

DRAFT INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

For the

SOUTH DE ANZA HOTEL PROJECT

1510 S. DE ANZA BOULEVARD, SAN JOSE, CA 95129

File No.: H19-017



In Consultation with



Consulting

September 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: 1510 South De Anza Hotel Project

PROJECT FILE NUMBER: H19-017

PROJECT DESCRIPTION: Site Development Permit to demolish an existing building and allow the construction of a 4-story, 147,134 square feet, hotel with 132 guest rooms, rooftop deck and underground parking and associated grading on a 0.86 gross acre site.

PROJECT LOCATION: Southeast corner of S De Anza Blvd. and Sharon Drive, located at 1510 S De Anza Blvd.

ASSESSORS PARCEL NO.: 372-21-002

COUNCIL DISTRICT: 1

APPLICANT CONTACT INFORMATION: North Star Development Group (Attn: Kelly Smith), 14664 Bougainvillea Court, Saratoga CA 95070, (408)314-4086

FINDING: This Proposed Mitigated Negative Declaration (MND) is included to give notice to interested agencies and the public that the City of San José (City) intends to adopt an MND for this project. This does not mean that the City's decision regarding the project is final. This Proposed MND is subject to modification based on comments received by interested agencies and the public.

An initial study has been prepared by City. On the basis of this study it is determined, pending public review, that the proposed action with the incorporation of the identified mitigation measures will not have a significant effect on the environment.

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

- A. **AESTHETICS** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- B. **AGRICULTURE AND FORESTRY RESOURCES** – The project would not have a significant impact on this resource; therefore, no mitigation is required.
- C. **AIR QUALITY.**

Impact AQ-1: The maximum cancer risks and PM2.5 concentration from project construction would exceed the BAAQMD single-source thresholds and expose sensitive receptors to significant pollutant concentrations.

MM AQ-1: Prior to the issuance of any demolition or grading permits, the project applicant shall submit to the Director of Planning, Building and Code Enforcement or Director's designee, a construction operations plan that includes specifications for the equipment to be used during construction. The plan

shall be accompanied by a letter signed by an air quality specialist verifying that the project would achieve a fleet-wide average 89-percent reduction in DPM exhaust emissions or greater. Achieving this could include one or a combination of the following:

- All diesel-powered off-road equipment larger than 25 horsepower and operating at the site for more than two days continuously shall, at a minimum, meet U.S. (EPA) particulate matter emissions standards for Tier 4 interim engines.
- Where Tier 4 equipment is not available, 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: Construction activities associated with the proposed project could disturb nesting raptors or other migratory birds which could result in the loss of fertile eggs or nest abandonment.

MM BIO-1: To avoid disturbance of nesting and special-status birds, the project applicant shall schedule activities related to the project, including, but not limited to, vegetation removal, ground disturbance, construction, and demolition to occur outside of the bird nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1 through August 31 (inclusive).

MM BIO-1.2: If demolition and construction activities cannot be scheduled between September 1 and January 31 (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified biologist or ornithologist prior to the issuance of any grading permits to ensure that no nests shall be disturbed during project implementation. The nesting bird pre-construction survey shall be conducted within the project boundary, including a 300-foot buffer (500-foot for raptors). The survey shall be conducted by a qualified biologist familiar with the identification of avian species known to occur in the area. The pre-construction 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 1 through April 30, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1 through August 31, inclusive).

MM BIO-1.3: If active nests are found, the qualified biologist or ornithologist, in consultation with California Department of Fish and Wildlife (CDFW), shall determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests will not be disturbed during project construction (which depends upon the species, the proposed work activity, and existing disturbances associated with land uses outside the site). The buffer zone shall be demarcated by the qualified biologist or ornithologist with bright orange construction fencing, flagging, construction lathe, or other means to mark the boundary. All construction personnel shall be notified as to the existence of the buffer zone and shall be instructed to avoid entering the buffer zone during the nesting season. No ground disturbing activities shall occur within this buffer until the qualified biologist or ornithologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Encroachment into the buffer shall occur only at the discretion of the qualified biologist.

MM BIO-1.4: The project applicant shall submit a report to the City's Director of Planning, Building and Code Enforcement or Director's designee indicating the results of the survey and any designated buffer zones, and is to be completed to the satisfaction of the Director of Planning, Building and Code Enforcement prior to the issuance of any demolition or grading permits.

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: The proposed project could result in impacts to construction workers during construction due to potentially hazardous soil resulting from the previous agricultural uses on the site.

MM HAZ-1: Prior to issuance of any demolition or grading permits, the project applicant shall complete a limited soil investigation to address potential pesticide and pesticide-based metals contamination on-site. If contaminated soil is found in concentrations above regulatory environmental screening levels for construction worker safety, the project applicant shall enter into the Santa Clara County Department of Environmental Health (SCCDEH) Site Cleanup Program (SCP) and share results of the limited soil sampling. The SCCDEH will then decide upon appropriate further action including but not limited to more testing, and/or the development of a Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document.

The Plan and evidence of regulatory correspondence shall be provided to the Director of Planning, Building and Code Enforcement or Director’s designee, and the Environmental Compliance Officer in the City of San Jose’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**
- M. **NOISE.**

Impact NOI-1: The proposed project would result in a significant temporary noise impact to residential, commercial, and daycare/preschool uses.

MM NOI-1.1: In accordance with General Plan Policy EC-1.7, a construction noise logistics plan shall be developed for the proposed project.

Construction Noise Logistics Plan: Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistic plan shall be prepared, submitted to, and approved by the Director of Planning, Building, and Code Enforcement or Director’s designee prior to the issuance of any grading or demolition permits.

MM NOI-1.2: As a part of the noise logistic plan and project, construction activities for the proposed project shall include, but are not limited to, the following best management practices:

- In accordance with Policy EC-1.7 of the City's General Plan, utilize the best available noise suppression devices and techniques during construction activities.
- Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence (San José Municipal Code Section 20.100.450).
- Construct temporary noise barriers, where feasible, around the perimeter of the construction site. The temporary noise barrier fences provide noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receiver and if the barrier is constructed in a manner that eliminates any cracks or gaps.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines shall be strictly prohibited.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise source and noise-sensitive receptors nearest the project site during all project construction.
- A temporary noise control blanket barrier shall be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling.
- Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- The project applicant shall prepare a detailed construction schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
- 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.
- 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 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: Construction of the proposed project could generate vibration levels in excess of 0.2 in/sec. PPV, which is above the City's threshold and could result in cosmetic damage to surrounding commercial structures.

MM NOI-2.1: Construction Vibration Monitoring, Treatment, and Reporting Plan: Prior to issuance of any grading or demolition permits, the project applicant shall prepare and submit for approval to the Planning, Building, and Code Enforcement Director or Director's Designee, a Construction Vibration, Treatment, and Reporting Plan. The project proponent 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, Treatment, and Reporting 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 and the anticipated time duration of using the equipment that is known to produce high vibration levels (clam shovel drops, vibratory rollers, hoe rams, large bulldozers, caisson drillings, loaded trucks, jackhammers, etc.) shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee 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. Phase demolition, earth-moving, and ground impacting operations so as not to occur during the same time period.
- Where possible, use of the heavy vibration-generating construction equipment shall be prohibited within 20 feet of any adjacent building.
- With the permission of the owners of the adjacent commercial property and historic property, document conditions at all structures located within 30 feet of construction and at historic structures located within 300 feet of construction 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. Specifically:
 - Vibration limits shall be applied to vibration-sensitive structures located within 30 feet of all construction activities identified as sources of high vibration levels.
 - Completion of a photo survey, elevation survey, and crack monitoring survey for each structure of normal construction within 30 feet of all construction activities identified as sources of high vibration levels. Surveys shall be performed prior to any construction activity, in regular intervals during construction, and after project completion, and shall include internal and external crack monitoring in structures, settlement, and distress, and shall document the condition of foundations, walls and other structural elements in the interior and exterior of said structures.
- Develop a vibration monitoring and construction contingency plan to identify structures 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 conditions. Construction contingencies shall be identified for when vibration levels approached the limits.
- At a minimum, vibration monitoring shall be conducted during demolition and excavation activities.

If vibration levels approach limits, suspend construction and implement contingency measures to either lower vibration levels or secure the affected structures.
- 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.
- Conduct a post-construction survey on structures where either monitoring has indicated high vibration levels or complaints of damage has been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities.

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

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **Monday, September 28th, 2020** any person may:

1. Review the Proposed Mitigated Negative Declaration (MND) as an informational document only; or
2. Submit written comments regarding the information and analysis in the Proposed MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Proposed 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



Deputy

09/01/2020

Date

Kara Hawkins
 Environmental Project Manager

Circulation period: **September 8th, 2020 to September 28th, 2020**

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Appendix C: Cultural and Historic Reports

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Appendix E: Phase I Environmental Site Assessment

Appendix F: Noise and Vibration Assessment

Appendix G: Local Transportation Analysis

SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE INITIAL STUDY

The City of San José as the Lead Agency, has prepared this Initial Study for the South De Anza Hotel 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 requests approval of a Site Development Permit to demolish an existing 7,000 square-foot commercial building and construct a four-story business hotel designed with up to 135 rooms. 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:

Kara Hawkins, Planner I
City of San Jose Planning Department
200 E. Santa Clara Street, 3rd Floor
San Jose, CA 95112
(408) 535-7852
Kara.Hawkins@sanjoseca.gov

1.3 CONSIDERATION OF THE INITIAL STUDY AND PROJECT

Following the conclusion of the public review period, the City Council 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 action.

1.4 NOTICE OF DETERMINATION

If the project is approved, the City 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

2.0 PROJECT TITLE

South De Anza Hotel, File Number H19-017

2.1 LEAD AGENCY ADDRESS AND LEAD AGENCY CONTACT

Maira Blanco, Planner
City of San Jose Planning Department
200 E. Santa Clara Street, 3rd Floor
San Jose, CA 95112
(408) 535-7837
Maira.blanco@sanjoseca.gov

Kara Hawkins, Planner I
City of San Jose Planning Department
200 E. Santa Clara Street, 3rd Floor
San Jose, CA 95112
(408) 535-7852
Kara.Hawkins@sanjoseca.gov

2.2 PROJECT LOCATION

The approximately 0.86-acre project site is located at 1510 S. De Anza Blvd. at the southeast corner of the intersection of S. De Anza Blvd. and Sharon Drive in southwestern San Jose. The interchange of State Route 85 and S. De Anza Blvd. is located approximately 0.22 miles north of the project site. Regional and vicinity maps of the project site are provided on Figures 1 and 2, respectively. An aerial photograph of the project site is provided on Figure 3.

2.3 ASSESSOR'S PARCEL NUMBER

372-21-002

2.4 PROJECT APPLICANT'S NAME AND ADDRESS

NSHD 100 LLC
Contact: Kelly I. Smith
North Star Development
14664 Bougainvillea Court, Saratoga CA 95070
kelly@northstardevgroup.com

2.5 GENERAL PLAN LAND USE DESIGNATION AND ZONING DISTRICT

General Plan Land Use Designation: *Neighborhood Community/Commercial*

Zoning District: *CP - Commercial Pedestrian*

2.6 SURROUNDING LAND USES

North: *Commercial/Office*

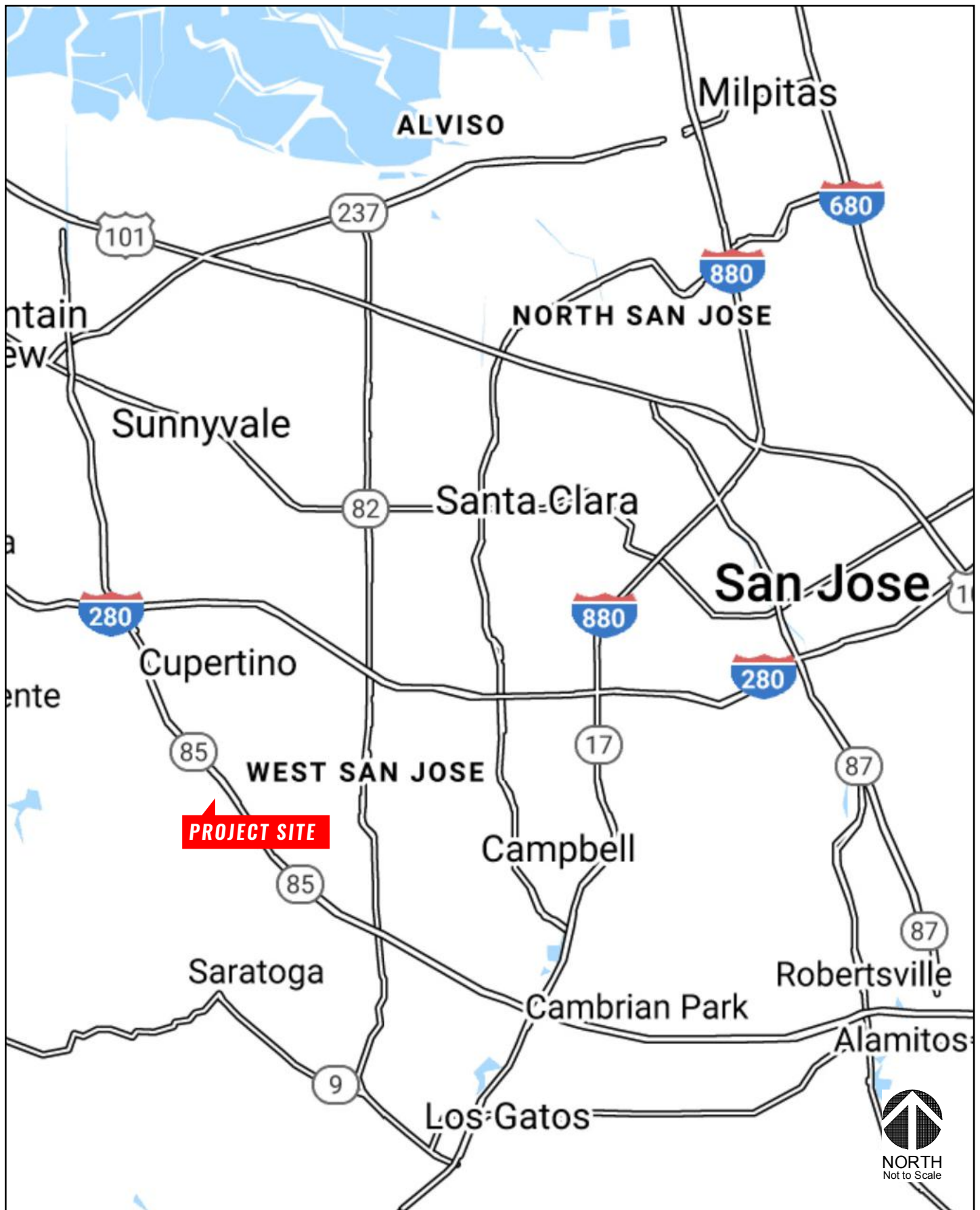
South: *Commercial*

East: *Commercial, Multi-family residential*

West: *Commercial/Office*

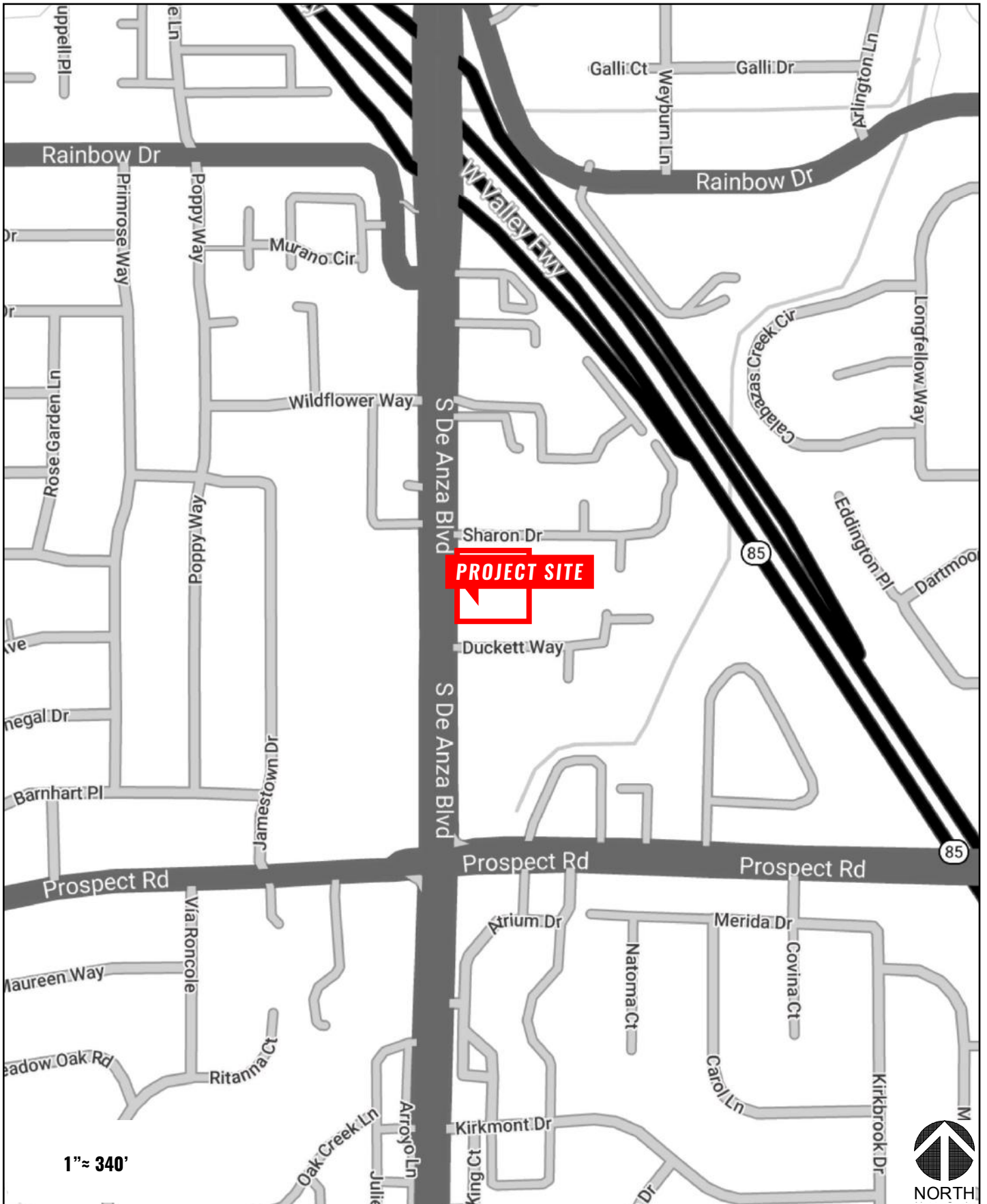
REGIONAL MAP

FIGURE 1



VICINITY MAP

FIGURE 2



AERIAL MAP

FIGURE 3



2.7 HABITAT PLAN DESIGNATION

Land Cover Designation: Urban – Suburban

Development Zone: Area 4: Urban Development Equal to or Greater than Two Acres

Fee Zone: Urban Areas (No land cover fee)

Burrowing Owl Conservation Zone: N/A

SECTION 3.0 PROJECT DESCRIPTION

The project is a Site Development Permit to redevelop an existing commercial site in southwestern San Jose. The project includes the demolition of the existing approximately 7,000 square-foot (sf) building (previously a paint store) and surrounding asphalt parking on-site and development of a new business hotel designed with up to 135 rooms in the *Commercial Pedestrian* (CP) zoning district.¹ Gross square footage of the hotel would be approximately 147,968 sf, with a net square footage of 135,950 and a Floor Area Ratio (FAR) of 2.35. The proposed height of the hotel would be 50 feet, as allowed in the CP zoning designation.

