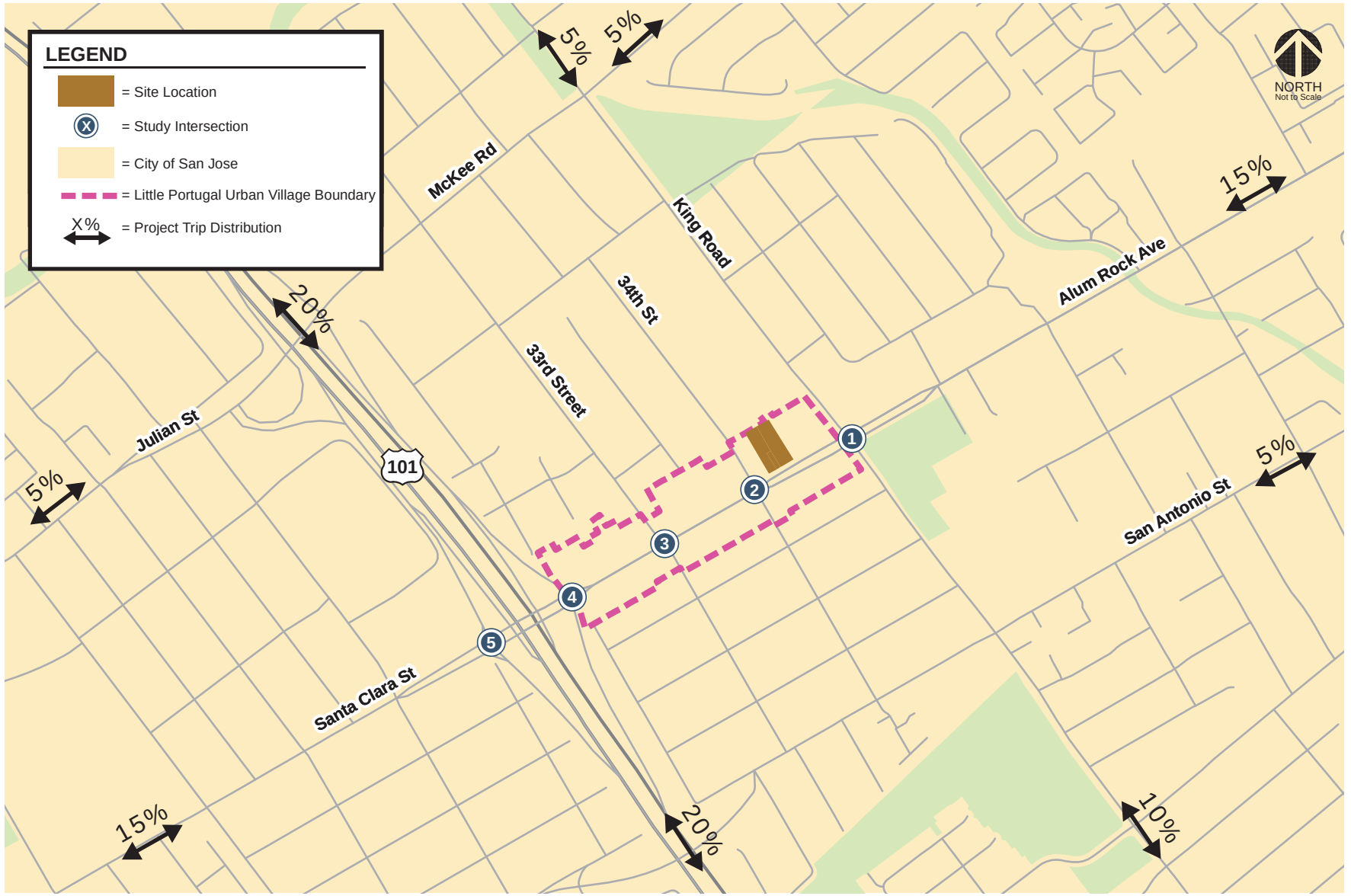
Intersection levels of service were evaluated against applicable City of San José operations standards. A total of five signalized intersections were evaluated (Figure 4.17-3 shows the location of the study intersections and project trip distribution).[95] Of the five intersections, three are managed by VTA's CMP. All three of the CMP-designated study intersections are located within a designated Infill Opportunity Zone (IOZ) which allows them to be exempted from the CMP's intersection operations standards. Table 4.17-4 shows the existing, background, and background plus project operations analysis at the study intersections. Background conditions reflect trips from approved but not yet constructed or occupied developments in the vicinity.

[95] The trip distribution pattern for the project was developed based on existing travel patterns on the surrounding roadway system and the locations of complementary land uses. The peak-hour vehicle trips generated by the project were assigned to the roadway network in accordance with the trip distribution pattern, with an emphasis on freeway access and project driveway location. The distribution assumed a balanced distribution to the roadway network to the north, south, east, and west.

Table 4.17-4: Existing, Background, and Background Plus Project Intersection Levels of Service										
Intersection	**LOS Standard**	**Peak Hour**	**Existing**		**Background**		**Background Plus Project**			
			Average Delay	**LOS**	**Average Delay**	**LOS**	**Average Delay**	**LOS**	**Increase in Critical Delay**	**Increase in Critical V/C**
1. King Road and Alum Rock Avenue*	None	AM	34.7	C	35.3	D	35.5	D	0.4	0.006
		PM	36.9	D	38.0	D	38.4	D	0.2	0.006
2. 34th Street and Alum Rock Avenue	D	AM	24.0	C	24.7	C	24.7	C	0.0	0.012
		PM	28.7	C	29.1	C	29.3	C	0.3	0.018
3. 33rd Street and Alum Rock Avenue	D	AM	20.7	C	20.7	C	20.7	C	-0.1	0.006
		PM	18.4	B	18.4	B	18.2	B	-0.1	0.007
4. US 101 Northbound Ramps and Alum Rock Avenue *	None	AM	13.7	B	13.7	B	13.8	B	0.1	0.005
		PM	13.6	B	13.6	B	13.7	B	0.2	0.013
5. US 101 Southbound Ramps and Santa Clara Street*	None	AM	11.6	B	11.8	B	11.9	B	0.0	0.003
		PM	14.2	B	14.4	B	14.5	B	0.2	0.005

LOS = Level of Service, V/C = volume-to-capacity ratio, AM = morning peak hour (between 7:00 and 9:00 AM), PM = evening peak hour (between 4:00 and 6:00 PM).

* Denotes Congestion Management Program (CMP) intersection in an infill opportunity zone (IOZ) which allows them to be exempted from the CMP's intersection operations standards.



STUDY INTERSECTIONS AND PROJECT TRIP DISTRIBUTION | FIGURE 4.17-3

As shown in Table 4.17-4, all signalized intersections currently operate at an acceptable LOS D or better. Under background and background plus project conditions during both AM and PM peak hours, all signalized intersections would continue to operate at acceptable levels of service.

On-Site Circulation

On-site vehicular circulation was reviewed in accordance with the City of San José Zoning Code and generally accepted traffic engineering standards.

As stated in the response to question d, the ground-floor drive aisle decreases in width from 27 feet to 21 feet wide, starting approximately 50 feet north of Alum Rock Avenue. Based on a review of the site plan, the proposed 21-foot drive aisle would be adequate to serve two-way traffic.

Parking

Vehicle Parking

Based on the Municipal Code's standard parking requirements as set forth in Chapter 20.90, the project is required to provide a total of 227 off-street parking spaces before any reductions.

Based on Section 20.90.220.A.1 of the San José Parking Code, a reduction in the required off-street vehicle parking spaces of up to 20 percent is allowed if the following provisions are met:

- The proposed development or use is located within 2,000 feet of a proposed or an existing rail station or bus rapid transit station, or an area designated as a Neighborhood Business District, or as an Urban Village, or as an area subject to an area development policy in the city's general plan; and

- The proposed development or use provides bicycle parking spaces in conformance with the requirements of Table 20-90.

The proposed project is within the Little Portugal Urban Village and meets the City's bicycle parking requirements (which requires at least 36 bicycle parking spaces for the project; see below discussion). As a result, the project is allowed up to a 20 percent reduction for off-street parking.

Based on the City's Parking Code, a 20 percent reduction in the required off-street parking would result in 183 spaces, consisting of 135 spaces for the residential use and 48 spaces for the retail use. The proposed project would provide a total of 170 parking spaces, consisting of 122 spaces for the residential uses and 48 spaces for the retail use. Since the project is a proposing an approximately 25 percent (greater than 20 percent) parking reduction, the project is required to implement TDM measures.

The proposed project would implement a TDM Plan which includes the following measures. Implementation of these measures would reduce the project's parking demand:

- Bicycle parking spaces for residential and retail uses.
- A trip planning kiosk which would provide information regarding non-auto transportation alternatives
- Provision of 100 percent unbundled parking for all residential spaces.
- Transit subsidies which encourage residents and employees to use transit (e.g., provide VTA SmartPasses to all residential tenants)

Bicycle Parking

Based on the City's Bicycle Parking Standards (Municipal Code, Chapter 20.90, Table 20-210), the project is required to provide bicycle parking for the 123 residential units at a rate of one bicycle parking space per four residential units. For the proposed 13,700 square feet of retail use, bicycle parking spaces are required to be provided at a rate of one bicycle parking space per 3,000 square feet of floor area (Table 20-190). This equates to a total requirement of 31 bicycle parking spaces for the residential use and five parking spaces for the retail use. Of the required residential bicycle parking, City standards require that at least 60 percent be secured long-term bicycle spaces and at most 40 percent be short-term bicycle spaces. Of the required retail bicycle parking, City standards require that at least 80 percent of retail bicycle parking be short-term spaces and 20 percent to be secured long-term bicycle spaces. Based on these requirements, the project is required to provide a total of 36 bicycle parking spaces consisting of 14 short-term parking spaces and 22 long-term parking spaces.

Short-term bicycle storage would be located along the east frontage sidewalk and within an outdoor area located at the northeast corner of the project site. A long-term bicycle storage room would be located within the first below-ground level of the parking garage. The project proposes to provide a total of 36 bicycle parking spaces consisting of 14 short-term parking spaces and 22 long-term parking spaces. Therefore, the proposed bicycle parking of the project will meet the City's Bicycle Parking Standards.

4.18 TRIBAL CULTURAL RESOURCES

4.18.1 Environmental Setting

4.18.1.1 *Regulatory Framework*

State

Assembly Bill 52

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

Under AB 52, TCRs are defined as follows:

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

4.18.1.2 *Existing Conditions*

As discussed in Section 4.5.1.1, 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. The Ohlone tribe has sent a written request for notification of projects citywide to the City of San José. As discussed in Section 3.5 Cultural Resources, the project site is not located within an area of high archaeological sensitivity.