Ground floor uses would include an approximately 2,700-sf restaurant, outdoor seating, lobby, bar, fitness area, support offices, and two approximately 1,110-sf meeting rooms, as shown on Figure 4. Levels two through four would include the hotel rooms, with a 2,764-sf roof top deck located on the fifth level.

Main access to the hotel would be provided on Sharon Drive, with a porte cochere for guest drop-off from the western driveway as shown on Figure 4. Vehicles would access the 130-space, two-level underground parking from either the on-site drop-off location at the porte cochere or the one-way 26-foot-wide second (eastern) driveway on Sharon Drive. A ramp would provide access into the two levels of underground parking, which includes seven electric vehicle (EV) charging stations. An elevator would provide access from the parking to the hotel above.

The inbound-only driveway on Sharon Drive would provide direct vehicular access to the underground parking garage and inbound truck access to the perimeter drive aisle. All hotel guest vehicles parked in the underground parking, as well as trucks, would exit the site via a right-turn only driveway on S. De Anza Blvd. Sixteen (16) long-term bicycle parking spaces would be provided on the ground floor of the hotel in a Bike Room and 4 short-term bicycle parking spaces would be located off of the lobby near the west side.

The project also includes a written Transportation Demand Management (TDM) plan to reduce project generated vehicle trips, thereby, reducing greenhouse gas emissions. Using the City's VMT Evaluation Tool, the TDM plan shall demonstrate the reduction of project generated vehicle trips to the extent possible. At least three or more TDM elements will be incorporated into the project including, but not limited to, measures such as transit passes, on-site TDM coordination/ services (kiosk and website), end of bike trip facilities (showers/lockers), transit subsidies, car sharing, carpool and vanpools, unbundled parking, or other reasonable measures.

Excavation depths would be approximately 28 feet and total earthwork for the project would be approximately 29,000 cubic yards of cut with no fill proposed. The project includes a 200

¹ While the proposed entitlement is for 132 hotel rooms, the impacts of the construction of up to 135 rooms were conservatively evaluated in the CEQA technical reports.

kW (268HP) Tier 4 emergency generator to be located along the southern boundary of the site. The hotel would be constructed of modern architectural design comprised of stucco, steel panels, painted concrete and wood composite materials, as shown on Figures 5-7.

Two Ordinance-sized trees would be removed to facilitate project construction and would be replaced per City of San Jose requirements. Landscaping (i.e. trees, shrubs, and groundcover) for the project would consist of ornamental species. The project also includes stormwater quality measures as required by the City of San Jose. A Valley Transportation Agency (VTA) bus stop is located on the east side of S. De Anza Blvd. adjacent to the project site.

PARKING LEVELS 1 AND 2

FIGURE 5



PERSPECTIVE FROM INTERSECTION OF S. DE ANZA BLVD. AND SHARON DRIVE

FIGURE 6



PERSPECTIVE FROM S. DE ANZA BLVD.

FIGURE 7



PERSPECTIVE FROM SHARON DRIVE

FIGURE 8



3.2 CONSTRUCTION

Project construction is anticipated to last approximately 15 months.

3.3 PROJECT-RELATED APPROVALS AND PERMITS

- Site Development Permit
- Demolition Permit
- Building Permit
- Grading Permit
- Tree Removal Permit
- BAAQMD Permit to Operate (Generator)
- Other Applicable Public Works Clearances (grading, easements, etc.)

SECTION 4.0 EVALUATION OF ENVIRONMENTAL IMPACTS

This section describes the existing environmental conditions on and near the project area, as well as environmental impacts associated with the proposed project. The environmental checklist, as recommended in the California Environmental Quality Act (CEQA) Guidelines, identifies environmental impacts that could occur if the proposed project is implemented.

The discussion for each environmental subject includes the following subsections:

- **Environmental Setting** - This subsection 1) describes the existing, physical environmental conditions at the project site and in the surrounding area, as relevant and 2) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project.
- **Environmental Checklist** - This subsection includes the City's checklist for determining potential environmental impacts.
- **Impacts Evaluation** - This subsection discusses the project's environmental impact as it relates to the checklist questions. For significant impacts, feasible Mitigation Measures are identified that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Measures that are required by the Lead Agency or other regulatory agency that will reduce or avoid impacts are categorized as "Standard Permit Conditions." "Conditions of Approval" are project-specific measures the City requires to reduce or avoid environmental impacts.

Each impact is numbered using an alphanumeric system that identifies the environmental issue. For example, Impact AES-1 denotes the first potentially significant impact discussed in the Aesthetics section. Mitigation Measures are also numbered to correspond to the impact they address. For example, MM AES-2.3 refers to the third mitigation measure for the second impact in the Aesthetics section.

The right-hand column in the checklist lists the source(s) for the answer to each question. The sources cited are identified at the end of this section.

- **Conclusion** - This subsection provides a summary of the project's impacts on the resource.

Important Note to the Reader: The California Supreme Court in a December 2015 opinion [California Building Industry Association v. Bay Area Air Quality Management District, 62 Cal. 4th 369 (No. S 213478)] confirmed that CEQA, with several specific exceptions, is concerned with the impacts of a project on the environment, not the effects the existing environment may

have on a project. Therefore, the evaluation of the significance of project impacts under CEQA in the following sections focuses on impacts of the project on the environment, including whether a project may exacerbate existing environmental hazards.

The City of San José currently has policies that address existing conditions (e.g., noise) affecting a proposed project, which are also addressed below. This is consistent with one of the primary objectives of CEQA and this document, which is to provide objective information to decision-makers and the public regarding a project as a whole. The CEQA Guidelines and the courts are clear that a CEQA document (e.g., EIR or Initial Study) can include information of interest even if such information is not an “environmental impact” as defined by CEQA.

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

4.1 AESTHETICS

Environmental Setting

The approximately 0.86-acre project site is located in a densely developed area of southwestern San Jose, as shown in Photos 1-7. S. De Anza Boulevard is located along the western side of the project site, with Sharon Drive providing the northern boundary. S. De Anza Blvd. is a major 6-lane arterial roadway lined primarily with commercial and office uses. Sources of light and glare in the urban environment include street lights and reflective building surfaces and windows.

The project site is in an urban area. Thus, views from the project site include views of the immediate, surrounding development. Partial views of the Santa Cruz Mountains to the west/southwest, are obscured by trees and two-story structures. The nearest California State Scenic Highway is Interstate 280, located approximately 2.6 miles north of the project site. The site is not visible from Interstate 280. The project site is not located on or near a state-designated scenic highway.

Land uses in the immediate project area include office and commercial uses to the north, west, and south. Immediate land uses on the eastern side of the project site are also commercial and office, including a private daycare/preschool center (Bright Horizons). There is another daycare/preschool center (KinderCare) on the west side of S. De Anza Blvd. Land uses further to the east and north of the site along Sharon Drive are primarily single-family residential.

The project site is currently developed with a vacant building with a loading area located on the east side of the building (Photo 1). The remainder of the site is covered with asphalt-paved parking, a sign, and two trees in the southeast corner of the site (Photo 5). Additional detail regarding trees on-site is provided in Section 4.4 *Biological Resources*. Photos of the project site and surrounding area are provided in Photos 1-7 on the following pages.

Regulatory Framework

State

The State Scenic Highways Program is designed to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. The project site is not located near any scenic highways.

Local

Municipal Code

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

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

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

City Design Guidelines and Design Review Process

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

City Council's Private Outdoor Lighting Policy 4-3

The Private Outdoor Lighting Policy passed by the San José City Council in 1983 and supplemented in 2000 requires all new developments to implement low-pressure sodium illumination be used in all outdoor areas of new private developments. The policy is intended to promote energy efficient and cost-efficient lighting, and minimize light pollution into the night sky. The policy allows adequate light for nighttime activities while benefiting the continued enjoyment of the night sky and continuing operation of the Lick Observatory by reducing light pollution and sky glow.

The City has adopted an Interim Lighting Policy to encourage the use of broad-spectrum lighting such as LED for private streets, parking areas, and pedestrian areas as an alternative to low pressure sodium. Projects that met specific standards outlined in the Interim Policy regarding outdoor lighting plans, illumination levels, backlight, uplight, glare, correlated color temperature, and dimming qualify for a permit adjustment and an exception to the required use of low-pressure sodium lighting on private development.

Envision San Jose 2040 General Plan

The General Plan defines scenic vistas in the City of San José as views of and from the Santa Clara Valley, surrounding hillsides, and urban skyline. Scenic urban corridors, such as segments of major highways that provide gateways into the City, can also be defined as scenic resources by the City. The designation of a scenic route applies to routes affording especially aesthetically pleasing views. The project site is not located along any scenic corridors per the City's Scenic Corridors Diagram.

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating aesthetic impacts from development projects. The following policies are applicable to the proposed project.

- Policy CD- 1.1** Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
- CD-1.7** Require developers to provide pedestrian amenities, such as trees, lighting, recycling and refuse containers, seating, awnings, art, or other amenities, in pedestrian areas along project frontages. When funding is available, install pedestrian amenities in public rights-of-ways.
- CD-1.11** To create a more pleasing pedestrian-oriented environment, for new building frontages, include design elements with a human scale, varied and articulated facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Provide windows or entries along sidewalks and pathways; avoid black walls that do not enhance the pedestrian experience. Encourage inviting, transparent facades for ground-floor commercial spaces that attract customers by revealing active uses and merchandise displays.
- 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.
- 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.
- CD- 1.17** Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.

- 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.
- 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.
- 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).
- CD- 8.1** Ensure new development is consistent with specific height limits established within the City’s Zoning Ordinance and applied through the zoning designation for properties throughout the City. Land use designations in the Land Use/Transportation Diagram provide an indication of the typical number of stories.

Aesthetics Environmental Checklist

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,4
b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,4
c. Substantially degrade the existing visual character or quality of public views of the site and its surroundings? If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

d. Create a new source of substantial light or glare which will adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
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Impacts Evaluation

a.,b. Would the project have a substantial adverse effect on a scenic vista? Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

Scenic resources and views in the City of San José include the broad sweep of the Santa Clara Valley, the hills and mountains which frame the Valley floor, the baylands and the urban skyline, particularly high-rise development. Other natural resources, such as trees, are also considered a scenic resource. An impact to a scenic resource or vista would occur if a project modifies a scenic feature, such as a hillside, woodland, or bayland areas, or scenic skyline or built environment.

Due to the project site’s location on the valley floor and presence of surrounding development, views of the project site are limited to the immediate area. Views of the Santa Cruz Mountains from the project area are already obstructed by existing surrounding development and trees. Development of the proposed project would, therefore, not substantially hinder existing views. The view of the project site is not an integral part of a scenic vista and is not located in an area considered to be a scenic vista.

Implementation of the proposed project could result in the removal of two existing trees in the southeast corner of the site. However, existing trees to be removed would be replaced in accordance with the City’s Tree Protection Ordinance (refer to Section 3.4 *Biological Resources* for a complete discussion of the project’s impacts on trees).

There are no rock outcroppings or historic resources on or near the site. The project site is not located along a state-designated scenic highway or City of San José scenic gateway or rural scenic corridor.

Based on the above discussion, the project would not substantially damage scenic resources.

(No Impact)

c. Substantially degrade the existing visual character or quality of public views of the site and its surroundings? If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

The project proposes to redevelop an existing commercial property and includes the demolition of the existing structure, asphalt parking, and sign on the site. The project site is currently developed as is the surrounding area. The proposed development would be similar in massing and height to the surrounding development on the north side of Sharon Drive and west side of S. De Anza Blvd. in the immediate project area and would be constructed in accordance with

the existing zoning of the site. The height of the proposed hotel would be 50 feet, which is taller than the development adjacent to the southern boundary; however, the project is consistent with the Municipal Code for the CP zoning district and Special or Conditional Use Permits are not required.

The hotel would have a modern architectural design comprised of stucco, steel panels, painted concrete, and wood composite materials, as shown on Figures 6-8, consistent with the visual character of the project area. The Site Development entitlement request subjects the proposed building to the City's design review criteria, resulting in conformance to current architectural and landscaping standards. For these reasons, construction of the proposed project would not substantially degrade the existing visual character or quality of public views of the site and surrounding area. **(Less than Significant Impact)**

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

Development of the proposed project would incrementally increase nighttime light in the surrounding area due to the net increase in nighttime and security lighting. The project does not propose to use highly reflective construction material (e.g., mirrored glass) and instead uses stucco, steel panels, painted concrete, and wood composite materials; therefore, the project would not create substantial glare.

The certified 2011 Envision San José 2040 General Plan Final Program EIR (General Plan FPEIR) (SCH# 2009072096) and the 2015 Envision San José 2040 General Plan Final Supplemental Program EIR (General Plan FSPEIR) (SCH#2009072096) concluded that while new development and redevelopment under the General Plan could create additional sources of nighttime light and daytime glare, implementation of adopted plans, conformance with adopted policies and regulations and with General Plan policies would avoid substantial light and glare impacts.

The project shall comply with the City's Outdoor Lighting on Private Development Policy (Policy 4-3) and Interim Lighting Policy to reduce spillover light. Compliance with City policies and regulations to avoid substantial light and glare would result in a project that would not substantially increase nighttime light levels. For these reasons, the project would not be a substantial new source of light or glare. **(Less Than Significant Impact)**

Conclusion

The project would not result in significant aesthetic impacts. **(Less than Significant Impact)**

4.2 AGRICULTURAL AND FOREST RESOURCES

Environmental Setting

CEQA requires the evaluation of agricultural and forest/timber resources where they are present. The developed, infill project site does not contain any agricultural and forest/timber resources. It is also not considered to be important farmlands, per the Santa Clara County Important Farmlands Map (2016).

The project site is in an urban and developed area. It is currently developed with a vacant commercial building, asphalt parking, and a sign and is zoned for *Commercial Pedestrian* uses with a General Plan designation of *Neighborhood Community/Commercial*. The site is located within an urban area of San José and there is no property used for agricultural or forestry/timberland purposes adjacent to the project site.

Regulatory Framework

Farmland Mapping and Monitoring Program

The California Resources Agency'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 onsite or in the project area.

California Land Conservation Act (Williamson Act)

The California Land Conservation Act (commonly referred to as the Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space use. In return, landowners receive lower property tax assessments. In CEQA analyses, identification of properties that are under Williamson Act contract is used, in part, to identify sites that may include agricultural resources or are zoned for agricultural uses. The project site is not part of a Williamson Act contract.²

Forest Land, Timberland, and Timberland Production

The California Department of Forestry and Fire Protection (Cal Fire) identifies forest land, timberland, and lands zoned for timberland production that can (or do) support forestry resources. ³ In CEQA analyses, programs such as Cal Fire's Fire and Resource Assessment

² Santa Clara County Department of Planning, Interactive Williamson Act Map, <https://www.sccgov.org/sites/dpd/Programs/WA/Pages/WA.aspx> . Accessed March 20, 2020.

Program (FRAP) 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.

Agricultural and Forestry Resources Environmental Checklist

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5
b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	8
c. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	6
d. Result in a loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
e. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3

Impacts Evaluation

a.,b. Would the project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) to non-agricultural use? Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract?

As described above, the project site is designated as Urban and Built-Up Land. The project site and surrounding properties are not designated for agricultural use. Therefore, development of the project would not convert farmland. The project site is currently zoned for commercial uses and is not part of a Williamson Act Contract. **(No Impact)**

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

The project site and surrounding area are developed and are not zoned or used for forestland or timberland. Development of the proposed project would not result in the loss or conversion of existing 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?**

There is no farmland or forestland in the project area; therefore, the proposed development would not interfere with agricultural operations or facilitate the unplanned conversion of farmland or forest elsewhere in San José to non-agricultural or non-forest uses, respectively. **(No Impact)**

Conclusion

The project would not impact agricultural or forestry resources. **(No Impact)**

4.3 AIR QUALITY

The following section is based upon an Air Quality and Greenhouse Gas Emission Assessment prepared by *Illingworth & Rodin* (April 3, 2020, updated June 22, 2020). This assessment is contained within Appendix A of this document.

Environmental Setting

Air quality is determined by natural factors such as topography, meteorology, and climate, in addition to the presence of existing air pollution sources and ambient conditions. The City of San José is located in the Santa Clara Valley within the San Francisco Bay Area Air Basin. The Santa Clara Valley is bounded by the San Francisco Bay to the north and by mountains to the east, south and west. The project area's proximity to both the Pacific Ocean and the San Francisco Bay has a moderating influence on the climate. The surrounding terrain greatly influences winds in the valley, resulting in a prevailing wind that follows along the valley's northwest-southwest axis.