4.18.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				

a) 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)?	☐	☐	☒	☐
b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☐	☒	☐

a) **Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is listed?**

As stated in Section 4.4, Cultural Resources, the project site has a low potential for pre-historic Native American resources to occur. Based on the cultural resources record search completed in August 2019, there are no recorded tribal cultural objects in the project area. The City of San José notified the Ohlone tribe of the project. To date, the tribe has not initiated formal consultation under AB 52.

Any subsurface artifacts found on-site would be addressed consistent with standard permit conditions specified in Section 4.5, Cultural Resources of this document. With the implementation of standard permit conditions, the proposed project would have a less than significant impact on tribal cultural resources. **(Less Than Significant Impact)**

b) **Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1?**

As discussed in the response to question a), there are no known tribal cultural resources on-site, and the project includes measures to reduce potential impacts to tribal cultural resources to a less than significant level. For this reason, the project would not cause a substantial adverse change in the significance of a tribal cultural resources that is determined by the lead agency (i.e., the City of San José), in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. **(Less than Significant Impact)**

4.19 UTILITIES AND SERVICE SYSTEMS

4.19.1 Environmental Setting

4.19.1.1 *Regulatory Framework*

State

State Water Code

Pursuant to the State Water Code, water suppliers providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet (approximately 980 million gallons) of water annually must prepare and adopt an urban water management plan (UWMP) and update it every five years. As part of a UWMP, water agencies are required to evaluate and describe their water resource supplies and projected needs over a 20-year planning horizon, water conservation, water service reliability, water recycling, opportunities for water transfers, and contingency plans for drought events. The San José Water Company (water service provider for the project area) adopted its most recent UWMP in April 2011.

Assembly Bill 939

The California Integrated Waste Management Act of 1989, or AB 939, established the Integrated Waste Management Board, required the implementation of integrated waste management plans, and mandated that local jurisdictions divert at least 50 percent of solid waste generated (from 1990 levels), beginning January 1, 2000, and divert at least 75 percent by 2010. Projects that would have an adverse effect on waste diversion goals are required to include waste diversion mitigation measures.

Assembly Bill 341

AB 341 sets forth the requirements of the statewide mandatory commercial recycling program Businesses that generate four or more cubic yards of garbage per week and multi-family dwellings with five or more units in California are required to recycle. AB 341 sets a statewide goal for 75 percent disposal reduction by the year 2020.

Senate Bill 1383

SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. The bill grants CalRecycle the regulatory authority required to achieve the organic waste disposal reduction targets and establishes an additional target that at least 20 percent of currently disposed edible food is recovered for human consumption by 2025.

Local

Envision San José 2040 General Plan

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

Envision San José 2040 Relevant Utilities and Service Systems Policies

Policy	Description
Policy MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
Policy MS-3.2	Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit. For example, promote the use of captured rainwater, graywater, or recycled water as the preferred source for non-potable water needs such as irrigation and building cooling, consistent with Building Codes or other regulations.
Policy MS-3.3	Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
Action EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.
Policy IN-3.3	Meet the water supply, sanitary sewer, and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
Policy IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
Policy IN-3.10	Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES) permit.

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

San José Zero Waste Strategic Plan/Green Vision

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

Private Sector Green Building Policy

The City of San José's Green Building Policy for new private sector construction encourages building owners, architects, developers, and contractors to incorporate meaningful sustainable building goals early in the design process. This policy establishes baseline green building standards for private sector construction and provides a framework for the implementation of these standards. It is also intended to enhance the public health, safety, and welfare of San José residents, workers, and visitors by fostering practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water, and other resources.

4.19.1.2 *Existing Conditions*

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

Water Service

Water service is provided to the site by the San José Water Company. There are no existing recycled water lines in the project area.[96] The project site has an existing water demand of approximately 2,760 gallons per day (gpd).[97]

Sanitary Sewer/Wastewater Treatment

Sanitary sewer lines serving the site are owned and maintained by the City of San José. A six-inch sanitary sewer main located on Alum Rock Avenue serves the site.

[96] City of San José. *Recycled Water Pipeline System*. Accessed January 16, 2020. https://www.sanjoseca.gov/home/showdocument?id=522.

[97] South Coast Air Quality Management District. *California Emissions Model (CalEEMod) User's Guide Appendix D, Default Data Tables - Table 9.1: Water Usage Rates. November 2017.* Accessed January 16, 2020. http://www.aqmd.gov/caleemod/user's-guide.
Existing apartment development (apartments low rise - indoor) = 65,154 gallons water/year x 7 units/365 days = 1,250 gallons water/day
Apartments (low rise – outdoor) = 41,075 gallons water/year x 7 units/365 days = 788 gallons per day
Tire store and restaurant (5,490 square feet total) = 74,073 gallons per year/1,000 square feet *4,015 square feet = 297,403 gallons per year/365 days = 815 gallons per day
Automobile sales and repair (indoor) = 94,081 gallons per day/year/1,000 square feet * 1,475 square feet = 138,769 gallons per year/ 365 days = 380 gallons per day
Automobile sales and repair (outdoor) = 57,663 gallons per day/1,000 square feet *1,475 square feet = 85,053 gallons per year/365 days = 233 gallons/day

Wastewater from the project area is treated at the San José/Santa Clara Regional Wastewater Facility (RWF), formerly known as the San José/Santa Clara Water Pollution Control Plant, in Alviso. The RWF has the capacity to treat 167 million gpd of sewage during dry weather flow.[98] In 2018, the RWF's average dry weather effluent flow was 79.4 million gallons per day.[99] Fresh water flow from the RWF is discharged to the South San Francisco Bay or delivered to the South Bay Water Recycling Project for distribution.