The Bay Area Air Quality Management District (BAAQMD) is the regional air quality agency for the San Francisco Bay Area Air Basin. As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of San José and other jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing air emissions and/or health effects adopted by the BAAQMD.

Criteria Pollutants

Ambient air quality standards have been established at both the state and federal level. The ambient air quality in a given area depends on the quantities of pollutants emitted within the area, transport of pollutants to and from surrounding areas, local and regional meteorological conditions, as well as the surrounding topography of the air basin. Air quality is described by the concentration of various pollutants in the atmosphere.

As required by the federal Clean Air Act, National Ambient Air Quality Standards (NAAQS) have been established for six major air pollutants: carbon monoxide (CO), nitrogen dioxide (NO₂), ozone (O₃), particulate matter, sulfur oxides, and lead. Pursuant to the California Clean Air Act, the State has established the California Ambient Air Quality Standards (CAAQS).

The Bay Area as a whole does not meet state or federal ambient air quality standards for ground level ozone and fine particulate matter (PM_{2.5}) and state standards for respirable particulate matter (PM₁₀). The area is considered attainment or unclassified for all other pollutants.³

³Particulate matter is assessed and measured in terms of respirable and fine particulate matter. PM₁₀ and PM_{2.5} are particles that have a diameter of 10 and 2.5 micrometers or less, respectively.

Air Pollutants of Concern

High ozone levels are caused by the cumulative emissions of reactive organic gases (ROG) and nitrogen oxides (NOx). These precursor pollutants react under certain meteorological conditions to form high ozone levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to reduce ozone levels. High ozone levels aggravate respiratory and cardiovascular diseases, reduced lung function, and increase coughing and chest discomfort.

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

Particulate matter is another problematic air pollutant of the Bay Area. Particulate matter is assessed and measured in terms of respirable particulate matter or particles that have a diameter of 10 micrometers or less (PM10) and fine particulate matter where particles have a diameter of 2.5 micrometers or less (PM2.5). Elevated concentrations of PM10 and PM2.5 are the result of both region-wide (or cumulative) emissions and localized emissions. High particulate matter levels aggravate respiratory and cardiovascular diseases, reduce lung function, increase mortality (e.g., lung cancer), and result in reduced lung function growth in children.

Long-term and short-term exposure to TACs and PM2.5 can cause a wide range of health effects. Common stationary sources of TACs and PM2.5 include gasoline stations, dry cleaners, and diesel backup generators. The other, more significant, common source is motor vehicles on roadways and freeways.

Sensitive Receptors

The 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 land uses are residences located approximately 120 feet east of the project site and the daycare/preschools located approximately 75 northeast and 180 feet west of the project site.

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. The project site is in an area predominantly surrounded by commercial, office, daycare/preschool, and residential uses and is not surrounded by facilities that produce substantial odors.

Regulatory Framework

Federal

The US Environmental Protection Agency (USEPA) sets nationwide emission standards for mobile sources, which include on-road (highway) motor vehicles such trucks, buses, and automobiles, and non-road (off-road) vehicles and equipment used in construction, agricultural, industrial, and mining activities (such as bulldozers and loaders). The USEPA also sets nationwide fuel standards, including diesel engine emission standards and diesel fuel requirements. The federal diesel engine and diesel fuel requirements have been adopted by California, in some cases with modifications making the requirements more stringent or the implementation dates sooner.

State

To address the issue of diesel emissions in the State, CARB developed the Diesel Risk Reduction Plan (Diesel RRP) to reduce diesel particulate matter (DPM) emissions. In addition to requiring more stringent emission standards for new on- and off-road mobile sources and stationary diesel-fueled engines to reduce particulate matter emissions by 90 percent, a significant component of the Diesel RRP involves application of emission control strategies to existing diesel vehicles and equipment. Many of the measures of the Diesel RRP have been approved and adopted, including the federal on- and non-road diesel engine emission standards for new engines, as well as adoption of regulations for low sulfur fuel in California.

CARB has adopted and implemented a number of regulations for stationary and mobile sources to reduce emissions of DPM. Several of these regulatory programs affect medium and heavy-duty diesel trucks that represent the bulk of DPM emissions from California highways. CARB has also adopted and implemented regulations to reduce DPM and NOX emissions from in-use (existing) and new off-road heavy-duty diesel vehicles (e.g., loaders, tractors, bulldozers, backhoes, off-highway trucks, etc.).

Regional

Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how state 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 closely related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 CAP describes how the 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.

The 2017 CAP includes a wide range of control measures designed to decrease emissions of the air pollutants that are most harmful to Bay Area residents, such as particulate matter, ozone, and toxic air contaminants; to reduce emissions of methane and other “super-GHGs” that are potent climate pollutants in the near-term; and to decrease emissions of carbon dioxide by reducing fossil fuel combustion. BAAQMD Air Quality Significance Thresholds are shown in Table 4.3-1, below.

Table 4.3-1: BAAQMD Air Quality Significance Thresholds			
Criteria Air Pollutant	Construction Thresholds	Operational Thresholds	
	Average Daily Emissions (lbs./day)	Average Daily Emissions (lbs./day)	Annual Average Emissions (tons/year)
ROG	54	54	10
NOx	54	54	10
PM10	82 (exhaust)	82	15
PM2.5	54 (exhaust)	54	10
CO	Not Applicable	9.0 ppm (8-hour average) or 20.0 ppm (1-hour average)	
Fugitive Dust	Construction Dust Ordinance or other Best Management Practices	Not Applicable	
Health Risks and Hazards	Single Sources within 1,000-foot Zone of Influence	Combined Sources (Cumulative from all sources within 1,000-foot Zone of Influence)	
Excess Cancer Risk	>10.0 per one million	>100 per one million	
Hazard Index	>1.0	>10.0	
Incremental Annual PM2.5	>0.3 ug/m ³	>0.8 ug/m ³	
Greenhouse Gas Emissions			
Land Use Projects -Direct and Indirect Emissions	Compliance with a Qualified GHG Reduction Strategy OR 1,100 metric tons annually or 4.6 metric tons per capita (for 2020) 660 metric tons annually or 2.6 metric tons per capita (for 2030)*		
Note: ROG = reactive organic gases, NOx = nitrogen oxides, PM10 = course particulate matter or particulates with an aerodynamic diameter of 10 um (micrometers) or less, PM2.5 = fine particulate matter or particulates with an aerodynamic diameter of 2.5 um or less. GHG = G greenhouse gases.			
*BAAQMD does not have a recommended post-2020 GHG threshold.			

Local

Envision San Jose 2040 General Plan

The General Plan includes policies for avoiding or mitigating air quality impacts from planned development projects in the City, with overall goals to minimize emissions from new development and exposure of people to air pollution and toxic air contaminants. In addition, goals and policies throughout the General Plan encourage a reduction in vehicle miles traveled through land use, pedestrian and bicycle improvements, and parking strategies. A reduction in vehicle miles traveled reduces air pollutant emissions. The following policies are applicable to the proposed project:

- MS-10.1** Assess projected air emissions from new development in conformance with the with the BAAQMD CEQA Guidelines and relative to State and federal standards. Identify and implement air emissions reduction measures.
- 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.
- MS-10.3** Promote the expansion and improvement of public transportation services and facilities, where appropriate, to encourage energy conservation and reduce air pollution.
- 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. Alternately, 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.
- 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.
- MS-13.2** Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board’s air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

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

Air Quality Environmental Checklist

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Where available, the significance criteria established by BAAQMD may be relied upon to make the following determinations. Would the project:					
a. Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	14
b. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,14
c. Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,14
d. Result in other emissions such as those leading to odors adversely affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

Impacts Evaluation

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

The proposed project would not conflict with the 2017 CAP because it would not have operational emissions that exceed BAAQMD significance thresholds as described in b., below. Because the project would not exceed the BAAQMD thresholds for operational criteria air pollutant, it is not required to incorporate project-specific control measures listed in the 2017 CAP. Further, implementation of the project would not inhibit BAAQMD or partner agencies from continuing progress toward attaining state and federal air quality standards and eliminating health-risk disparities from exposure to air pollution among Bay Area communities, as described within the 2017 CAP. **(Less than Significant Impact)**

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

The California Emissions Estimator Model (CalEEMod) Version 2016.3.2 was used to estimate emissions from construction and operation of the site assuming full build-out of the project. The project land use types and size, and anticipated construction schedule were input to CalEEMod. Separate model runs were developed for construction and operational inputs because of the unique traffic generating features of the project.

Construction Emissions

Emissions from construction-related automobiles, trucks, and heavy equipment are a primary concern due to release of diesel particulate matter (an air toxic contaminant due to its potential to cause cancer), TACs from all vehicles, and PM2.5, which is a regulated air pollutant. A detailed air quality assessment was completed to address construction air quality impacts from the proposed project (Appendix A).

Average daily emissions were computed for construction of the proposed project and average daily construction emissions of ROG, NOx, PM10 exhaust, and PM2.5 exhaust were determined. As indicated in Table 4.3-2, below, predicted construction period emissions would not exceed the BAAQMD significance thresholds.

Table 4.3-2: Construction Period Emissions				
Scenario	ROG	NOx	PM10 Exhaust	PM2.5 Exhaust
Total construction emissions (tons)	0.8 tons	3.5 tons	0.1 tons	0.1 tons
Average daily emissions (pounds)	5.1 lbs./day	22.1 lbs./day	0.9 lbs./day	0.9 lbs./day
<i>BAAQMD Thresholds (pounds per day)</i>	<i>54 lbs./day</i>	<i>54 lbs./day</i>	<i>82 lbs./day</i>	<i>54 lbs./day</i>
Exceed Threshold?	No	No	No	No
Note: Assumes 315 workdays.				

Construction activities would temporarily affect local air quality. Construction activities, particularly during site preparation and grading, would temporarily generate fugitive dust in the form of PM10 and PM2.5. 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.

Fugitive dust emissions would vary from day to day, depending on the nature and magnitude of construction activity and local weather conditions. Fugitive dust emissions would also depend on soil moisture, silt content of soil, wind speed, and the amount of equipment operating. Larger dust particles would settle near the source, while fine particles would be dispersed over greater distances from the construction site. Nearby land uses, particularly sensitive receptors to the north, northeast, east, and west of the project site, could be affected by dust generated during construction activities. BAAQMD considers impacts from construction dust to be less than significant if best management practices are employed.

Standard Permit Conditions: During any construction period ground disturbance, the project applicant shall ensure that the project contractor implements the following standard BAAQMD measures to control dust and exhaust, which are required for all projects:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day or often as needed to control dust emissions.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered and/or maintain at least two feet of freeboard.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- 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 onto public roadways.
- Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

The project, with the implementation of the above Standard Permit Conditions to control dust, minimize erosion, and control exhaust, would not result in a significant impact due to the generation of fugitive dust. **(Less than Significant Impact)**

Operational Emissions

Operational air emissions from the project would be generated primarily from vehicles driven by visitors of the project. There would also be operational air emissions associated with energy and water usage, solid waste generation, as well as an emergency generator. CalEEMod was used to estimate emissions from operation of the proposed project in year 2023, the earliest date by which the project would be constructed.

The proposed land uses, which include a hotel, were input into CalEEMod. Because the other associated uses commercial uses would primarily be used by guest of the hotel, these vehicle trips were included in the hotel use and not as a separate use. This methodology is consistent with the conclusions of the Transportation Analysis (Appendix G).

The proposed emergency generator is a stationary source of GHG emissions that would require a Permit to Operate from BAAQMD. BAAQMD assesses stationary sources separate from other project-related emissions. The generator is anticipated to emit five metric tons per year of CO2e. Compared to BAAQMD’s threshold of 10,000 metric tons per year for permitted stationary sources, the emergency generator would not produce emissions that would result in a significant impact.

Operational emissions were determined in terms of annual emissions in tons per year and average daily emissions in pounds per day. As shown in Table 4.3-3, below, the project would not exceed BAAQMD significance thresholds. **(Less than Significant Impact)**

Table 4.3-3: Operational Emissions				
Scenario	ROG	NOx	PM10	PM2.5
Annual Emissions				
2023 Project Operational Emissions (tons/year)	0.7 tons	1.2 tons	1.0 tons	0.3 tons
<i>BAAQMD Thresholds (tons/year)</i>	10 tons	10 tons	15 tons	10 tons
<i>Exceed Threshold?</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>
2023 Project Operational Emissions (lbs/day)	3.8 lbs.	6.7 lbs.	5.5 lbs.	1.6 lbs.
<i>BAAQMD Thresholds (pounds/day)</i>	54 lbs.	54 lbs.	82 lbs.	54 lbs.
<i>Exceed Threshold?</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>
Note: Assumes 365-day operation.				

c. Expose sensitive receptors to substantial pollutant concentrations?

Project impacts related to increased community risk can occur either by introducing a new sensitive receptor, such as a residential or daycare/preschool use, in proximity to an existing source of Toxic ACs, or by introducing a new source of TACs with the potential to adversely affect existing sensitive receptors in the project vicinity. The project would not introduce new sensitive receptors; therefore, the proposed project would have no environmental effect on the project (non-CEQA impact). The project would generate automobile traffic and infrequent truck traffic and introduce a diesel generator, which could affect nearby sensitive receptors, as described below.

Construction Community Health Risk Impacts

Construction equipment and associated heavy-duty truck traffic generate diesel exhaust, which is a known TAC. These exhaust air pollutant emissions would not be considered to contribute substantially to existing or projected air quality violations, as described in a., above.

Construction exhaust emissions may still pose health risks for sensitive receptors such as surrounding residents and daycare/preschool uses, as shown in Figure 9, below. The primary community risk impact issue associated with construction emissions are cancer risk and exposure to PM2.5. Diesel exhaust poses both a potential health and nuisance impact to nearby sensitive receptors. Therefore, a health risk assessment of the project construction activities was prepared to evaluate potential health effects to nearby sensitive receptors from construction emissions of DPM and PM2.5.

FIGURE 9: Locations of Off-Site Sensitive Receptors



The CalEEMod and U.S. EPA AERMOD dispersion models were used to predict the off-site and on-site concentrations resulting from project construction, so that lifetime cancer risks and non-cancer health effects could be evaluated. The construction maximum exposed individual (MEI) was located on the first floor (4.9 feet above ground) of the residence to the east of the project site (as seen in Figure 9). The maximum increased cancer risks and maximum PM2.5 concentration from construction exceed their respective BAAQMD single-source thresholds of greater than 10.0 per million for cancer risk and greater than 0.3 $\mu\text{g}/\text{m}^3$ for PM2.5 concentration. Table 4.3-4 summarizes the maximum cancer risks, PM2.5 concentrations, and health hazard indexes for project related construction activities affecting the MEI.

Table 4.3-4 Construction Risk Impacts at the Off-site Residential MEI				
Source		Cancer Risk (per million)	Annual PM_{2.5} (µg/m³)	Hazard Index
Project Construction	Unmitigated	88.5 (infant)	0.68	0.10
	Mitigated*	7.3 (infant)	0.09	0.01
BAAQMD Single-Source Threshold		>10.0	>0.3	>1.0
<i>Exceed Threshold?</i>	Unmitigated	Yes	Yes	<i>No</i>
	Mitigated*	<i>No</i>	<i>No</i>	<i>No</i>

*Tier 4 Interim Mitigation Measure, MM AQ-1.

Additionally, modeling was completed to predict the cancer risks, non-cancer health hazards, and maximum PM_{2.5} concentrations associated with construction activities at the nearby daycare/preschool centers. Children attending the preschools were assumed to be six weeks to six years old. Results of this assessment indicated that the maximum cancer risks, without any mitigation or construction emission controls, would be 20.6 per million for infant and child exposure, exceeding BAAQMD thresholds. The maximum-modeled annual PM_{2.5} concentration, which is based on combined exhausted and fugitive dust emissions, would be 0.15 µg/m³ and the Health Index based on the DPM concentration would be 0.02. These results do not exceed the BAAQMD single-source significance thresholds.

Community Risks from Project Operation – Generator

Operation of the project would have long-term emissions from the routine testing of the proposed diesel-powered emergency generator. During testing periods, the engine would typically be run for less than one hour under light engine loads. The generator engine would be required to meet U.S. EPA emission standards and consume commercially available California low sulfur diesel fuel. While these emissions would not be as intensive at or near the site as construction activity, they would contribute to long-term effects to sensitive receptors.

To calculate the increased cancer risk from the generators at the construction MEI, the cancer risks were also adjusted for exposure duration to account for the MEI being exposed to construction for the first year of the 30-year period. The exposure duration was adjusted for 29 years of exposure. Based on this duration, the increased cancer risk at the MEI from the generator would be 1.3 per million. The maximum annual PM_{2.5} concentration would be less than 0.01 µg/m³ and the HI value would be less than 0.01, all below BAAQMD thresholds

Additionally, modeling was conducted to predict the cancer risks, non-cancer health hazards, and maximum PM_{2.5} concentrations associated with operational activities at the nearby daycares/preschool centers. The exposure duration was adjusted for six years of exposure as the infants and children would only be attending the daycare/preschool centers for that amount of time. Results of this assessment indicated that the maximum cancer risks would be

0.8 per million for infant and child, the maximum-modeled annual PM2.5 concentration would be less than 0.01 µg/m³ and the HI would be less than 0.01. The cancer risk, PM2.5 concentration, and HI, do not exceed their respective BAAQMD single-source significance thresholds.

Community Risks from Project Construction and Operation

The cumulative risk impacts from a project is the combination of construction and operation sources. These sources include on-site construction activity and routine testing of the project generator. The project impact is computed by adding the construction cancer risk for an infant to the increased cancer risk for the project operational conditions for the generator at the MEI over a 30-year period. The residence to the east of the project site is the project MEI, which is identified as the sensitive receptor that is most impacted by the project’s construction and operation.