The City of San José generates approximately 69.8 million gpd of dry weather sewage flow. The City's share of the RWF's treatment capacity is 108.6 million gpd; therefore, the City has approximately 38.8 million gpd of excess treatment capacity.[100]

For the purposes of this analysis, wastewater flow rates are assumed to be 95 percent of the total indoor water use due to the limited landscaping. The existing residential and commercial buildings on-site are estimated to generate approximately 1,652 gpd of wastewater.[101]

Stormwater Drainage

The project site is located in a developed area served by an existing storm drainage system. The project site is currently developed with commercial and residential uses and associated paved driveways. The site contains approximately 31,394 square feet (78 percent) of impervious surfaces and 9,083 square feet (22 percent) of pervious surfaces.

Storm drainage lines in the project area are owned and maintained by the City of San José, including a 12-inch storm drain line in Alum Rock Avenue.

Solid Waste

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California Integrated Waste Management Board in 1996 and reviewed in 2004, 2007, 2011, and 2016. Each jurisdiction in the County has a landfill diversion requirement of 50 percent per year. According to the IWMP, the County has adequate disposal capacity beyond 2030.[102] Solid waste generated within the County is landfilled at Guadalupe Mines, Kirby Canyon, Newby Island, and Zanker Road landfills.

The project site currently generates approximately 135 pounds of solid waste per day. [103]

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[98] City of San José. *San José/Santa Clara Regional Wastewater Facility*. Accessed January 16, 2020. https://www.sanjoseca.gov/Home/ShowDocument?id=45331.
[99] Ibid.
[100] City of San José. *Envision San José 2040 General Plan FEIR.* September 2011. Page 648.
[101] Existing indoor water use = 1,740 gallons per day. 1,740 gallons per day * 0.95 = 1,652 gallons of wastewater per day.
[102] Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report.* June 2016.
[103] South Coast Air Quality Management District. *California Emissions Estimator Model (CalEEMod) User's Guide Appendix D, Default Data Tables - Table 10.1: Solid Waste Disposal Rates.* November 2017. Accessed January 16, 2020. http://www.aqmd.gov/caleemod/user's-guide.
Apartments low rise = 0.46 tons per year per unit x 7 units x 2,000 pounds per ton/365 days =18 pounds per day
Auto sales and repair store = 0.86 tons/year/employee x 4 employees x 2,000 pounds/ton = 6,880 pounds per year/365 days = 19 pounds per day

Other Utilities

SJCE supplies the electricity to the project site and PG&E natural gas services to the site. Section 4.6, *Energy* includes a discussion of electricity and natural gas use at the site.

4.19.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with 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 stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☒	☐
b) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☒	☐
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☒	☐
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?	☐	☐	☒	☐
e) Be noncompliant with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☒	☐

a) **Would the project require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?**

The proposed mixed-use development would utilize existing water infrastructure, dispose of wastewater at the RWF using existing sewer mains, convey stormwater via the City's existing

Tire store and restaurant = 1.05 tons/year/employee x 17 employees x 2,000 pounds/ton = 21,000 pounds per year/365 days = 97 pounds per day.
one employee/250 square feet * 1,475 square feet = 6 employees (auto repair)
one employee/250 square feet * 4,015 square feet = 17 employees (tire store and restaurant)

drainage system, and connect to existing utility lines on Alum Rock Avenue for electricity, natural gas, and telecommunication services.

Water and Wastewater

The proposed development is consistent with General Plan growth projections and would not substantially increase water or wastewater volumes such that relocation or construction of new water or wastewater treatment facilities would be required. The RWF has millions of 38.8 gallons of daily wastewater treatment capacity remaining for the City of San José. The project's water demand and wastewater generation is discussed in the response to question b) and c) below. Based on the project's water demand and wastewater generation estimates, development of the site under the proposed project would not substantially increase wastewater treatment demand.

The proposed project would comply with all applicable Public Works requirements to ensure sanitary sewer and water mains would have capacity for sewer and water services. Therefore, the project would not have a significant impact related to the provision of water and sewer service for the project. **(Less than Significant Impact)**

Storm Drainage

The project site is currently developed with residential and commercial uses and associated paved driveways/drive aisles. Runoff from the project site currently enters the storm drainage system untreated and unimpeded. The project would have 36,266 square feet (90 percent) of impervious surfaces, and 4,211 square feet (10 percent) of pervious surfaces. The project proposes to connect to the 12-inch storm drain in Alum Rock Avenue. The project would increase the site's impervious surfaces by approximately 4,872 square feet. While the project would increase the impervious surfaces on-site, the project would have limited surface parking (less than 3,000 square feet of impervious surfaces), plant trees in the surface parking area (in accordance with MRP Provision C.3 measures), and install media filter systems, removing pollutants and decreasing the rate and volume of stormwater runoff entering the City storm drainage system. For these reasons, development of the project site would not exceed the capacity of the existing storm drainage system serving the project site. **(Less than Significant Impact)**

Electric Power, Natural Gas, and Telecommunications

The project would utilize existing utility connections to connect to the City's electric, natural gas, and telecommunications systems. Although the project would increase the demand on existing facilities in the City, relocation of existing or construction of new facilities would not be needed to serve the proposed project. As a result, the proposed project would have a less than significant impact on these facilities. **(Less than Significant Impact)**

b) **Would the project have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?**

As discussed above, the existing water demand on-site is approximately 2,760 gpd. It is estimated that the project would have a water demand of approximately 40,348 gpd, resulting in a net increase of 37,588 gpd. [104]