For this project, the sensitive receptor identified in Figure 9 as the construction MEI is also the project MEI. At this location, the MEI would be exposed to one year of construction cancer risks and 29 years of operational (includes emergency backup generator) cancer risks. The cancer risks from construction and operation of the project were summed together. Unlike the increased maximum cancer risk, the annual PM2.5 concentration and HI risks are not additive but based on an annual maximum risk for the entirety of the project.

As shown in Table 4.3-5, the maximum cancer risks and PM2.5 concentration would exceed the BAAQMD single-source thresholds of greater than 10.0 per million for cancer risk and 0.03 µg/m³ for PM2.5 concentration. Cumulative community risk impacts from combined TAC sources, including roadway traffic and stationary sources at MEI are discussed in Appendix A. MM AQ-1 would also reduce those cumulative impacts to a less than significant level.

Table 4.3-5 Construction and Operation Risk Impacts at the Offsite Project MEI				
Source		Cancer Risk (per million)	Annual PM_{2.5} (µg/m³)	Hazard Index
Project Construction (Years 0-1)				
	Unmitigated	88.5 (infant)	0.68	0.10
	Mitigated*	7.3 (infant)	0.09	0.01
Project Generator (Years 2-30)		1.3	<0.01	<0.01
Unmitigated Total/Maximum Project (Years 0-30)		89.8	0.68	0.10
Mitigated Total/Maximum Project (Years 0-30)		8.6	0.09	0.01
BAAQMD Single-Source Threshold		>10.0	>0.3	>1.0
Exceed Threshold?				
	Unmitigated	Yes	Yes	<i>No</i>
	Mitigated*	<i>No</i>	<i>No</i>	<i>No</i>

*Tier 4 Interim Engines Mitigation Measures, MM AQ-1 and Conditions of Approval.

IMPACT AQ-1: The maximum cancer risks and PM2.5 concentration from project construction and generator testing would exceed the BAAQMD single-source thresholds and expose sensitive receptors to significant pollutant concentrations. **(Significant Impact)**

Mitigation and Avoidance Measure

In addition to the Standard Permit Conditions above, and in conformance with General Plan Policies MS-10.1 and MS-13.1, the following Mitigation Measure will be implemented during all demolition and construction activities to reduce TAC emissions impacts.

MM AQ-1: Prior to the issuance of any demolition or grading permits, the project applicant shall submit to the Director of Planning, Building and Code Enforcement or Director's designee, a Construction Operations Plan that includes specifications for the equipment to be used during construction. The plan shall be accompanied by a letter signed by an air quality specialist verifying that the project would achieve a fleet-wide average 89-percent reduction in DPM exhaust emissions or greater. Achieving this could include one or a combination of the following:

- All diesel-powered off-road equipment larger than 25 horsepower and operating at the site for more than two days continuously shall, at a minimum, meet U.S. (EPA) particulate matter emissions standards for Tier 4 interim engines.
- Where Tier 4 equipment is not available, 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.

Condition of Approval: As part of the BAAQMD permit requirements for toxics screening analysis, generator emissions will have to meet Best Available Control Technology for Toxics (TBACT) and pass the toxic risk screening level of less than ten in a million. The risk assessment would be prepared by BAAQMD. Depending on results, BAAQMD would set limits for DPM emissions (e.g., more restricted engine operation periods). Sources of air pollutant emissions complying with all applicable BAAQMD regulations generally will not be considered to have a significant air quality community risk impact. The risk assessment as completed by BAAQMD shall be shared with the Director of Planning, or Director's designee, prior to the issuance of a Building Permit.

Implementation of the above Condition of Approval and Mitigation Measure AQ-1, would reduce the computed maximum increased residential cancer risk from construction, assuming infant exposure, to 7.3 in one million or less and the maximum annual PM2.5 concentration would be reduced to 0.09 µg/m³. Short-term construction and long-term operational generator

testing risk levels would not exceed BAAQMD significance thresholds. **(Less Than Significant Impact with Mitigation Incorporated)**

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

Odors are general considered an annoyance rather than a health hazard. Land uses that have the potential to be sources of odors that generate complaints include, but are not limited to, wastewater treatment plants, landfills, composting operations, and food manufacturing facilities. The redevelopment of an existing commercial site with hotel uses would not typically generate objectionable odors. Therefore, the proposed project would not create objectionable odors affecting a substantial number of people. **(Less than Significant Impact)**

Conclusion

The project, with the implementation of Standard Permit Conditions, Conditions of Approval and Mitigation Measure MM AQ-1, would not result in significant air quality impacts. **(Less Than Significant Impact with Mitigation Incorporated)**

4.4 BIOLOGICAL RESOURCES

The following discussion is based on a Tree Survey completed for the project site by *Starbird Consulting* on February 18, 2020. This report is included in Appendix B of this Initial Study.

Environmental Setting

The project site is in an area of commercial, office, daycare/preschool, and residential uses and is surrounded by existing development. The project site is almost completely paved with asphalt; therefore, biological resources are very limited. The only pervious area of the site is located in the southeast corner and contains two trees and a bougainvillea bush. Based on the tree survey, the two trees are of two different species, as shown in Appendix B and Table 4.4-1, below.

Tree No.	Species	Size (in circumference)	Health
1.	Blue Gum Eucalyptus – Non-native	60, 72, 56	Good
2.	Japanese Flowering Cherry – Non-native	17, 32, 18, 20	Fair – compromised by proximity to building and parking lot

The trees on-site are multi-trunked and in good and fair condition. Both trees are ordinance-size (defined by the City as trees over 38 inches in circumference measured at a height of 54 inches above natural grade). Neither tree is a Heritage tree as defined by the City of San Jose.

The project site is located on land cover designated as *Urban-Suburban*, which as defined by the Habitat Plan is land that has been cleared for residential, commercial, industrial, or other urban developments, and is defined as having one or more structures per 2.5 acres. Vegetation found in *Urban-Suburban* land cover is usually in the form of landscaped residences, planted street trees, and parklands. Most of the vegetation on-site is composed of non-native or cultivated plant species. The project site is not located within any other potential fee zones, plant or wildlife survey areas, or other areas that would be subject to specific Habitat Plan conditions such as stream setbacks.

Regulatory Framework

Federal and State

Special-Status Species

Individual plant and animal species listed as rare, threatened or endangered under State and federal Endangered Species Acts are considered ‘special-status species.’ Federal and State “endangered species” legislation has provided the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) with a mechanism for

conserving and protecting plant and animal species of limited distribution and/or low or declining populations.

Permits may be required from both the USFWS and CDFW if activities associated with a proposed project will result in the take of a species listed as threatened or endangered. To “take” a listed species, as defined by the State of California, is “to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill” said species. “Take” is more broadly defined by the federal Endangered Species Act to include “harm” of a listed species.

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

Migratory Bird and Birds of Prey Protections

Federal and State laws also protect most bird species. The federal Migratory Bird Treaty Act (MBTA) prohibits killing, possessing, or trading in migratory birds, except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, and bird nests and eggs.

Birds of prey, such as owls and hawks, are protected in California under provisions of the State Fish and Game Code. The Code states that it is “unlawful to take, possess, or destroy any birds in the order Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto.” Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered “taking” by the CDFW.

Sensitive Habitats

Wetland and riparian habitats are considered sensitive habitats under CEQA. They are also afforded protection under applicable federal, State, and local regulations, and are generally subject to regulation, protection, or consideration by the US Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), CDFW, and/or the USFWS under provisions of the federal Clean Water Act (e.g., Sections 303, 304, 404) and State of California Porter-Cologne Water Quality Control Act. USEPA regulations, called for under Section 402 of the Clean Water Act, also include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge into waters of the United States (e.g., streams, lakes, bays, etc.).

Regional

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

As previously described, the project site is located within the Habitat Plan study area and is designated as *Urban-Suburban*. The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (Habitat Plan) covers an area of 519,506 acres, or approximately 62 percent of Santa Clara County. It was developed and adopted through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (SCVWD), Santa Clara Valley Transportation Authority (VTA), US Fish and Wildlife Service (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 approximately 500,000 acres of southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan.

Local

Envision San Jose 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 following policies are specific to biological resources and are applicable to the proposed project:

- 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.
- ER-5.2** Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
- 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.
- 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.

- 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.
- 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.
- CD-1.24** Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Any adverse effect on the health and longevity of such trees should be avoided 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.
- CD-1.25** Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Any adverse effect on the health and longevity of such trees should be avoided 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.

Biological Resources Environmental Checklist

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	7
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,10

Impacts Evaluation

- 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 California Department of Fish and Wildlife or US Fish and Wildlife Service?**

Trees on and adjacent to the project site could provide nesting habitat for birds, including migratory birds. Nesting birds are protected under provisions of the Migratory Bird Treaty Act and California Department of Fish and Wildlife (CDFW) Code Sections 3503, 3503.5, and 2800.

IMPACT BIO-1: Construction disturbance during the breeding season 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 the CDFW. Construction activities such as tree removal and site grading that disturb a nesting bird on-site or immediately adjacent to the construction zone would constitute a significant impact. **(Significant Impact)**

Mitigation and Avoidance Measures

Prior to the issuance of any grading or demolition permits and in conformance with the California State Fish and Wildlife Code and provisions of the Migratory Bird Treaty Act, the project will implement the following Mitigation Measures to avoid and/or reduce impacts to nesting birds (if present on or adjacent to the site) to a less than significant level.

- MM BIO-1.1:** To avoid disturbance of nesting and special-status birds, the project applicant shall schedule activities related to the project, including, but not limited to, vegetation removal, ground disturbance, construction, and demolition to occur outside of the bird nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1 through August 31 (inclusive).
- MM BIO-1.2:** If demolition and construction activities cannot be scheduled between September 1 and January 31 (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified biologist or ornithologist prior to the issuance of any grading or demolition permits to ensure that no nests shall be disturbed during project implementation. The nesting bird pre-construction survey shall be conducted within the project boundary, including a 300-foot buffer (500-foot for raptors). The survey shall be conducted by a qualified biologist familiar with the identification of avian species known to occur in the area. The pre-construction 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 1 through April 30, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1 through August 31, inclusive).
- MM BIO-1.3:** If active nests are found, the qualified biologist or ornithologist, in consultation with California Department of Fish and Wildlife (CDFW), shall determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests will not be disturbed during project construction (which depends upon the species, the proposed work activity, and existing disturbances associated with land uses outside the site). The buffer zone shall be demarcated by the qualified biologist or ornithologist with bright orange construction fencing, flagging, construction lathe, or other means to mark the boundary. All construction personnel shall be notified as to the existence of the buffer zone and shall be instructed to avoid entering the buffer zone during the nesting season. No ground disturbing activities shall occur within this buffer until the qualified biologist or ornithologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Encroachment into the buffer shall occur only at the discretion of the qualified biologist.
- MM BIO-1.4:** The project applicant shall submit a report to the City's Director of Planning, Building and Code Enforcement or Director's designee indicating the results of the survey and any designated buffer zones, and is to be completed to the satisfaction of the Director of Planning, Building and Code Enforcement prior to the issuance of any demolition or grading permits.

The project, with the implementation of the above Mitigation Measures, would not result in significant impacts to nesting birds by avoiding construction activities during the nesting season, inhibiting nesting, and conducting preconstruction surveys in order to avoid disturbance of active nests that may be affected by project construction. **(Less Than Significant Impact with Mitigation Incorporated)**

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 California Department of Fish and Wildlife or US Fish and Wildlife Service?

Due to the urban nature of the site, there are no sensitive, riparian, or wetland habitats on-site. Because of the lack of these habitats and the extent of human disturbance on the project site, special status plant and animal species are not expected to be present. The project site is not located near, and would not affect, any riparian habitat or other sensitive natural community as identified in the General Plan and Santa Clara Valley Habitat Plan (Habitat Plan) or by the CDFW or United States Fish and Wildlife Service (USFWS). **(No Impact)**

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

There are no federally protected wetlands on-site or in the project area that could be affected by the proposed project. **(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, impede the use of native wildlife nursery sites?

There are no waterways located on the project site; therefore, the project would not interfere with migratory fish species. Given the developed nature of the project site and adjacent area, the project site does not act as a wildlife corridor. **(No Impact)**

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

Development of the proposed project would result in the removal of two ordinance-sized trees on-site. Trees that are within the project work area and anticipated to be removed for the purpose of the currently proposed project, shall be replaced in accordance with the City's standard tree replacement ratios summarized in Table 4.4-2 below.

Standard Permit Conditions: The removed trees would be replaced according to tree replacement ratios required by the City, as provided in Table 4.4-2 below, as amended.

Table 4.4-2: Tree Replacement Ratios				
Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more	5:1	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon
<p>x:x = tree replacement to tree loss ratio</p> <p>Note: Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family, Commercial and Industrial properties, a permit is required for removal of trees of any size.</p> <p>A 38-inch tree equals 12.1 inches in diameter</p> <p>A 24-inch box tree = two 15-gallon trees</p>				

As previously described, two non-native trees are located on-site and would be removed as part of the project. Based on the size and types of trees, the trees would each be replaced with four 15-gallon tree at a ratio of 4:1 for a total of eight trees. If 24-inch box trees are proposed, four trees would be required. No trees would be retained as part of the project and no off-site trees would require any tree protection during construction. The species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

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

- The size of a 15-gallon replacement tree may be increased to a 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.

Implementation of standard tree replacement, per City policy, would reduce impacts to trees to a less than significant level. **(Less than Significant)**

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?

The project site is located within the Santa Clara Valley Habitat Plan (Habitat Plan) area and has a land cover designation of Urban-Suburban. The Urban-Suburban designation is for land that has been identified for residential, commercial, industrial, or other urban development, and is defined as having one or more structures per 2.5 acres. The proposed commercial development, therefore, is consistent with the land use assumptions for the site in the Habitat Plan. The construction of a hotel on the project site would not impact any of the Habitat Plan's covered species and would implement the following standard permit condition.

Standard Permit Condition: The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant 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. **(Less Than Significant Impact)**

Conclusion

The project, with the implementation of Mitigation Measures and Standard Permit Conditions identified above, would result in less than significant biological resource impacts. **(Less than Significant Impact with Mitigation Incorporated)**

4.5 CULTURAL/TRIBAL CULTURAL RESOURCES

The following discussion is based upon an Archaeological Literature Search for reported cultural resources completed by *Holman & Associates* on February 12, 2020 and a State of California Department of Parks and Recreation (DPR) Form completed by Craig Mineweaser, A.I.A. and Bonnie Montgomery on December 1, 2019. These reports are included in Appendix C of this Initial Study.

Environmental Setting

Subsurface Resources

Cultural resources are evidence of past human occupation and activity and include both historical and archaeological resources. These resources may be located aboveground or underground and have significance in history, prehistory, architecture, State of California, or local or tribal communities.

The project site is located in Santa Clara Valley, where Native American occupation extended over 5,000 to 8,000 years and possibly longer. Before European settlement, Native Americans (specifically the Ohlone/Costanoan populations) resided in the area that encompasses the project site. The Bay Area's favorable environment during the prehistoric period included bay marshes, valley grasslands, mountainous uplands and open coastal environments that provided an abundance of wild food and other resources.

The archaeological records search reviewed all records of identified archaeological resources within a quarter mile of the project site and all files were examined. No Native American resources are recorded nearby and no historic resources or properties are listed on federal, state, or local inventories. Although the site has not been studied for its cultural resource potential (subsurface investigations), five nearby studies have been completed and none identified any archaeological resources. However, Native American sites have been identified within a quarter mile of major creeks and their tributaries. Therefore, the project site, which is located approximately 500 feet west of Calabazas Creek, has a moderate potential for Native American resources.

Historically, the site was part of the Quito Rancho, an area of approximately 13,310 acres that were granted in 1841 to Jose Zenon Fernandez and Jose Noriega by Mexican Governor, Juan Alvarado. Upon the end of the Mexican-American War in 1848, the grant of the land was patented to the original owners and their heirs. As time went on and properties in the area continued to change hands, the site was part of an approximately 158-acre site that by 1953, was planted in orchards, as was most of the other nearby lands. By 1968, the project area was beginning to be developed with urban uses. Based on these findings, there is a low potential for historic-era archaeological resources to be located on the project site.

Historic Resources

The project site was formerly, part of an orchard and was subdivided for commercial development in approximately 1948. The development pattern of commercial development along major roadways was repeated during the post-WWII period all along De Anza Boulevard connecting Saratoga with Mountain View. The site was sold to the Germane Corporation by S. Brooks and Blanche Walton. Germane Corporation applied for a building permits in 1962 to build a “one-story V N building for retail sales”. The building was then leased by the G.R. Kinney Company, which became the largest family chain shoe store retailer in the United States. In 1963, the G.R. Kinney Corporation was sold to Woolworths and renamed the Kinney Shoe Corporation. In 1984, Kelly-Moore Paints leased the building and applied for a permit to alter the space to a paint store.

The first Kinney Shoes in the San Jose area opened in 1958 at 3380 El Camino Real in Santa Clara. A second store opened in 1962 at 2806 Story Road in San Jose. Both buildings are still standing and are virtually identical in design and construction to the subject property. Based on historical photographs found online, all freestanding Kinney Shoes built in the early 1960s are of the same design with a street sign identical to the one on this site.

The existing building on-site has integrity in terms of shapes, materials, plan, etc. and it easily conveys a sense of small-scale commercial development during the middle of the last century and appears to be in good condition. The original (1962) sign is located in the northwest corner of the site.

A colonial revival house and associated outbuildings built in 1925 is located at 1566 Duckett Way, approximately 195 feet southeast of the project site. The structure is on the City of San Jose’s Historic Resources Inventory as a Structure of Merit.

Regulatory Framework

Federal

The National Register of Historic Places (NRHP), established under the National Historic Preservation Act, is a comprehensive inventory of known historic resources throughout the United States. The NRHP is administered by the National Park Service and includes buildings, structures, sites, objects and districts that possess historic, architectural, engineering, archaeological or cultural significance. For a resource to be eligible for listing, it also must retain integrity of those features necessary to convey its significance in terms of 1) location, 2) design, 3) setting, 4) materials, 5) workmanship, 6) feeling, and 7) association. CEQA requires evaluation of project effects on properties that are listed in or eligible for listing in the NRHP.

State

California Register of Historical Resources

The California Register of Historical Resources (CRHR) is a guide to cultural resources that must be considered when a government agency undertakes a discretionary action subject to CEQA. The CRHR aids government agencies in identifying, evaluating, and protecting California's historical resources, and indicates which properties are to be protected from substantial adverse change (Public Resources Code, Section 5024.1(a)). The CRHR is administered through the State Office of Historic Preservation (SHPO), which is part of the California State Parks system. A historic resource listed in, or formally determined to be eligible for listing in, the NRHP is, by definition, included in the CRHR (Public Resources Code Section 5024.1(d)(1)).

The context types to be used when establishing the significance of a property for listing on the CRHR are very similar, with emphasis on local and state significance. They are:

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

State Regulations Regarding Cultural and Paleontological Resources

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

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

Assembly Bill 52 – Tribal Cultural Resources

A tribal cultural resource can be a site, feature, place, or cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object

with cultural value to a California Native American tribe. It also must be either on or eligible for the California Historic Register, a local historic register, or the lead agency, at its discretion, chooses to treat the resource as a tribal cultural resource. Assembly Bill (AB) 52, which amends the Public Resources Code, requires lead agencies to participate in formal consultations with California Native American tribes during the CEQA process, if requested by any tribe, to identify tribal cultural resources that may be subject to significant impacts by a project.

Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. Consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource or when it is concluded that agreement cannot be reached.

Local

City of San José's Historic Preservation Ordinance

According to the City'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.

Envision San José 2040 General Plan

The General Plan includes policies for avoiding or mitigating impacts resulting from planned development projects with the City. The following policies are specific to cultural resources and are applicable to the proposed project:

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.

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.

- 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.
- LU-13.4** Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks.
- LU-13.9** Promote the preservation, conservation, rehabilitation, restoration, reuse, and/or reconstruction, as appropriate, of contextual elements (e.g., structures, landscapes, street lamps, street trees, sidewalk design, signs) related to candidate and/or landmark buildings, structures, districts, or areas.

Cultural/Tribal Cultural Resources Environmental Checklist

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Cause a substantial adverse change in the significance of an historical resource pursuant to CEQA Guidelines Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,9,11,12
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,3,19
c. Disturb any human remains, including those interred outside of dedicated cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,19
d. Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: 1. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k); or 2. A resource determined by the lead agency, in its discretion and	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,11,19

supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying these criteria, the significance of the resource to a California Native American tribe shall be considered.					
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Impacts Evaluation

a. Would the project cause a substantial adverse change in the significance of an historical resource as defined in §15063.5?

The project site is developed with a commercial structure that has had few exterior alterations since it was constructed in 1962. The historic analysis for the building has determined that based on State of California criteria, the property is associated with suburbanization and commercialization of De Anza Blvd. during the 1950s and 60s. While the local portion of the street currently retains some of this pattern of development consisting of one or a few one-story commercial buildings per site, this pattern is rapidly being broken by new higher-density, larger developments.

The building is a typical example of Mid-Century Modern commercial architecture. Kinney Shoes replicated this design hundreds of times across the United States between the late 1950s and early 1960s. By 1964, the San Jose area had six examples of this retail building, and three remain today. The structure does not appear to qualify for the California Register or National Register, as it is not a distinguished example of mid-century commercial building design. Kinney Shoes signs were identical as well. This is the only example that remains in the San Jose area, but it is not a particularly distinguished example of mid-century commercial signage.

Based on the City of San Jose’s scoring criteria, the building also does not appear to be eligible for San José City Landmark designation or for listing on the local inventory of historic resources when considered under the criteria of the City’s Historic Preservation Ordinance. Further, the area in which this property is located has not been identified as a potential historic district or conservation area, and given the mixed contemporary development pattern of the area it is unlikely to be considered as such in the future.

Because the structure has not be determined to be a historic resource as defined in §15063.5, implementation of the proposed project would not affect historical resources. While Structures of Merit are not considered to be historic resources in the City, the Noise and Vibration Assessment (Appendix F) determined that the structure located at 1566 Duckett Way would not be impacted by construction-generation vibration. No other impacts to that structure would occur due to the distance between it and the project site. **(Less than Significant Impact)**

b.-c. Would the project cause a substantial adverse change in the significance of an archaeological resource as defined in §15063.5? Would the project disturb any human remains, including those interred outside of formal cemeteries?

Archaeological resources are not known to occur on the project site. However, according to the General Plan (approved in 2011), the project site is located in an archaeologically sensitive area due to its location on the valley floor within 500 feet of Calabazas Creek. The evaluation for subsurface resources for the site has determined that the potential to encounter materials during construction is moderate. Therefore, construction of the project could encounter unknown, buried archaeological resources and/or human remains.

The project shall implement the following standard measures to reduce potential impacts to subsurface archaeological resources and/or remains to a less than significant level.

Standard Permit Conditions: Consistent with General Plan policies ER-10.2 and ER-10.3, the following Standard Permit Conditions shall be implemented by the project to reduce or avoid impacts to subsurface cultural resources to a less than significant level:

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 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.

Human Remains

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

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

- If the remains are believed to be Native American, the Coroner shall contact the NAHC within 24 hours. The NAHC shall then designate a Most Likely Descendant (MLD). The MLD shall inspect the remains and make a recommendation on the treatment of the remains and associated artifacts.
- If one of the following conditions occurs, the applicant shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:
 - The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 24 hours after being notified by the NAHC.
 - The MLD identified fails to make a recommendation; or
 - The landowner or their authorized representative rejects the recommendation of the MLD, and the mediation by the NAHC fails to provide measures acceptable to the landowner.

(Less than Significant Impact)

d. Cause a substantial adverse change in the significance of a tribal cultural resource?

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

In 2017, the City had sent a letter to tribal representatives in the area to welcome participation in consultation process for all ongoing, proposed, or future projects within the City's Sphere of Influence or specific areas of the City. No tribes have requested notice of projects within the geographic area of the project site from the City of San José except for in Coyote Valley (approximately five miles southeast of the site). Due to the distance of the project site from Coyote Valley, the project would not have an impact on tribal cultural resources. To date, the tribe has not initiated formal consultation for this project.

The project will include Standard Permit Conditions to reduce potential impacts to tribal 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 resource. **(Less than Significant Impact)**

Conclusion

The project, with the implementation of Standard Permit Conditions, would not result in significant impacts to cultural resources/tribal cultural resources. **(Less than Significant Impact)**

4.6 ENERGY

Environmental Setting

The project would use electricity supplied by San Jose Clean Energy (SJCE) that will be 100-percent carbon free by 2021 before the project becomes operational. SJCE buys its power from a number of suppliers. Sources of renewable and carbon-free power include California wind, solar, and geothermal; Colorado wind; and hydroelectric power from the Pacific Northwest.

Pacific Gas and Electric Company (PG&E) is San José's natural gas provider. In 2018, natural gas facilities provided 15 percent of PG&E's electricity delivered to retail customers; nuclear plants provided 34 percent; hydroelectric operations provided 13 percent; renewable energy facilities including solar, geothermal, and biomass provided 39 percent.⁴

In 2019, approximately 15.3 million gallons of gasoline we sold in California, including aviation fuels.⁵ 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 2018.⁶

In March 2020, the Environmental Protection Agency (US EPA) and the National Highway Traffic Safety Administration (NHTSA) issued new greenhouse gas emission standards and fuel economy standards for new passenger cars and light-duty trucks. The Safer Affordable Fuel Efficient (SAFE) Vehicles Rule requires automakers to improve fuel efficiency 1.5 percent annually from model years 2021 through 2026. The SAFE rule is less stringent than the Obama-era rule it replaces. That rule would have required automakers to improve fuel efficiency 5 percent annually for model year 2020–2025 vehicles, reaching 46.7 miles per gallon (mpg) by 2025.⁷

The proposed project is the redevelopment of an existing commercial site occupied by a building that has been vacant since about 2017. The commercial uses included a paint store that has not utilized any energy for three years; therefore, the following discussion is for new uses only and does not include a credit for the previous energy use on-site.

Regulatory Framework

Many federal, state, and local statutes and policies address energy conservation. At the federal level, energy standards set by the U.S. EPA apply to numerous consumer and commercial

⁴ PG&E, Delivering low-emission energy. Available at: https://www.pge.com/en_US/about-pge/environment/what-we-are-doing/clean-energy-solutions/clean-energy-solutions.page. Accessed March 24, 2020.

⁵ California Department of Tax and Fee Administration. Available at: <https://www.cdtfa.ca.gov/taxes-and-fees/spftrpts.htm>. Accessed April 8, 2020.

⁶ U.S. EPA. "The 2018 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." Accessed April 8, 2020.

⁷ U.S. EPA. Available at: <https://www.epa.gov/regulations-emissions-vehicles-and-engines/safer-affordable-fuel-efficient-safe-vehicles-proposed>. Accessed April 8, 2020.

products (e.g., the EnergyStar™ program). The U.S. EPA and NHTSA also set fuel efficiency standards for automobiles and other modes of transportation.

State

California Renewable Energy Standards

In 2002, California established its Renewables Portfolio Standard (RPS) Program, with the goal of increasing the percentage of renewable energy in the State's electricity mix to 20 percent of retail sales by 2010. In 2006, California's 20 percent by 2010 RPS goal was codified under Senate Bill (SB) 107. Under the provisions of SB 107 (signed into law in 2006), investor-owned utilities were required to generate 20 percent of their retail electricity using qualified renewable energy technologies by the end of 2010. In 2008, Executive Order S-14-08 was signed into law and requires that 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 for retail sellers and publicly owned utilities, requires them to procure 50 percent of the State's electricity from renewable sources by 2030.

California Building Codes

At the state level, 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; the 2013 standards became effective July 1, 2014.⁸ The 2016 Title 24 updates went into effect on January 1, 2017. Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.⁹

In January 2010, the State of California adopted the California Green Building Standards Code (CalGreen) that establishes mandatory green building standards for all buildings in California. The code was subsequently updated in 2013. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality.

Local

Council Policy 6-32 Private Sector Green Building Policy

Council Policy 6-32 Private Sector Green Building Policy, adopted in October 2008, establishes baseline green building standards for private sector new construction and provides a

⁸ California Building Standards Commission. California Building Standards Code (California Code of Regulations, Title 24). Accessed September 20, 2018. <http://www.bsc.ca.gov/Codes.aspx>.

⁹ CEC. 2016 Building Energy Efficiency Standards for Residential and Nonresidential Buildings. 2013. Accessed September 20, 2018. <http://www.energy.ca.gov/2015publications/CEC-400-2015-037/CEC-400-2015-037-CMF.pdf>.

framework for the implementation of these standards. It fosters practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water and other resources in the City of San Jose. Private developments are required to implement green building practices if they meet the Applicable Projects criteria defined by Council Policy 6-32. The proposed project would be a Tier 2 (25,000 square feet or greater) Commercial/industrial project and would be required to incorporate Leadership in Energy and Environmental Design (LEED) Silver design criteria to ensure construction of healthy, highly efficient, and cost-saving green buildings.

Climate Smart San José

Climate Smart San José is a plan developed by the City to reduce air pollution, save water, and create a healthier community. The plan articulates how buildings, transportation/mobility, and citywide growth need to change in order to minimize impacts on the climate. The plan outlines strategies that City departments, related agencies, the private sector, and residents can take to reduce carbon emissions consistent with the Paris Climate Agreement. The plan recognizes the scaling of renewable energy, electrification and sharing of vehicle fleets, investments in public infrastructure, and the role of local jobs in contributing to sustainability. It includes detailed carbon-reducing commitments for the City, as well as timelines to deliver on those commitments.

Municipal Code

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

San Jose Clean Energy

In February 2019, most residential uses and businesses in San Jose were enrolled in SJCE, a nonprofit, locally controlled electricity generation service provider for residents and commercial users. Clean, carbon-free energy sources include renewable (wind and solar – 45%), hydroelectric (41%), and open-market transactions that may include renewables and hydroelectric (14%).¹⁰ Residents and business owners can choose to opt out of SJCE and remain entirely with PG&E service.

¹⁰ SJCE. Available at <https://www.sanjosecleanenergy.org/your-choices>. Accessed April 8, 2020.

Envision San Jose 2040 General Plan Policies

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

- MS-1.1:** Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
- MS-1.6** Recognize the interconnected nature of green building systems, and, in the implementation of Green Building Policies, give priority to green building options that provide environmental benefit by reducing water and/or energy use and solid waste.
- MS-2.1** Develop and maintain policies, zoning regulations, and guidelines that require energy conservation and use of renewable energy sources.
- MS-2.2** Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.
- MS-2.3** Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
- MS-2.4** Promote energy efficient construction industry practices.
- MS-2.6** Promote roofing design and surface treatments that reduce the heat island effect of new and existing development and support reduced energy use, reduced air pollution, and a healthy urban forest. Connect businesses and residents with cool roof rebate programs through City outreach efforts.
- 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).
- 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.

- MS-5.5:** Maximize recycling and composting from all residents, businesses, and institutions in the City.
- MS-6.5:** Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.
- MS-6.8:** Maximize reuse, recycling, and composting citywide.
- MS-14.1** Promote job and housing growth in areas served by public transit and that have community amenities within a 20-minute walking distance.
- MS-14.4** Implement the City’s Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
- 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.
- 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.

Energy Environmental Checklist

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Result in potentially significant environmental impacts due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,14
b. Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

Impacts Evaluation

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

A discussion of the project's effect on energy use is presented below. Energy use consumed by the proposed project was estimated as part of the air quality analysis prepared for the project by *Illingworth & Rodkin* (Appendix A). This included natural gas and electricity consumption for the redevelopment of an existing commercial site; however, because the existing building has not been in use for some time, no credit was given for existing uses.

Construction Impacts

The anticipated construction schedule assumes that the project would be built out over a period of approximately 15 months. The project would require demolition, site preparation, minor grading, site construction, paving, and architectural coating. The construction phase would require energy for the manufacture and transportation of building materials, preparation of the site (e.g., excavation, and grading), and the actual construction of the building. Petroleum-based fuels such as diesel fuel and gasoline would be the primary sources of energy for these tasks. The construction energy use has not been determined at this time.

The overall construction schedule and process is already designed to be efficient in order to avoid excess monetary costs. That is because equipment and fuel are not typically used wastefully due to the added expense associated with renting the equipment, maintaining it, and fueling it. Therefore, the opportunities for future efficiency gains during construction are limited. The proposed project does, however, include several measures that would improve the efficiency of the construction process.

Implementation of the BAAQMD BMPs detailed in Section 4.3 *Air Quality* would restrict equipment idling times to five minutes or less and would require the applicant to post signs on the project site reminding workers to shut off idle equipment. The project would also recycle or salvage at least 30 percent of construction waste as part of its LEED certification (discussed further below).

With implementation of the BAAQMD BMPs and LEED certification requirements, the short-term energy impacts associated with use of fuel or energy related to construction would be less than significant. **(Less than Significant Impact)**

Operational Impacts

Operation of the proposed project would consume energy in the form of electricity and natural gas primarily for building heating and cooling, lighting, and other commercial uses. Table 4.6-1 summarizes the total estimated energy use of the proposed project including the existing uses.

Table 4.6-1 Estimated Annual Energy Use of Proposed Project		
Proposed Project	Electricity Use (kWh/year)	Natural Gas Use (MMBtu/year)
Commercial Development	1.025 million	3,496
Source: 1510 S. De Anza Boulevard Hotel Air Quality and Greenhouse Gas Assessment, Illingworth & Rodkin, April 3, 2020 (Appendix A) and personal communication with James Reyff, Principal, Illingworth & Rodkin, Inc.		

The total annual Vehicle Miles Travelled (VMT) for the project is approximately 2,623,631, assuming that the average trip length in Santa Clara County is 11 miles. Using the U.S. EPA’s estimated average fuel economy of 29.4 miles per gallon (mpg) in 2030, the project would result in the consumption of approximately 89,239 gallons of gasoline per year.

The project site is adjacent to VTA Bus Route 51 (refer to Section 4.17 *Transportation*). As a result, implementation of the proposed project would not result in a substantial increase on transportation-related energy use.

The energy use increase described above is likely overstated because the estimates for energy use do not take into account the efficiency measures incorporated into the project. In addition, the project would be built to the 2016 California Building Code standards, Title 24 energy efficiency standards (or subsequently adopted standards during the one-year construction term), and CALGreen code, which includes insulation and design provisions to minimize wasteful energy consumption, thereby improving the efficiency of the overall project. Though the proposed project does not include on-site renewable energy resources, the proposed project also is required to be built to LEED Checklist standards consistent with Council Policy 6-32.

The proposed project would provide bicycle parking consistent with the requirements of the City of San José Municipal Code. The inclusion of bicycle parking and the site’s proximity to transit would incentivize the use of alternative methods of transportation to and from the site. Based on the measures required for LEED Certification, the proposed project would comply with existing state and local energy standards. Seven EV charging stations for autos are also included in the project.

Based on the discussion above, the project would not result in significant environmental impacts due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation. **(Less than Significant Impact)**

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

As stated above, the project would be required to be built to LEED Silver Certification pursuant to Council Policy 6-32. By reducing single-occupancy traffic trips and including green design measures to achieve LEED Silver certification, the proposed project would comply with existing

state and local energy standards. The project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. **(Less Than Significant Impact)**

Conclusion

The project proposed would have less than significant impacts related to energy use. **(Less than Significant Impact)**

4.7 GEOLOGY AND SOILS

A geotechnical investigation of the project site was prepared by *Romig Engineers* in April 2019. This report is contained in Appendix D.

Environmental Setting

The project site is located in Santa Clara Valley, an alluvial basin that lies between the Santa Cruz Mountains to the southwest and the Diablo Range to the northeast. Santa Clara Valley bedrock consists of Franciscan Complex and Cretaceous-age marine sediment. Geologic information for the area indicates the site is underlain by Pleistocene-age alluvial fan and fluvial deposits. These alluvial fan and fluvial deposits are generally expected to consist of dense, gravelly and clayey sand or clayey gravel that becomes finer grained upward transitioning into sandy clay.