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

The project would be consistent with planned growth in the General Plan and would comply with the policies and regulations identified in the General Plan EIR. As a result, implementation of the proposed project would have a less than significant impact on the City's water supply. **(Less than Significant Impact)**

c) **Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?**

Sanitary sewer lines serving the site are owned and maintained by the City of San José. The project would include lateral connections to the existing six-inch sanitary sewer main on Alum Rock Avenue. As discussed above, the existing development on the project site generates approximately 1,652 gpd of wastewater. [105] Redevelopment of the site under the proposed project would result in wastewater generation of approximately 23,538 gpd, resulting in an increase of 21,886 gpd of wastewater compared to current baseline conditions. [106]

As discussed under Impact UTL-1, the Envision San José 2040 General Plan EIR identified an excess treatment capacity of 38.8 million gpd from San José wastewater sources. The RWF has millions of gallons of daily wastewater treatment capacity remaining for the City of San José. Development of the site under the proposed project would not substantially increase wastewater treatment demand or result in exceedances of RWQCB's treatment requirements for the RWF. **(Less than Significant Impact)**

[104] Illingworth & Rodkin, Inc. *Air Quality and Greenhouse Gas Assessment Little Portugal Gateway Project*. Attachment 2. December 2019.
Proposed project water usage = 24,777 gallons per day for indoor and 15,571 gallons per day for outdoor.
[105] Illingworth & Rodkin, Inc. *Air Quality and Greenhouse Gas Assessment Little Portugal Gateway Project*. Attachment 2. December 2019.
[106] Ibid. Wastewater use is based on the assumption that the project would discharge 95 percent of indoor water use.

d) **Would the project generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?**

Santa Clara County's IWMP was approved by the California Integrated Waste Management Board in 1996 and reviewed in 2004, 2007, 2011, and 2016. Each jurisdiction in the County has a landfill diversion requirement of 50 percent per year. According to the IWMP, the County has adequate disposal capacity beyond 2030.[107]

Operations of the proposed project would generate approximately 390 pounds of waste per day (310 pounds of waste per day from the residential units and 80 pounds per day from the retail uses).[108] This would result in an increase in 255 pounds of waste per day, when compared to the site's existing commercial uses. The proposed project would conform to City plans and policies to reduce solid waste generation and would be served by a landfill with adequate capacity. Therefore, the proposed project would not exceed the capacity of existing landfills or solid waste disposal infrastructure. **(Less than Significant Impact)**

e) **Would the project be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?**

The project would conform to City plans and policies to reduce solid waste generation, including the City's Zero Waste Strategic Plan and 75 percent diversion goal. By conforming to the standards set forth by City policies and plans, the proposed project would not prevent solid waste reduction goals from being reached or interfere with the provision of solid waste services. The project would not conflict with applicable statutes and regulations related to solid waste, including CALGreen, AB 939, and City of San José policies on waste diversion. **(Less than Significant Impact)**

[107] Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report.* June 2016.
[108] Illingworth & Rodkin, Inc. *Air Quality and Greenhouse Gas Assessment: Little Portugal Gateway Project.* 8.0 Waste Detail. December 2019.

4.20 WILDFIRE

4.20.1 Environmental Setting

4.20.1.1 *Existing Conditions*

The California Department of Forestry and Fire Protection (Cal Fire) is required by law to map areas of significant fire hazards based on fuels, terrain, weather, and other relevant factors. Referred to as Fire Hazard Severity Zones (FHSZ), these maps influence how people construct buildings and protect property to reduce risk associated with wildland fires. The project site is surrounded by urban development and is not located within a fire hazard severity zone.

4.20.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
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?	☐	☐	☐	☒
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?	☐	☐	☐	☒
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?	☐	☐	☐	☒

a)-d)

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones; therefore, the project would not result in wildfire impacts. [109] **(No Impact)**

[109] California Department of Forestry and Fire Protection (CAL FIRE). *Fire Hazard Severity Zone Viewer*. Accessed January 16, 2020. http://egis.fire.ca.gov/FHSZ/.

4.21 MANDATORY FINDINGS OF SIGNIFICANCE

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
a)	Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	☐	☒	☐	☐
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.)	☐	☒	☐	☐
c)	Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☒	☐

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

As discussed in the previous sections of this Initial Study, the proposed project would not degrade the quality of the environment with implementation of identified standard permit conditions and mitigation measures. As discussed in Section 4.4, *Biological Resources*, with the implementation of the identified mitigation measures (mitigation measures MM BIO-1.1 through MM BIO-1.4), the project would not significantly impact migratory bird or nesting raptor populations. The project site is developed, is within an urban area, and does not contain suitable habitat for special-status plant or wildlife species. As discussed in Section 4.5, *Cultural Resources*, with implementation of the identified standard permit conditions, the project would result in a less than significant impact on archaeological and tribal cultural resources. Based on a historical evaluation, none of the buildings on-site are eligible to be listed as historic resources. The project would, therefore, not eliminate important examples of major periods of California history or pre-history. **(Less Than Significant Impact with Mitigation Incorporated)**

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

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." This Initial Study evaluates the environmental impacts of the proposed mixed-use development project. This Initial Study also takes into account other past, pending, and probable future projects whose impacts could combine to produce cumulative impacts.

Based on the City's development projections for the Alum Rock Planning Area, there are no current or future projects within the vicinity of the project site.[110] The nearest projects to the site are two pending projects more than 0.3 miles east of the project site on Alum Rock Avenue. These projects include the Alum Rock Mixed-Use Project which proposes 94 affordable housing units and 39,000 square feet of retail space, located at 1936 Alum Rock Avenue (0.4 miles east of the site), and Sunset at Alum Rock Avenue Mixed Use project which proposes 738 multi-family units and 26,500 square feet of retail space to be located at 2101 Alum Rock Avenue (0.6 miles east of the site).

Resource Topics not Impacted by the Project

The project would have no impact on aesthetic, agricultural, mineral resources, and wildfire hazards; therefore, the project has no potential to combine with other projects to result in cumulative impacts to those resources. **(No Cumulative Impact)**

Cumulative Traffic Impacts

Projects must demonstrate consistency with the Envision San José 2040 General Plan to address cumulative impacts. Consistency with the City's General Plan is based on the project's density, design, and conformance to the General Plan goals and policies. If a project is determined to be inconsistent with the General Plan, a cumulative impact analysis is required per the City's Transportation Analysis Handbook.

The project site is located within the Little Portugal Urban Village. The proposed project is consistent with the General Plan and Little Portugal Urban Village Plan goals and policies as described below:

- The proposed mixed-use development is consistent with the Urban Village land use designation per the Little Portugal Urban Village Plan

- The proposed residential density (137 dwelling units/acre) exceeds the minimum 55 dwelling units/acre per the Little Portugal Urban Village Plan.

[110] City of San José, Department of Planning, Building and Code Enforcement. *Development Activity Highlights and Five-Year Forecast (2020-2024).* February 2019.

- The project site is within walking distance (approximately 400 feet) of the Alum Rock Avenue/King Road BRT Station.

- The project frontage along Alum Rock Avenue would be consistent with planned streetscape design features described the Little Portugal Urban Village plan. The project would widen the existing sidewalk to 16-feet wide, consistent with the Little Portugal Urban Village Plan requirements for projects along Alum Rock Avenue.

For these reasons, the project would be consistent with the General Plan and Little Portugal Urban Village Plan and would be considered as part of the cumulative solution to meet the General Plan's long-range transportation goals. The project would result in a less than significant cumulative transportation impact. **(Less than Significant Cumulative Impact)**

Cumulative Air Quality Impacts

By its very nature, air pollution is largely a cumulative impact. The geographic area for cumulative air quality impacts is the San Francisco Bay Area Air Basin. 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 project would emit criteria air pollutants and contribute to the overall regional emissions of these pollutants. The project-level thresholds identified by BAAQMD are the basis for determining whether a project has a cumulatively considerable contribution to the existing cumulatively significant air quality impact. The project's construction (within the implementation of standard permit conditions listed in Section 4.3, Air Quality to reduce fugitive dust) and operational criteria air pollutant emissions would be below BAAQMD thresholds for these pollutants; therefore, the project would result in a less than cumulatively considerable contribution to significant regional air quality impact.

As stated in Section 4.3.3, Non-CEQA Effects, a community health risk assessment was completed to evaluate all substantial sources of TACs that are located within 1,000 feet of the project site. The BAAQMD Roadway Screening Analysis Calculator for Santa Clara County was used to assess the $PM_{2.5}$ concentrations, cancer risk, and hazard risk resulting from TAC emissions from vehicles traveling on North King Road and Alum Rock Avenue.[111] The off-site MEI (a three-story apartment building on Alum Rock Avenue, 100 feet south of the site) is located to the west of North King Road and to the south of Alum Rock Road. The off-site MEI is approximately 800 feet east of the Shell Gas Station, which is the only stationary TAC source within 1,000 feet of the project site.

Table 4.21-1 shows both the project and cumulative community risk impacts at the construction MEI. As shown in Table 4.21-1, the combined effects of project construction (with and without the implementation of mitigation measure MM AIR-1.1) and the above TAC sources on the off-site MEI would be less than significant. The combined annual cancer risk, $PM_{2.5}$ concentration, and hazard risk values would not exceed the cumulative threshold. Therefore, the project, combined with the other TAC sources in the area, would not result in a significant cumulative impact due to TAC emissions. **(Less Than Significant Cumulative Impact)**

[111] Vehicular emissions were based on traffic volumes included in the project's traffic analysis for background plus project conditions completed in December 2019.

Table 4.21-1: Cumulative Community Risk at the Off-site Residential MEI			
Sources	**Maximum Cancer Risk** (per million)	**$PM_{2.5}$ Concentration** ($\mu g/m^3$)	**Hazard Index**
Project Construction			
Unmitigated	**21.2** (infant)	0.25	0.01
Mitigated	2.4 (infant)	0.06	<0.01
BAAQMD Single-Source Threshold	***>10.0***	***>0.3***	***>1.0***
Alum Rock Avenue, ADT: 12,860 vehicles 10 feet north of the off-site MEI	6.5	0.24	<0.03
North King Road, ADT: 13,150 vehicles 370 feet east of the off-site MEI	0.9	0.03	<0.03
Shell (Gas Station, Plant #111830) 800 feet west of the off-site MEI	0.01	--	<0.01
Cumulative Total			
Unmitigated	28.6	0.52	<0.08
Mitigated	9.8 (infant)	0.33	<0.08
BAAQMD Threshold – Combined Sources	***>100***	***>0.8***	***>10.0***
Exceed Threshold?	**No**	**No**	**No**

Cumulative GHG Impacts

The proposed project and past, present, and future development projects worldwide contribute to global climate change. No single project is sufficient in size to, by itself, change the global average temperature. Therefore, due to the nature of GHG impacts, a significant project impact is a significant cumulative impact. As discussed in Section 4.8, *Greenhouse Gas Emissions*, the project's operational emissions would be 1.6 MT CO_{2e}/year in year 2023 (below the 2030 2.6 MT CO_2e/per service population/year efficiency metric); the project would, therefore, not result in significant GHG impact. For these reasons, the project would not result in a cumulatively considerable contribution to a significant cumulative GHG impact. **(Less Than Significant Cumulative Impact)**