The project property is an essentially level lot with an elevation of approximately 300 feet above mean sea level. Topography in the vicinity of the site slopes downward gently to the northeast towards the San Francisco Bay.

Three exploratory borings on-site encountered approximately two to three feet of surface fill which consisted of hard sandy lean clay of low plasticity underlain by approximately 2 to 3 feet of very stiff to hard sandy fat clay of high plasticity. Beneath the fill and fat clay soil, approximately 12 feet of hard sandy lean clay of moderate plasticity underlain by 10 to 18 feet of dense to very dense clayey sand was encountered. Hard sandy lean clay of low to moderate plasticity was encountered which extended to the maximum depths explored of 30 to 40 feet.

A Liquid Limit of 53 and a Plasticity Index of 31 were measured on a sample of near surface native soil obtained from our Boring EB-2. These test results indicate that the near surface soil generally has high plasticity and a high potential for expansion. Historical high ground water level in the project area is greater than 50 feet below grade.

While fluctuations in the level of groundwater can occur due to variations in rainfall, landscaping, surface and subsurface drainage patterns, and other factors, based on the findings from the geotechnical investigation, and an analysis of the nearby groundwater data, it is believed that the highest projected future ground water depth at the site would be approximately 32 feet below the existing ground surface (elevation 268 feet mean sea level).

Seismicity and Seismic Hazards

There are no mapped faults within or adjacent to the site and the site is not located within a State of California Earthquake Fault Zone (formerly known as a Special Studies Zone), an area where the potential for fault rupture is considered probable. The closest active fault is the San Andreas fault, located approximately 4.4 miles southwest of the property. Thus, the likelihood of surface rupture occurring from active faulting at the site is low.

The San Francisco Bay Area is an active seismic region. Earthquakes in the region result from strain energy constantly accumulating because of the northwestward movement of the Pacific Plate relative to the North American Plate. On average about 1.6-inches of movement occur per year. Historically, the Bay Area has experienced large, destructive earthquakes in 1838, 1868, 1906, and 1989. The faults considered most likely to produce large earthquakes in the area include the San Andreas, San Gregorio, Hayward, and Calaveras faults. The San Gregorio fault is located approximately 18 miles southwest of the site. The Hayward and Calaveras faults are located approximately 13 and 16 miles northeast of the site, respectively.

In the future, the subject property will undoubtedly experience severe ground shaking during moderate and large magnitude earthquakes produced along the San Andreas fault or other active Bay Area fault zones. Using information from recent earthquakes, improved mapping of active faults, ground motion prediction modeling, and a new model for estimating earthquake probabilities, a panel of experts convened by the U.S.G.S. have concluded there is a 72 percent chance for at least one earthquake of Magnitude 6.7 or larger in the Bay Area before 2043. The Hayward fault has the highest likelihood of an earthquake greater than or equal to magnitude 6.7 in the Bay Area, estimated at 33 percent, while the likelihood on the San Andreas and Calaveras faults is estimated at approximately 22 and 26 percent, respectively.

The Seismic Hazard Zones Map of the Cupertino Quadrangle (California Geological Survey, 2002) does not include the site within a State of California liquefaction hazard zone, an area that may be underlain by soils that could be potentially susceptible to liquefaction during a major earthquake. Since a relatively deep ground water level is expected at the site and the soils encountered at the site were very stiff to hard clays and dense to very dense sands which are not considered susceptible to liquefaction, it has been determined that the likelihood of damage from liquefaction occurring at the site is low provided the building is designed and constructed in accordance with the recommendations presented in this report.

Regulatory Framework

California Building Code

The 2016 California Building Standards Code (CBC) was published July 1, 2016, with an effective date of January 1, 2017. The CBC is a compilation of three types of building criteria from three different origins:

- Building standards that have been adopted by state agencies without change from building standards contained in national model codes;
- Building standards that have been adopted and adapted from the National model code standards to meet California conditions; and
- Building standards, authorized by the California legislature, that constitute extensive additions not covered by the model codes that have been adopted to address particular California concerns.

The CBC identifies acceptable design criteria for construction that addresses seismic design and loadbearing capacity, including specific requirements for seismic safety; excavation, foundation and retaining wall design, site demolition, excavation, and construction, and; drainage and erosion control.

Paleontological Resources Regulations

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

Local

City of San José Municipal Code

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

Envision San Jose General Plan Policies

Policies and actions in the General Plan have been adopted for the purpose of avoiding or mitigating geology and soils impacts resulting from development projects. Policies applicable to the project are presented below.

- 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.

- 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.

- 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. [The City Geologist will issue a Geologic Clearance for approved geotechnical reports.]
- EC-4.4** Require all new development to conform to the City of San José’s Geologic Hazard Ordinance.
- 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.
- 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.
- EC-4.12** Require review and approval of grading plans and erosion control plans prior to issuance of grading permits by the Director of Public Works.
- 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.

Geology and Soils Environmental Checklist

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:					
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,15
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,15
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,15
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,15
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,15
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,15
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,15
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,15
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

Impacts Evaluation

- 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?**

Although the project site is not located on a known, active fault and is not located in an Alquist-Priolo Earthquake Fault Zone, the project site is in a seismically-active region and would be subject to strong shaking in the event of seismic activity. Due to the distances to known earthquake faults, fault rupture is not a significant geologic hazard at the site.

The site is not located within both State- and County-designated Liquefaction Hazard Zones. Analysis of the potential for on-site post-liquefaction settlement has determined that several layers could experience liquefaction triggering that could result in soil softening. Liquefaction can result in ground failure (e.g., fissures), foundation bearing failure, and settlement of the ground surface, which can ultimately damage future development or endanger future residents on-site.

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

The existing seismic conditions discussed above would not be exacerbated by the project such that it would impact (or worsen) off-site seismic conditions. **(Less Than Significant Impact)**

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

The project site is flat and developed. Ground disturbance would be required for removal of the existing pavement and excavation, grading, and construction of the proposed project. Ground disturbance would expose soils and increase the potential for wind or water-related erosion, loss of topsoil, and sedimentation at the site until construction is complete. As further discussed in *Section 4.9 Hydrology and Water Quality*, the project is required to minimize soil erosion hazards through compliance with the NPDES General Permit for Construction Activities, and implementation of an Erosion Control Plan with Best Management Practices (BMPs).

Standard Permit Conditions: To avoid or minimize potential soil erosion during construction activities, the project applicant shall implement the following Standard Permit Conditions:

- Standard erosion control and grading best management practices (BMPs) will be implemented during construction to prevent substantial erosion from occurring during site development. The BMPs shall be included on all construction documents.
- 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
- Prior to issuance of a Public Works Clearance, the applicant shall obtain a grading permit before commencement of excavation and construction. In accordance with General Plan Policy EC-4.12, the applicant may be required to submit a Grading Plan and/or Erosion Control Plan for review and approval, prior to issuance of a grading permit.

The project, with the implementation of the Standard Permit Condition as outlined above, would not result in significant soil erosion impacts. **(Less Than Significant Impact)**

c. Would the project 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?

As discussed above, the project site does not have a high potential for liquefaction impacts during a regional earthquake and the potential for differential compaction and lateral spreading is low. The project would be required to implement the recommendations of the site-specific geotechnical report. The site would not be subject to impacts from other seismically-induced soil hazards including slope instability or landslides due to the flat topography of the site. **(Less Than Significant Impact)**

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

The project site contains highly expansive surface soils, which could damage future buildings and development on-site. Differential settlement, structural damage, warping and cracking of roads and sidewalks, and rupture of utility lines may occur if the nature of expansive soils are not considered during project design and construction.

Standard Permit Conditions: The project shall complete a design-level geotechnical investigation to verify compliance with applicable regulations. The geotechnical report shall determine the site-specific soil conditions and identify the appropriate design and construction techniques to minimize risks to people and structures, including but not limited to: foundation, earthwork, utility trenching, and retaining and drainage recommendations. The report shall be submitted to the City of San José Public Works Department for review prior to issuance of any

site-specific grading or building permit. In addition, the following shall be included in the geotechnical report:

- Techniques that may be used to minimize hazards include: replacing problematic soils with properly conditioned/compacted fill and designing structures to withstand the forces exerted during shrink-swell cycles and settlements.
- Foundations, footings, and pavements on expansive soils near trees shall be designed to withstand differential displacement.

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.

The project, with implementation of the Standard Permit Conditions as outlined above, would not result in significant expansive soil impacts. **(Less Than Significant Impact)**

- e. Does the site 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 project does not propose the use of septic tanks or alternative wastewater disposal systems. **(No Impact)**

- f. Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?**

Paleontological Resources

Soil on-site has been previously disturbed during construction of the existing development. The project site is not in an area of paleontological sensitivity; therefore, the proposed development is not expected to encounter paleontological resources. Although not anticipated, construction activities associated with the proposed project could impact paleontological resources.

Standard Permit Conditions: Consistent with General Plan policy ER-10.3, the project shall implement the following to reduce or avoid impacts to paleontological resources to a less than significant level:

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

The project, with the implementation of the above Standard Permit Conditions, would not result in significant impacts to archaeological or paleontological resources or human remains.

(Less Than Significant Impact)

Conclusion

The project, with the implementation of the above Standard Permit Conditions, would not result in significant geology and soil impacts. **(Less Than Significant Impact)**

4.8 GREENHOUSE GAS EMISSIONS

The following discussion is based on an Air Quality and Greenhouse Gas Analysis completed by *Illingworth & Rodkin* on April 3, 2020. This report is included in Appendix A of this Initial Study.

Environmental Setting

Unlike emissions of criteria and toxic air pollutants, which have local or regional impacts, emissions of Greenhouse Gases (GHGs) have a broader, global impact. Global warming associated with the “greenhouse effect” is a process whereby GHGs accumulating in the atmosphere contribute to an increase in the temperature of the earth’s atmosphere. The principal GHGs contributing to global warming and associated climate change are carbon dioxide (CO₂), water vapor, methane (CH₄), nitrous oxide (N₂O), and fluorinated compounds.

Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the transportation, industrial and manufacturing, utility, residential, commercial, and agricultural sectors. The project site is currently developed with commercial uses. Traffic from these previous uses would have generated GHG emissions in the past.

Regulatory Framework

State

California Global Warming Solutions Act

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

On September 8, 2016, Governor Brown signed Senate Bill 32 (SB 32) into law, amending the California Global Warming Solution Act. SB 32 requires CARB to ensure that statewide greenhouse gas emissions are reduced to 40 percent below the 1990 level by 2030. As a part of this effort, CARB is required to update the Climate Change Scoping Plan to express the 2030 target in terms of million metric tons of carbon dioxide equivalent. CARB adopted the State’s updated Climate Change Scoping Plan in December 2017. The updated plan provides a framework for achieving the 2030 target.

Senate Bill 375 – Redesigning Communities to Reduce Greenhouse Gases

SB 375, known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. SB 375 builds upon AB 32 by requiring CARB to develop regional GHG reduction targets for automobile and light truck sectors for 2020 and 2035, as compared to 2005 emissions levels. The per-capita GHG emissions reduction targets for passenger

vehicles in the San Francisco Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.¹¹

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

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

Other Implementing Laws and Regulations

There are a number of laws that have been adopted as part of the State's efforts to reduce GHG emissions and their contribution to climate change. State laws and regulations related to growth, development, planning and municipal operations in San José include, but are not limited to:

- California Mandatory Commercial Recycling Law (AB 341)
- California Water Conservation in Landscaping Act of 2006 (AB 1881)
- California Water Conservation Act of 2009 (SBX7-7)
- Various Diesel-Fuel Vehicle Idling regulations in Chapter 13 of the California Code of Regulations
- Building Energy Efficiency Standards (Title 24, Part 6)
- California Green Building Code (Title 25, Part 11)
- Appliance Energy Efficiency Standards (Title 20)

¹¹ The emission reduction targets are for those associated with land use and transportation strategies, only. Emission reductions due to the California Low Carbon Fuel Standards or Pavley emission control standards are not included in the targets.

Local

Envision San José 2040 General Plan

The General Plan includes strategies, policies, and action items that are also incorporated in the City's GHG Reduction Strategy to help reduce GHG emissions. Implementation of the policies in the Envision San José 2040 General Plan as a part of the City's development permitting and other programs provides for meeting building standards for energy efficiency, recycling, and water conservation, consistent with State laws and regulations designed to reduce GHG emissions. Multiple policies and actions in the General Plan also have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings.

The following policies are specific to greenhouse gas emissions and are applicable to the proposed project:

- MS-1.1** Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
- CD-2.10** Recognize that finite land area exists for development and that density supports retail vitality and transit ridership. Use land regulations to require compact, low-impact development that efficiently uses land planned for growth, particularly for residential development which tends to have a long life-span. Strongly discourage small-lot and single-family detached residential product types in growth areas.
- 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.
- CD-5.1** Design areas to promote pedestrian and bicycle movements, to facilitate interaction between community members, and to strengthen the sense of community.
- MS-2.3** Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
- MS-2.11** Require new development to incorporate green building policies, 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 effectiveness of passive solar design.).

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.

TR-2.18 Provide bicycle storage facilities as identified in the San José Bicycle Master Plan.

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

Greenhouse Gas Reduction Strategy

The City, in conjunction with its preparation of the Envision San José 2040 General Plan, prepared a GHG Gas Reduction Strategy to ensure that implementation of the General Plan aligns with implementation requirements of AB 32 (2020 emission target).

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

Projects that are consistent with the GHG Reduction Strategy would have a less than significant impact related to GHG emissions through 2020 and would not conflict with targets in the currently adopted State of California Climate Change Scoping Plan through 2020. The City’s current GHG Reduction Strategy does not address meeting the requirements of SB 32 (2030 emission target). In addition, it is currently being revised for 2030 emissions targets.

City of San José Municipal Code

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

- Green Building Ordinance (Chapter 17.84)
- Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10)

- Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105)
- Construction and Demolition Diversion Deposit Program (Chapter 9.10)
- Wood Burning Ordinance (Chapter 9.10)

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

In June 2001, the San José City Council unanimously adopted the Green Building Policies as developed by the members of the community and various City Departments. The Municipal Green Building Guidelines establish baseline green building standards for City of San Jose facilities and provide a framework for the implementation of these standards. The policies require that all new construction and major retrofit projects of City of San José facilities and buildings over 10,000 gross square feet of occupied space shall earn a Leadership in Energy and Environmental Design (LEED) Silver rating at a minimum, with a goal of earning Gold or Platinum certification. The proposed project would be subject to this policy.

City of San Jose Climate Smart Plan

In 2018, the City of San Jose City Council unanimously adopted Climate Smart San José - a plan to reduce air pollution, save water, and create a stronger and healthier community. The Plan focuses on three pillars and nine key strategies to encourage the City and community to actively engage in charting a course to reduce greenhouse gas emissions. Strategies include, but are not limited to transitioning to renewable energy in the future, creating local jobs to reduce vehicle miles travelled, and developing an integrated, accessible public transport infrastructure.

Greenhouse Gas Emissions Environmental Checklist

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,14
b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,14

- a. **Would the project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?**

Significance Thresholds

BAAQMD's CEQA Air Quality Guidelines recommend a GHG threshold of 1,100 metric tons or 4.6 metric tons (MT) per capita. These thresholds were developed based on meeting the 2020 GHG targets set in the scoping plan that addressed AB 32. Development of the project would occur beyond 2020, so a threshold that addresses a future target is appropriate.

Although BAAQMD has not published a quantified threshold for 2030 yet, the assessment in Appendix A uses a "Substantial Progress" efficiency metric of 2.6 MT CO₂e/year/service population and a bright-line threshold of 660 MT CO₂e/year based on the GHG reduction goals of EO B-30-15. The service population metric of 2.6 is calculated for 2030 based on the 1990 inventory and the projected 2030 statewide population and employment levels. The 2030 bright-line threshold is a 40 percent reduction of the 2020 1,100 MT CO₂e/year threshold.

Construction Emissions

The proposed development would result in temporary increases in GHG emissions associated with construction activities including operation of construction equipment and emissions from construction workers' personal vehicles traveling to and from the project site. Construction-related GHG emissions were input into the CalEEMod model to estimate GHG emissions during the construction period. The project would generate approximately 614 MT of CO₂e total during construction period (refer to Appendix A for the GHG emissions model).

Neither the City of San José nor BAAQMD have established a quantitative threshold or standard for determining whether a project's construction-related GHG emissions are significant. However, BAAQMD encourages the incorporation of best management practices to reduce GHG emissions during construction where feasible and applicable. Best management practices that will be incorporated into construction of the proposed project include but are not limited to: using local building materials of at least 10 percent and recycling or reusing at least 50 percent of construction waste or demolition materials. Because project construction would be temporary and occur over a relatively short period of time, it is concluded that the project's construction-related GHG emissions would be less than significant. **(Less than Significant Impact)**

Operational Emissions

The General Plan FPEIR disclosed that, in order to meet the State's SB 32 2030 emissions target, buildout of the General Plan post-2020 would require an aggressive multiple-pronged approach that includes policy decisions and additional emission controls at the federal and State level, new and substantially advanced technologies, and substantial behavioral changes to reduce single occupant vehicle trips – especially to and from work places. Future policy and regulatory decisions by other agencies (such as CARB, California Public Utilities Commission, California

Energy Commission, MTC, and BAAQMD) and technological advances are outside the City’s control and, therefore, could not be relied upon as feasible mitigation strategies the City could implement. The General Plan FPEIR, therefore, concluded that the buildout of the General Plan would result in significant and unavoidable greenhouse gas emissions.

The project would be operational post-2020. At a project-level, in order to meet the State’s 2030 GHG emissions target, the project would be compared to the threshold of 2.6 MT per service population. The service population efficiency rate is based on the number of full-time commercial and retail employees. Modeling was completed to estimate the project’s GHG emissions and accounts for the project’s density, trip generation, and proximity to transit.

The results of the modeling show that the project (including the emergency generator) would generate approximately 1,195 MT of CO₂e in 2023 and 1,034 MT of CO₂e in 2030 (refer to Table 4.8-1, below), or 47.8 and 41.4 MT/CO₂e/year/service population because the project has no existing and very few new full-time employees. This exceeds the 2030 operational annual emissions bright-line threshold of 660 MT CO₂e/year and the service population emissions “substantial progress” efficiency metric of 2.6 MT CO₂e/year/service population needed to meet the State’s SB 532 2030 GHG emission target.