Cumulative Cultural Resources, Tribal Cultural Resources, and Geology Impacts

The project would have no impact on historic resources, and, therefore, would not contribute to any cumulative impacts to these resources. **(No Cumulative Impact)**

The geographic area for archaeological resources, human remains, and tribal cultural resources is limited to the project site and adjacent parcels because it is assumed the surrounding projects would affect similar resources. The current and future projects identified in this section are approximately 0.4 miles (Alum Rock Mixed Use Project at 1636 Alum Rock Avenue) and 0.6 miles (Sunset at Alum Rock Avenue Mixed Use Project at 2101 Alum Rock Avenue) from the site and would not

have the potential to combine impacts to archaeological resources and human remains with the proposed project.

The geographic area for cumulative geological impacts would be locations within the immediate vicinity of the site since geological impacts are limited to the project site and nearby properties. There are no other current or future projects within the vicinity of the project site. Therefore, the project has no potential to combine impacts to geological resources or soils with other projects. **(Less Than Significant Cumulative Impact)**

Cumulative Hydrology and Utilities Impacts

Hydrology and Water Quality

The geographic area for cumulative hydrology and water quality impacts is the Coyote Creek watershed, where the project site is located. Build out of the cumulative projects would involve redevelopment of existing or previously developed sites that are largely impervious, and these projects would be required to conform to applicable General Plan goals, policies, and strategies regarding stormwater runoff, infrastructure, and flooding. Cumulative projects would be required to comply with applicable requirements in the statewide Construction General Permit,[112] City of San José Grading Ordinance, Post-Construction Urban Runoff Policy 6-29, and Provision C.3 of the RWQCB MRP to avoid hydrology and water quality impacts or reduce them to a less than significant level. **(Less Than Significant Cumulative Impact)**

The project site is not subject to flood or inundation hazards. The project, therefore, would not have a cumulatively considerable contribution to significant cumulative flooding and inundation impacts. **(No Cumulative Impact)**

Utilities and Service Systems

The geographic area for cumulative water supply impacts is the San José Water Company's service area, for cumulative wastewater impacts is the service area of RWF, and for storm drain impacts is nearby areas upstream and downstream of the project site. The project would incrementally contribute to cumulative demands on utilities and service systems (water, sewer, solid waste, storm drainage). Implementation of the proposed project would not cause the City to exceed water demand projections, which are primarily based on population and employment growth disclosed in the General Plan EIR. For this reason, the implementation of the project's combined impacts to the wastewater plant would not result in the need for construction of new wastewater treatment facilities or expansion of existing facilities beyond the improvements assumed in the Plant Master Plan. The proposed mixed-use development and other current and probable projects in the City that are consistent with the General Plan would, therefore, not result in significant cumulative wastewater utility impacts.

[112] The proposed Little Portugal Gateway Mixed-Use Project would not require a construction general permit given the project site is less than one acre. The project would, however, include BMPs to reduce impacts to water quality during construction (refer to Section 4.10, Hydrology and Water Quality).

The final drainage system design for each of the cumulative projects would be subject to review and approval by the City of San José Public Works Department, who would confirm that the proposed drainage system for each project is consistent with the City's stormwater-related conditions of approval and NPDES regulations. Therefore, the combined projects would not result in a significant cumulative impact to storm drainage systems.

As discussed in the Section 4.19, *Utilities and Service Systems*, the landfills serving the project site and the City as a whole, have remaining capacity to serve the region through 2030. Based on the above reasons, the combined projects would not result in significant cumulative impacts to the City's water, sewer, solid waste, and storm drainage facilities.

The geographic area for cumulative electric, natural gas, and telecommunications systems impacts is the City. These utility systems would serve the cumulative projects. The utility systems have the capacity to serve the cumulative projects in the City. The project would not relocate natural gas, electricity, or telecommunications lines; therefore, the proposed project would not contribute to a cumulative impact resulting from the relocation of these utility lines. **(Less Than Significant Cumulative Impact)**

Cumulative Biological Resources Impacts

The geographic area for cumulative impacts to trees includes the project site and adjacent parcels. There are no current or reasonably foreseeable projects adjacent to the project site. Therefore, the project would not have the potential to result in combined impacts to trees.

The geographic area for cumulative impacts to sensitive habitats such as wetland, riparian habitats, and serpentine habitats, and special-status species would be Santa Clara County. The project would have no impact on riparian, wetland habitats or special-status species, and therefore, would not combine impacts to these habitats with other projects elsewhere.

The project applicant will pay applicable Habitat Plan fees to offset the cumulative effects of nitrogen deposition from new vehicle trips to serpentine habitats protected by the Habitat Plan.

The geographic area for cumulative impacts to migratory wildlife would be Santa Clara County. Construction of projects throughout the County, including the proposed project, could result in a significant cumulative impact on nesting birds. Each project is subject to federal, state, and local regulations (including the MBTA, Fish and Game Code, and CEQA), which would avoid and/or minimize impacts to nesting birds. The project, with the implementation of mitigation measure MM BIO-1.1 through MM BIO-1.4 to comply with the MBTA and Fish and Game Code, would not result in a cumulatively considerable contribution to a significant cumulative impact to nesting birds. **(Less Than Significant Cumulative Impact with Mitigation Incorporated)**

Cumulative Population and Housing Impacts

The geographic area for cumulative population and housing impacts is the City boundaries and can be extended further to Santa Clara County and the San Francisco Bay region. Past, present, and pending development projects contribute to the City's, County's, and region's population and housing impact.

The proposed project would a construct 123 apartment units and 13,650 square feet of retail space which would accommodate approximately 394 residents and 56 employees. The project is consistent with the planned housing and growth assumptions established in the General Plan and Little Portugal Urban Village Plan. The cumulative projects consistent with planned growth and assumptions established in the General Plan would not cause the City to exceed General Plan or planned growth projections. The project would increase the number of residential units by 116, and, therefore, would not contribute to substantial displacement of people or housing. **(Less Than Significant Cumulative Impact)**

Cumulative Public Services and Recreation Impacts

The geographic area for cumulative public services and recreation facilities is the City's boundaries. The proposed project would be a mixed-use development with 394 residents and approximately 56 employees, resulting in an increase of 371 residents and 34 employees at the site. The increase in the resident population and employees could increase the demand for fire protection services. The projects would be built to applicable Fire Code standards. Based on the General Plan EIR conclusions, new SCFD and SCPD facilities or expansion of current facilities would not be required to provide adequate fire protection services for projects under the General Plan. For these reasons, the combined effects of police and fire service demands of the proposed project, and other projects in the City, would result in a less than significant cumulative impact on police and fire services and facilities. The proposed project applicant, and applicants for other cumulative residential projects in the City that would result in an increase in students within the San José Unified School District, would pay the school impacts fees pursuant to California Government Code Section 65996 to offset the increased demands on school facilities caused by the individual projects. The combined projects would not result in an exceedance of student projections in these districts beyond what was assumed in the General Plan. For these reasons, the combined projects would result in a less than significant cumulative impact to public services.

The proposed projects, and other current or probable future residential projects within the City would generate new residents. All projects generating new residents are required to comply with the City's requirements for parkland dedication, provisions of public space, and/or payment of in-lieu fees to minimize impacts of new residents on existing park and recreation facilities. The combined projects would, therefore, not result in cumulative impacts to recreational services or facilities. **(Less Than Significant Cumulative Impact)**

Cumulative Land Use Impacts

The geographic area for cumulative land use impacts is the project's immediate vicinity. Since there are no current or probable future projects within the project site's immediate vicinity, the project would not result in cumulative land use impacts. **(Less Than Significant Cumulative Impact)**

Cumulative Hazards and Hazardous Materials and Impacts

The geographic area for cumulative hazardous materials impacts would be the immediate vicinity of the site. There are no current or future projects located within the vicinity of the project site. Based on soil sampling completed at the site in May 2018, contaminants were detected on-site. With the implementation of mitigation measures MM HAZ-2.1 through MM HAZ-2.3, contaminated soils

would not impact off-site properties. With the implementation of standard permit conditions, demolition of the existing on-site building would not result in the exposure of lead and asbestos at adjacent properties. Given the distance of the nearest probable/current project from the proposed project, the project would not have the potential to combine hazardous materials impacts with other projects in the area.

The project would not result in an aircraft hazard given the project site is not located within an AIA of a Comprehensive Land Use Plan and meets FAA FAR Part 77 height restriction requirements for new structures. The project would, therefore, not result in significant cumulative impacts due to aircraft hazards when combined with the impacts of other projects. **(Less Than Significant Cumulative Impact with Mitigation Incorporated)**

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

Construction of the proposed project would not result in the conversion of a greenfield site to urban uses or otherwise commit resources in a wasteful or inefficient manner. The project applicant proposes to redevelop an infill location in San José, and short-term effects resulting from construction would be substantially offset by meeting the long-term environmental goals (such as increased building energy efficiency) for this site. The operational phase would consume energy for multiple purposes including building heating and cooling, lighting, and electronics. Energy, in the form of fossil fuels, would be used to fuel vehicles traveling to and from the project site. The project would result in an increase in demand upon nonrenewable resources; however, the project is required to comply with the CBC. The proposed project would be designed to achieve minimum Green Point certification consistent with San José's Green Building Policies. The project shall incorporate a variety of design features including community design and planning, site design, landscape design, building envelope performance, and material selections to reduce energy use and conserve water.

With implementation of the mitigation measures included in the project and compliance with City General Plan policies, the proposed project would not have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals. **(Less than Significant Impact)**

SECTION 5.0 REFERENCES

The analysis in this Initial Study is based on the professional judgement and expertise of the environmental specialists preparing this document, based upon review of the site, surrounding conditions, site plans, and the following references:

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SECTION 6.0 LEAD AGENCY AND CONSULTANTS

6.1 LEAD AGENCY

Department of Planning, Building, and Code Enforcement
Rosalynn Hughey, Director
Cassandra van der Zweep, Supervising Environmental Planner
Maira Blanco, Planner

6.2 CONSULTANTS

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Shannon George, Vice President and Principal Project Manager
Amber Sharpe, Project Manager
Ryan Osako, Graphic Artist

Arcadis
Hazardous Materials Consultants
Lisa Torralba, Staff Environmental Scientist
Sabrina Moran, Senior Consultant

Archives & Architecture
Historic Resource Consultants
Franklin Maggi, Architectural Historian

Hexagon Transportation Consultants
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Robert Del Rio, T.E., Vice President/Principal

Holman & Associates
Cultural/Archaeological Resources Consultants
Sunshine Psota, Senior Associate

Illingworth & Rodkin
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