Source Category	Proposed Project in 2023	Proposed Project in 2030
Area	<1	<1
Energy Consumption	202	202
Mobile	950	789
Solid Waste Generation	38	38
Water Usage	5	5
Total (MT CO ₂ e/year)	1,195 MT CO₂e/year	1,034 MT CO₂e/year
Significance Threshold	660 MT CO₂e/year	
Service Population Emissions (MT CO ₂ e/year/service population)	47.8	41.4
Significance Threshold	2.6 in 2030	
Exceeds both thresholds?	Yes	Yes

To reduce emissions below the thresholds, the project, as proposed, would need at least a 36 percent reduction for the year 2030, as shown in Table 4.8-2, below. Note that the CalEEMod emissions for full-build-out decrease after the first year of operation. The model assumes that over time, technology (e.g. vehicles) improves and energy is produced from cleaner sources. Thus, the percentage needed to reduce the total GHG emissions for the years 2023 and 2030 differ.

Table 4.8-2 Annual Project GHG Emissions (CO₂e) in Metric Tons – With GHG Reduction Measures		
Source Category	Proposed Project in 2021	Proposed Project in 2030
Area	<1	<1
Energy Consumption	142	142
Mobile	865	742
Solid Waste Generation	30	30
Water Usage	4	4
Total	1,041	918
<i>Significance Threshold</i>	<i>660 MT CO₂e/yr</i>	
Service Population Emissions (MT CO ₂ e/year/service population)	41.6	36.7
<i>Significance Threshold</i>	<i>2.6 in 2030</i>	
<i>Significant (Exceeds both thresholds)?</i>	<i>Yes</i>	<i>Yes</i>

The GHG analysis incorporated additional measures including water conservation and solid waste reduction measures, a TDM program, installation of electric vehicle charging stations, and electrification of building systems into the project. Even with these measures included in the project, 2023 and 2030 thresholds would be exceeded. To get to a level below the thresholds, the project would need at least a 28 percent further reduction for the year 2030.

As stated in Section 3.0 *Project Description*, a TDM plan is included in the proposed project. However, even with the TDM plan, it is estimated that GHG emissions will still be above both the 2023 and 2030 thresholds for individual projects. However, the City of San Jose General Plan FEIR (as supplemented) concluded that Citywide 2040 GHG emissions are projected to exceed efficiency standards necessary to maintain a trajectory to meet long-term 2050 state climate change reduction goals. Achieving the substantial emissions reductions would require policy decisions at the federal and state level and new and substantially advanced technologies that cannot be anticipated today, and are outside the City’s control, and therefore, cannot be relied upon as feasible mitigation strategies.

Given the uncertainties about the feasibility of achieving the substantial 2040 emissions reductions, the City’s contribution to climate change for the 2040 timeframe is conservatively determined to be cumulatively considerable. Based on this conclusion, the City found that build out of the 2040 General Plan would have a significant and unavoidable GHG emissions impact beyond 2020, as identified in the General Plan FEIR (as supplemented). Furthermore, the City adopted a statement of overriding considerations for the significant and unavoidable GHG impact assumed for development under the General Plan.

The project is consistent with the development assumptions in the General Plan and therefore, would not cause the city to exceed to projected post-2030 GHG emissions described in the

General Plan FEIR (as supplemented). This significant unavoidable impact was previously disclosed in the certified Envision San Jose 2040 General Plan FPEIR. **(Less than Significant Impact)**

Emergency Generator

The proposed emergency generator is a stationary source of GHG emissions that would require a Permit to Operate from BAAQMD. BAAQMD assesses stationary sources separate from other project-related emissions. The generator is anticipated to emit five (5) metric tons per year of CO₂e.¹² Compared to BAAQMD's threshold of 10,000 metric tons per year for permitted stationary sources, the emergency generator would not produce emissions that would result in a significant impact. **(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 greenhouse gases?**

GHG Reduction Strategy

The project's conformance with the GHG Reduction Strategy is based on its consistency with the General Plan land use designation, applicable GHG General Plan policies (as described above), and mandatory measures (i.e., consistency with the Land Use/Transportation diagram, implementation of Green Building Measures, and incorporation of pedestrian/bicycle site design measures) from the GHG Reduction Strategy.

The project would be consistent with the GHG Reduction Strategy by developing a use consistent with the General Plan land use designation, achieving a minimum LEED Silver certification, utilizing energy conserving technology in operations, and providing ground level bicycle parking consistent with the City's Municipal Code.

General Plan

The project is consistent with the General Plan policies (MS-1.1, CD-2.10, CD-3.2, CD-5.1, MS-2.3, MS-2.11, MS-14.4, TR-2.18, and TR-3.3) and is consistent with the General Plan Land Use Designation for the site. The project would be constructed in accordance with the City's Green Building Ordinance and most current State building codes. The project will also participate in the construction and demolition debris recycling program, plant new trees and drought tolerant landscaping, and incorporate all applicable energy efficient technology in operations. **(Less Than Significant Impact)**

¹² Email correspondence with Casey Devine, Illingworth & Rodkin, June 23, 2020.

Conclusion

The proposed project, with implementation of the above-described Conditions of Approval, would not result in a new or more significant greenhouse gas emission impact than previously disclosed in the certified General Plan FPEIR. **(Less than Significant Impact)**

4.9 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based on Phase I Environmental Site Assessment (ESA) of the southwest corner of the site completed by *AEI Consultants* on August 2, 2019. This report is included as Appendix E of this Initial Study.

Environmental Setting

The Phase I ESA was completed on the site in accordance with American Society for Testing and Materials (ASTM) requirements to determine the presence or likely presence of any hazardous substances or petroleum products in, on, or at the property: (1) due to any release to the environment; (2) under conditions indicative of a release to the environment; or (3) under conditions that pose a material threat of a future release to the environment.

The Phase I included site reconnaissance and observations of surrounding properties, and review of regulatory databases and readily available information on file at selected governmental agencies and hazardous materials management practices. All readily available maps and aerial photographs were reviewed and persons reportedly knowledgeable about the site were interviewed to determine potential recognized environmental conditions.

While the project site is currently developed, previous uses on the site included agricultural uses up until approximately 1956. The site was then vacant until the time of development in 1962. The building on-site was originally a Kinney Shoe store that was converted to a Kelly-Moore paint store in use from 1985-2017.

The project site is not located in proximity to any airports and is not within any Airport Influence Areas (AIA) or safety zones. Mineta San Jose International Airport is located approximately 6.9 miles northeast of the site. The Moffett Federal Airfield, a joint civil-military airport, lies approximately 7.4 miles north of the site. The project is not located in the vicinity of a private airstrip. The project site is located in an urbanized area that is not subject to wildland fires.

Database Review

Based on regulatory database review, the project site is not listed on any databases. This includes sites with underground and above-ground storage tanks. The project site is not listed on the California State Water Resources Control Board (SWRCB), Department of Toxic Substances Control (DTSC) Hazardous Waste Tracking System, or DTSC's EnviroStor databases.

A site at 1566 Duckett Way, approximately 242 feet southeast of the site experienced an unauthorized release of heating/fuel oil from a leaking underground storage tank (LUST) that impacted only soil at the site. It was issued Case Closed status by the Santa Clara County Local Oversight Program (LOP) in 2009. Therefore, this nearby LUST case is not considered to represent a significant environmental concern. There are no other properties in the vicinity of

the project site that appear to pose a significant environmental concern in connection with the project site.

The project site is listed due to the handling/storage of hazardous substances as part of its operation as a paint store. A Hazardous Materials Business Plan (HMBP) with the County of Santa Clara's Department of Environmental Health was required for the generation of paint sludge, organics, latex waste, and other materials from 2001 to 2017. No violations or release incidents were reported in association with any of the above listings.

Site Reconnaissance

The project site is currently developed with a vacant structure, concrete sidewalks, asphalt-paved parking area, and small area of associated landscaping. There was no on-site evidence of any Recognized, Controlled, or Historical Environmental Conditions (RECs, CRECs, or HRECs) wherein hazardous substances or petroleum products were actively or historically observed due to release to the environment.

The project site has been historically used for agricultural purposes. Therefore, there is a potential that agricultural chemicals such as pesticides, herbicides, and fertilizers were used on the site.

The building on-site was constructed in 1962. Therefore, there is a potential that Asbestos-containing Materials (ACMs) and Lead-based Paint (LBP) are present in the structure. All suspect ACMs and areas with suspected LBP within the building were found to be in good condition and do not pose a threat to health and safety at this time.

Regulatory Framework

Federal and State

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

Other regional agencies are responsible for programs regulating emissions to the air, surface water, and groundwater include BAAQMD, which has oversight over air emissions, and the Regional Water Quality Control Board (RWQCB) which regulates discharges and releases to surface waters and groundwater.

Oversight over investigation and remediation of sites impacted by hazardous materials releases can be completed by State agencies, such as the Department of Toxic Substances Control [(DTSC) a division of CalEPA)], regional agencies, such as the RWQCB, or local agencies, such as SCCDEH. The SCCDEH oversees investigation and remediation Leaking Underground Storage Tank (LUST) sites in the City of San José. Other agencies that regulate hazardous materials include the California Department of Transportation and California Highway Patrol (transportation safety), and California Occupational Safety and Health Administration (Cal/OSHA).

Cortese List (Government Code Section 65962.5)

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

Asbestos-Containing Material and Lead Paint Regulations

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

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

California Accidental Release Prevention Program (CalARP)

The California Accidental Release Prevention (CalARP) Program aims to prevent accidental releases of regulated hazardous materials that represent a potential hazard beyond the boundaries of property. Facilities that are required to participate in the CalARP program use or store specified quantities of toxic and flammable substances (hazardous materials) that can

have off-site consequences if accidentally released. The County of Santa Clara Department of Environmental Health reviews CalARP risk management plans as the Certified Unified Program Agency (CUPA).

Local

Envision San José 2040 General Plan

The General Plan includes the following policies and actions for the purpose of reducing or avoiding impacts related to hazards and hazardous materials:

- 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.
- 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.
- 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.
- EC-7.8** Where an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impact to human health and safety and to the environment are required of or incorporated into project. This applies to hazardous materials found in the soil, groundwater, soil vapor, or in existing structures.
- 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.
- EC-7.11** Require sampling for residential 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 construction. Mitigation to meet

appropriate end use such as residential or commercial/industrial shall be provided.

Emergency Operations and Evacuation Plans

The City of San José’s Emergency Operations Plan includes standard operating procedures for flood events, heat waves, off-airport aviation accidents, power outages, terrorism, and urban/wildland interface fires. The Citywide Emergency Evacuation Plan sets forth the responsibilities of City personnel and coordination with other agencies to ensure the safety of San José citizens in the event of a fire, geologic, or other hazardous occurrence.

Hazardous Materials Environmental Checklist

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,17
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,3,17
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,17
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,15, 17,18
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project result in a safety hazard or excessive noise for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,17,20
f. Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

g. Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,23
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Impacts Evaluation

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

The proposed project is a hotel with underground parking and an emergency diesel-powered generator. The diesel would be stored outdoors adjacent to the generator and would be used primarily for generator testing per all BAAQMD requirements, including the required Permit to Operate. No other routine transport, use, or disposal of hazardous materials would occur as a result of the project. **(Less than Significant Impact)**

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?

As previously described, the project site was historically used for agricultural purposes and chemicals such as pesticides may have been used on-site. Therefore, there is a potential for these hazardous materials to be present in the soil which could lead to impacts to construction workers during construction.

IMPACT HAZ-1: The proposed project could result in impacts to construction workers during construction due to potentially hazardous soil resulting from the previous agricultural uses on the site. **(Significant Impact)**

MM HAZ-1.1: Prior to issuance of demolition or grading permits, the applicant will complete a limited soil investigation to address potential pesticide and pesticide-based metals contamination on-site. If contaminated soil is found in concentrations above regulatory environmental screening levels for construction worker safety, the applicant shall enter into the Santa Clara County Department of Environmental Health (SCCDEH) Site Cleanup Program (SCP) and share results of the limited soil sampling. The SCCDEH will then decide upon appropriate further action including but not limited to more testing, and/or the development of a Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document.

The Plan and evidence of regulatory correspondence shall be provided to the Supervising Environmental Planner of the City of San Jose Planning, Building, and Code Enforcement, and the Environmental Compliance Officer in the City of San

Jose's Environmental Services Department. **(Less than Significant Impact with Mitigation Incorporated)**

As previously described, building materials on-site are suspect for asbestos and lead-based paint. Because these compounds could be disturbed during construction, the project shall conform to the following Standard Permit Conditions to reduce the likelihood of release of hazardous materials into the environment.

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 the on-site building to determine the presence of asbestos-containing materials (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 asbestos containing materials (ACMs) shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.
- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
- Materials containing more than one-percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.
- Based on Cal/OSHA rules and regulations, the following conditions are required to limit impacts to construction workers.
 - 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.

Demolition of building will be subject to Federal National Emission Standards for Hazardous Air Pollutants (NESHAP). NESHAP demolition permitting will require notification to the BAAQMD for demolition of the building. A copy of the BAAQMD Demolition Notification form must be submitted online before demolition work can commence. The local building department should also be contacted to determine if a building demolition permit will be required. **(Less than Significant Impact)**

c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

The project site is located within 1/4-mile of private daycare/preschool centers; however, the hotel project would not emit hazardous emissions or handle hazardous or acutely hazardous materials. Standard Permit Conditions included in the project to reduce impacts due to ACMs and LBP in the existing building would ensure that potentially contaminated materials are properly handled to avoid chemical releases into the environment. For these reasons, hazardous waste handling would have a less than significant impact. **(Less than Significant Impact)**

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?

The project site is not listed on any other Government listing including the Cortese List. With the Mitigation Measures described above, which are part of the proposed project, the project would not create a significant hazard to the public or the environment. **(Less than Significant Impact)**

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

The project site is not located within an airport land use plan area and would not result in a safety hazard or expose workers at the project site to excessive noise. **(Less than Significant Impact)**

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

The project would not interfere with any adopted emergency or evacuation plans. The project would comply with all City of San Jose Municipal Code and Fire Department requirements related to driveway widths and emergency access. **(Less than Significant Impact)**

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

The project would not expose people or structures, either directly or indirectly, to risk from wildland fires because it is located in a highly urbanized area that is not prone to such events. See also Section 4.19 *Wildfire* of this Initial Study. **(Less than Significant Impact)**

Conclusion

With the Mitigation Measures and Standard Permit Conditions described above, the proposed project would not result a significant impact related to hazards and hazardous Materials. **(Less than Significant Impact with Mitigation Incorporated)**

4.10 HYDROLOGY AND WATER QUALITY

The following section is partially based on the Geotechnical Investigation and a Natural Hazard Disclosure Report prepared for the site by *Romig Engineers* (April 2019) and First American (November 2019), respectively. Both reports are contained in Appendix D.

Environmental Setting

The project site is an essentially flat lot with an elevation of approximately 300 feet above mean sea level. The geotechnical report states that historic groundwater data available from nearby monitoring wells and reports available on the State Geotracker website were reviewed, including quarterly 2002-2011 groundwater monitoring reports at 1698 S. De Anza Boulevard, approximately 750 feet south of the site. During that time period, the measurements indicated a high groundwater elevation of 261.5 feet in 2006 (datum in mean sea level) and a low ground water elevation of 238.9 feet in 2007.

This groundwater data corresponds to groundwater depths of 38.5 feet and 61.1 feet found below the subject site during on-site borings (assuming a site ground elevation of 300 feet mean sea level). Free groundwater was not encountered in our borings during or immediately following our field exploration. The borings were backfilled with grout shortly after drilling; therefore, a stabilized groundwater level may not have been obtained.

Information presented in Seismic Hazard Zone Report 068 for the Cupertino Quadrangle (California Geological Survey, 2006) indicates the historical high groundwater level in the area of the site is greater than 50 feet below grade. It should be noted that fluctuations in the level of groundwater can occur due to variations in rainfall, landscaping, surface and subsurface drainage patterns, and other factors. Based on the findings from this investigation, the engineer's local experience, and the review of nearby groundwater data, the highest projected future ground water depth at the site would be approximately 32 feet below the existing ground surface (elevation 268 feet mean sea level).

The approximately 0.86-acre project site does not contain any natural drainages or waterways and is almost completely paved (96%). The nearest waterway is Calabazas Creek, located approximately 500 feet east of the project site. The Flood Insurance Rate Maps issued by the Federal Emergency Management Agency (FEMA) indicate that the project site itself is not located in the floodplain, however, S. De Anza Blvd. on the western side of the site appears to be located within Zone X.¹³ Zone X is an area of minimal flood risk and outside the 500-year flood risk level.

¹³ Zone X is an area of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile, <https://msc.fema.gov/portal/search?AddressQuery=1510%20S.%20De%20Anza%20Blvd>, Map 06085C0216H, effective 5/18/2009, accessed March 25, 2020.

Based on the Valley Water dam failure inundation maps, the project site is not located within any of the 10 local dams' inundation area, including Anderson Dam.¹⁴ There are no landlocked bodies of water near the project site that would affect the site in the event of a seiche, which is the oscillation of water in an enclosed lake or bay. The site would also not be affected in the event of a tsunami or mudflow from a mountain.¹⁵

Regulatory Framework

Federal, State, and Regional

Water Quality Overview

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

Basin Plan

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

Statewide Construction General Permit

The SWRCB has implemented a NPDES General Construction Permit for the State of California. 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

¹⁴ Valley Water. Local Dams and Reservoirs, <https://www.valleywater.org/yourwater/local-dams-and-reservoirs>, accessed March 25, 2020.

¹⁵ Association of Bay Area Governments, Tsunami Maps and Information, <http://resilience.abag.ca.gov/tsunamis/>, accessed March 25, 2020.

beneficial uses and receiving waters from the adverse effects of construction-related storm water discharges.

Municipal Regional Stormwater NPDES Permit/C.3 Requirement

The San Francisco Bay RWQCB has issued a Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008) (MRP) that covers the project area. Under provisions of the NPDES Municipal Permit, redevelopment projects that disturb more than 10,000 square feet are required to design and construct stormwater treatment controls to treat post-construction stormwater runoff. The MRP requires regulated projects to include Low Impact Development (LID) practices, such as pollutant source control measures and stormwater treatment features aimed to maintain or restore the site's natural hydrologic functions. The MRP also requires that stormwater treatment measures are properly installed, operated and maintained.

In addition to water quality controls, the MRP requires all new and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. Projects may be deemed exempt from the permit requirements if they do not meet the size threshold, drain into tidally-influenced areas or directly into the Bay, drain into hardened channels, or are infill projects in subwatersheds or catchments areas that are greater than or equal to 65 percent impervious (per the Santa Clara Valley Permittees Hydromodification Management Applicability Map).

National Flood Insurance Program

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

Local

City of San José Post-Construction Urban Runoff Management (Policy 6-29)

The City of San José's Policy 6-29 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. The City of San José's Policy 6-29 requires all new development and redevelopment projects to implement post-construction Best Management Practices (BMP) and Treatment Control Measures (TCM) to the maximum extent practicable. This policy also establishes specific design standards for post-

construction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surfaces. The proposed project meets this threshold.

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

The City of San José’s Policy 8-14 implements the stormwater treatment requirements of Provision

C.3 of the Municipal Regional Stormwater NPDES Permit. Policy 8-14 requires all new and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP).

Based on the Santa Clara Permittees Hydromodification Management Applicability Map for the City of San José, the project site is exempt from the NPDES hydromodification requirements related to preparation of an HMP because it is located in a subwatershed greater than or equal to 65 percent impervious.

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 following policies are specific to hydrology and water quality and are applicable to the proposed project.

- IN-3.1** Achieve minimum level of services:
- For sanitary sewers, achieve a minimum level of service “D” or better as described in the Sanitary Sewer Level of Service Policy and determined based on the guidelines provided in the Sewer Capacity Impact Analysis (SCIA) Guidelines.
 - For storm drainage, to minimize flooding on public streets and to minimize the potential for property damage from stormwater, implement a 10-year return storm design standard throughout the City, and in compliance with all local, State and Federal Regulatory requirements.
- 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.
- IN-3.7** Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.

- IN-3.9** Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.
- 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.
- MS-3.5** Minimize area dedicated to surface parking to reduce rainwater that comes into contact with pollutants.
- 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.
- ER-8.1** Manage stormwater runoff in compliance with the City’s Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
- ER-8.3** Ensure that private development in San José includes adequate measures to treat stormwater runoff.
- ER-8.4** Assess the potential for surface water and groundwater contamination and require appropriate preventative measures when new development is proposed in areas where storm runoff will be directed into creeks upstream from groundwater recharge facilities.
- ER-8.5** Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.
- ER-9.3** Utilize water resources in a manner that does not deplete the supply of surface or groundwater or cause overdrafting of the underground water basin.
- 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.
- EC-5.2** Allow development only when adequate mitigation measures are incorporated into the project design to prevent or minimize siltation of streams, flood protection ponds, and reservoirs.
- 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.
- EC-5.11** Where possible, reduce the amount of impervious surfaces as a part of

redevelopment and roadway improvements through the selection of materials, site planning, and street design.

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.

Hydrology and Water Quality Environmental Checklist

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface groundwater quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,15,25
b. Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
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 that would:					
i. result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,25
ii. substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,25
iii. create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted run-off?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,13,25
d. In flood hazard, tsunami, or seiche zones, would the project risk release of pollutants due to project inundation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,18
e. Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,13,25

Impacts Evaluation

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

During Construction

Construction of the project 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 project would not disturb more than one acre of soil and, therefore, compliance with the NPDES General Permit for Construction Activities is not required.

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

Standard Permit Conditions: The proposed project must comply with the City's Grading Ordinance, which includes submitting an Erosion Control Plan including, but not limited to, the following:

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

The project, with implementation of the above Standard Permit Conditions, would not result in significant construction-related water quality impacts. **(Less Than Significant Impact)**

Post-Construction

Implementation of the project would increase site coverage from 96% to 99%, which is not considered to be a significant increase in impervious surfaces on-site because the difference is three percent of 0.86 acres, which is 0.0026 acres or 113 square feet. However, since the project would replace over 10,000 square feet of impervious surfaces, the proposed project shall comply with the RWQCB Municipal Regional NPDES permit and City of San José's Post-Construction Urban Runoff Policy 6-29. In order to meet these requirements, the project includes stormwater Treatment Control Measures, Site Design Measures, and Source Control Measures as required by the permit and policy.

Stormwater runoff from the Treatment Control Measures and Site Design Measures would drain into the treatment areas on-site prior to entering the storm drainage system. Details of specific Site Design, Pollutant Source Control, and Treatment Control Measures demonstrating compliance with Provision C.3 of the Municipal Regional Stormwater Permit (NPDES Permit Number CAS612008), will be required prior to issuance of a grading permit.

The following Standard Permit Conditions are included in the project to reduce post-construction impacts to water quality.

Standard Permit Conditions: In compliance with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the Municipal Regional Stormwater NPDES Permit (MRP), the project shall design and construct low impact development (LID) stormwater treatment control measures to treat runoff from impervious surfaces. Stormwater from project impervious surfaces will drain into the treatment area prior to entering the storm drainage system. Consistent with the NPDES requirements, the proposed treatment facility will be numerically sized and will have sufficient capacity to treat the runoff generated by the proposed project, prior to entering the storm drainage system. Details of specific site design, pollutant sources control, and stormwater treatment control measures demonstrating compliance with the MRP will be included in the project design to the satisfaction of the Director of Planning, Building and Code Enforcement or Director's Designee prior to issuance of a development permit.

The proposed project would increase the impervious surface area on-site, therefore increasing stormwater runoff. With implementation of stormwater control measures consistent with RWQCB requirements and compliance with the City's regulatory policies pertaining to stormwater runoff, operation of the proposed project would have a less than significant water quality impact. **(Less Than Significant Impact)**

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

The depth of groundwater in the site vicinity is expected to be between 39 and 61 feet or more below current grade (Romig Engineering, 2019). The project would not affect groundwater supplies since the excavation depth (approximately 28 feet below grade) required for the proposed underground parking would not be to the depth of the groundwater. Thus, the proposed project would not affect groundwater supplies. Further, the project does not include the use of groundwater in the basin for operation. The small amount of impervious surfaces created by the project when compared to existing conditions would not significantly affect the percolation of groundwater on-site. For these reasons, the project would not decrease groundwater supplies or interfere substantially with groundwater recharge (such that the project may impede sustainable groundwater management of the basin). **(Less Than Significant Impact)**

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 that would:

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

The project does not include altering any drainage patterns of the site or area that would involve the alteration of a stream or river. The only drainage pattern that would be altered/improved, would be that of the existing site, which is currently developed. The Treatment Control Measures incorporated above in the standard permit condition and SWPPP for the site will be implemented in conformance with all City and State requirements. Runoff would be collected in the storm drain system and conveyed to bioretention facilities on-site prior to outfall to Calabazas Creek. The increase in runoff would not result in substantial erosion or siltation on- or off-site. **(Less Than Significant Impact)**

ii. substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site?

The project will result in an increase in impervious surfaces on-site (96% vs. 99% coverage or 113 square feet). The project is located within Flood Zone X, which is not a designated FEMA 100- or 500- year floodplain. Flood Zone X is an area of minimal flood risk. The City does not have any floodplain restrictions for development in Zone X. The site is not located within a flood hazard zone and would not result in a significant increase in impervious surfaces on-site; therefore, the project would not result in an increase in surface runoff that could lead to flooding on- or off-site or impede or redirect flood flows. **(Less Than Significant Impact)**

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

The project proposes to connect to the City's existing storm drainage system. Surface runoff from the site may contain urban pollutants. Runoff from the parking and driveway areas could include oil, grease, and trace metals. The project could also generate urban pollutants related to the use of fertilizers, pesticides, and herbicides on landscaped areas. Runoff will be collected in a storm drain system and conveyed to a bio-retention facility, where it will be treated prior to discharging into City's existing storm drainage system. The project is not expected to contribute runoff that will exceed the capacity of existing or planned stormwater drainage systems or result in substantial additional sources of polluted runoff because the increase in impervious surface on-site would only be 113 square feet. See also a., ci., and cii. above. **(Less Than Significant Impact)**

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

The proposed project is not located in a flood hazard, tsunami, or seiche zone. Therefore, there is no risk of release of pollutants due to project inundation. The project site is not within the inundation area of Anderson Dam; therefore, the project would not result in the release of pollutants should the dam fail. **(Less Than Significant Impact)**

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

As described above, the proposed project would be required to comply with the City of San José Grading Ordinance, C3 provisions, the approved SWPPP, as well as standard BMPs during construction. Based on the measures required by the City, the proposed project would not conflict with or obstruct the implementation of a water quality control plan or sustainable groundwater management plan. **(Less Than Significant Impact)**

Conclusion

With the Standard Permit Conditions above as well as other City and State requirements, the proposed project would not result in a significant impact to hydrology or water quality. **(Less than Significant Impact)**

4.11 LAND USE

Environmental Setting

The project site is located in a highly developed area of primarily commercial, office, private daycare/preschool, and residential uses in southwestern San Jose. The site is currently developed with a vacant previously commercial building, asphalt paving, and a small landscaped area, as shown in Photos 1-7 and Photos 1-5 of the Tree Survey (Appendix B).

The project site is bounded on the north by Sharon Drive. Land uses on the north side of Sharon Drive in proximity to the project site are commercial, future office (under construction), and a daycare/preschool (Bright Horizons) approximately 75 feet northeast of the site (property line). Residential uses are located to the northeast, east, and southeast, the nearest being approximately 120 feet to the east on Sharon Drive. Land uses to the south and west of S. De Anza Boulevard, a heavily travelled 6-lane arterial, are primarily commercial and office. Another daycare/preschool center (KinderCare) is located approximately 180 feet to the west on the west side of S. De Anza Boulevard.

Regulatory Framework

Local

City of San Jose Zoning Ordinance

The Zoning Ordinance (Title 20 of the San José Municipal Code) is a set of regulations that promote and protect the public peace, health, and general welfare by:

- Guiding, controlling, and regulating future growth and development in the City in a sound and orderly manner, and promoting the achievement of the goals and purposes of the General Plan;
- Protecting the character and economic and social stability of agricultural, residential, commercial, industrial, and other areas in the City;
- Providing light, air, and privacy to property;
- Preserving and providing open space and preventing overcrowding of the land;
- Appropriately regulating the concentration of population;
- Providing access to property and preventing undue interference with and hazards to traffic on public rights-of-way; and
- Preventing unwarranted deterioration of the environment and promoting a balanced ecology.

Per the San Jose Municipal Code (SJMC) Title 20 (Zoning Ordinance), the project site is currently zoned *CP Commercial Pedestrian*. The proposed project is a permitted use pursuant to Title 20 of the SJMC, and complies with all development standards. Consistent with the SJMC, the applicant requests approval of a Site Development Permit to facilitate construction and operation of the proposed hotel.

Envision San José 2040 General Plan

The General Plan designation for the site is *NCC Neighborhood/Community Commercial*. The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects with the City. The following policies are specific to land use and are applicable to the proposed project.

- CD-1.1** Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
- CD-1.8** Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity through the City.
- 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.
- CD-1.17** Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.
- 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.
- CD-3.4** Encourage pedestrian cross-access connections between adjacent properties and require pedestrian and bicycle connections to streets and other public spaces, with particular attention and priority given to providing convenient access to transit facilities. Provide pedestrian and vehicular connections with cross-access

easements within and between new and existing developments to encourage walking and minimize interruptions by parking areas and curb cuts.

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).

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

As discussed in Section 4.4, *Biological Resources* of this Initial Study, the Habitat Plan is a conservation program intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth on approximately 500,000 acres of southern Santa Clara County.

The project site is located within the Habitat Plan study area and is designated as *Urban-Suburban* land. *Urban-Suburban* land is comprised of areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures, and is defined as areas with one or more structures per 2.5 acres.

Land Use Environmental Checklist

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

Impacts Evaluation

a. Would the project physically divide an established community?

The project proposes to construct a 50-foot tall, four-story, up to 132-room hotel with two levels of underground parking, consistent with the site’s zoning and General Plan land use designations. The project site does not include any physical features that would physically

divide the community (e.g., blocking of sidewalks, construction of roadways, etc.). For these reasons, the project would not physically divide an established community. **(Less Than Significant 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?

As previously described, the project is consistent with the zoning and General Plan designations of the site. The proposed project includes Standard Permit Conditions, Conditions of Approval, and Mitigation Measures to reduce all environmental impacts to a less than significant level, thus complying with all applicable land use plans, policies, and regulations. For this reason, the project would not result in a significant environmental impact due to a conflict with policies, plans, or regulations adopted for the purpose of avoiding or mitigating an environmental effect.

The project is consistent with the height limit of 50 feet in the CP zoning district. Because San Jose is in the northern hemisphere, maximum shading would occur in the winter months during the morning and afternoon hours. Shadows would be cast primarily to the south over commercial development and S. De Anza Blvd. to the east. No residences, schools, parks, or open space areas would be subjected to shade from the proposed development. In addition, the proposed project, which is consistent with the zoning of the site and would not be visible from any residential uses, would not result in visual intrusion/privacy impacts. **(Less than Significant Impact)**

Conclusion

With the Standard Permit Conditions and Mitigation Measures identified in this Initial Study, as well as other City requirements, the proposed project would not result in a significant land use impact. **(Less than Significant Impact)**

4.12 MINERAL RESOURCES

Environmental Setting

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

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

Regulatory Framework

State

Mineral Resources and the Surface Mining and Reclamation Act

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

Pursuant to the mandate of the Surface Mining and Reclamation Act of 1975 (SMARA), the State Mining and Geology Board has designated the Communications Hill Area (Sector EE), bounded generally by the Southern Pacific Railroad, Curtner Avenue, SR-87, and Hillsdale Avenue as containing mineral deposits that are of regional significance as a source of construction aggregate materials. Neither the State Geologist nor the State Mining and Geology Board have classified any other areas in San José as containing mineral deposits of statewide significance or requiring further evaluation.

Mineral Resources Environmental Checklist

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
b. Result in the loss of availability of a locally- important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3

Impacts Evaluation

- 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?**

The project site is not located on or near Communications Hill and, therefore, does not contain known mineral resources. The Communications Hill area is approximately 9.2 miles southeast of the project site. Due to the distance of the site from the nearest designated mineral resources, implementation of the project would not result in the loss of availability of a known mineral resource. **(No Impact)**

Conclusion

The project would not result in the loss of availability of known mineral resources. **(No Impact)**

4.13 NOISE AND VIBRATION

The following discussion is based on a Noise and Vibration Assessment prepared by *Illingworth & Rodkin* on March 25, 2020 and included in Appendix F. Please refer to this assessment for a discussion of impacts to the project, which are not considered to be CEQA impacts.

Overview

Noise Fundamentals

There are several methods of characterizing sound. The most common in California is the A-weighted sound level or dBA. This scale gives greater weight to the frequencies to which the human ear is most sensitive. The City's Envision San José 2040 General Plan applies the Day-Night Level (DNL) descriptor in evaluating noise conditions. The DNL represents the average noise level over a 24-hour period and penalizes noise occurring between the hours of 10 PM and 7 AM by 10 dB. Leq is the equivalent noise level or average A-weighted noise level during the measurement period.

Construction is a temporary source of noise for residences and other uses located near construction sites. Construction noise can be significant for short periods of time at any particular location and generates the highest noise levels during grading and excavation, with lower noise levels occurring during building construction. Typical hourly average construction-generated noise levels are approximately 80 to 85 dBA measured at a distance of 50 feet from the site during busy construction periods. Some construction techniques, such as impact pile driving, can generate very high levels of noise (105 dBA Lmax at 50 feet) that are difficult to control. Construction activities can elevate noise levels at adjacent businesses and residences by 15 to 20 dBA or more during construction hours.

Vibration Fundamentals

Several different methods are typically used to quantify vibration amplitude. One method, used by the City, is Peak Particle Velocity (PPV). The PPV is defined as the maximum instantaneous positive or negative peak of the vibration wave. For this analysis, the PPV descriptor with units of mm/sec or in/sec is used to evaluate construction generated vibration for building damage and human annoyance.

Construction activities can cause vibration that varies in intensity depending on several factors. The use of pile driving and vibratory compaction equipment typically generates the highest construction related groundborne vibration levels. Because of the impulsive nature of such activities, the use of the PPV descriptor has been routinely used to measure and assess groundborne vibration and almost exclusively to assess the potential of vibration to induce structural damage and the degree of annoyance for humans.

Environmental Setting

The proposed project site is located in area of primarily commercial, office, private daycare/preschool, and residential uses. The nearest noise sensitive receptors are the private daycare/preschool facility and residential uses located approximately 75 and 120 feet northeast and east of the site, respectively. There is also a private daycare/preschool facility located approximately 180 to the west of the project site, on the west side of S. De Anza Blvd. Noise in the project area is dominated by traffic noise on S. De Anza Blvd and nearby State Route 85. Stationary mechanical equipment noise from adjacent commercial development and occasional aircraft overflights associated with Mineta San Jose International Airport also affect the noise environment.

An office development is currently being constructed on Sharon Drive directly north of the project site and acquiring reliable ambient existing noise data at the project site was not feasible because of additional construction noise that isn't representative of normal ambient conditions. Therefore, both long-term (LT-1) and short-term (ST-1) noise measurements were taken one block south of the site near Duckett Way/Hummingbird Place to capture ambient conditions without the influence of local construction activities. Existing land uses and traffic patterns at this off-site location are similar to those on Sharon Drive. Therefore, it is both required and acceptable to use the existing ambient noise levels at the off-site location, one block south of the project site, for an accurate evaluation of noise impacts. Noise measurement locations are shown on Figure 10.

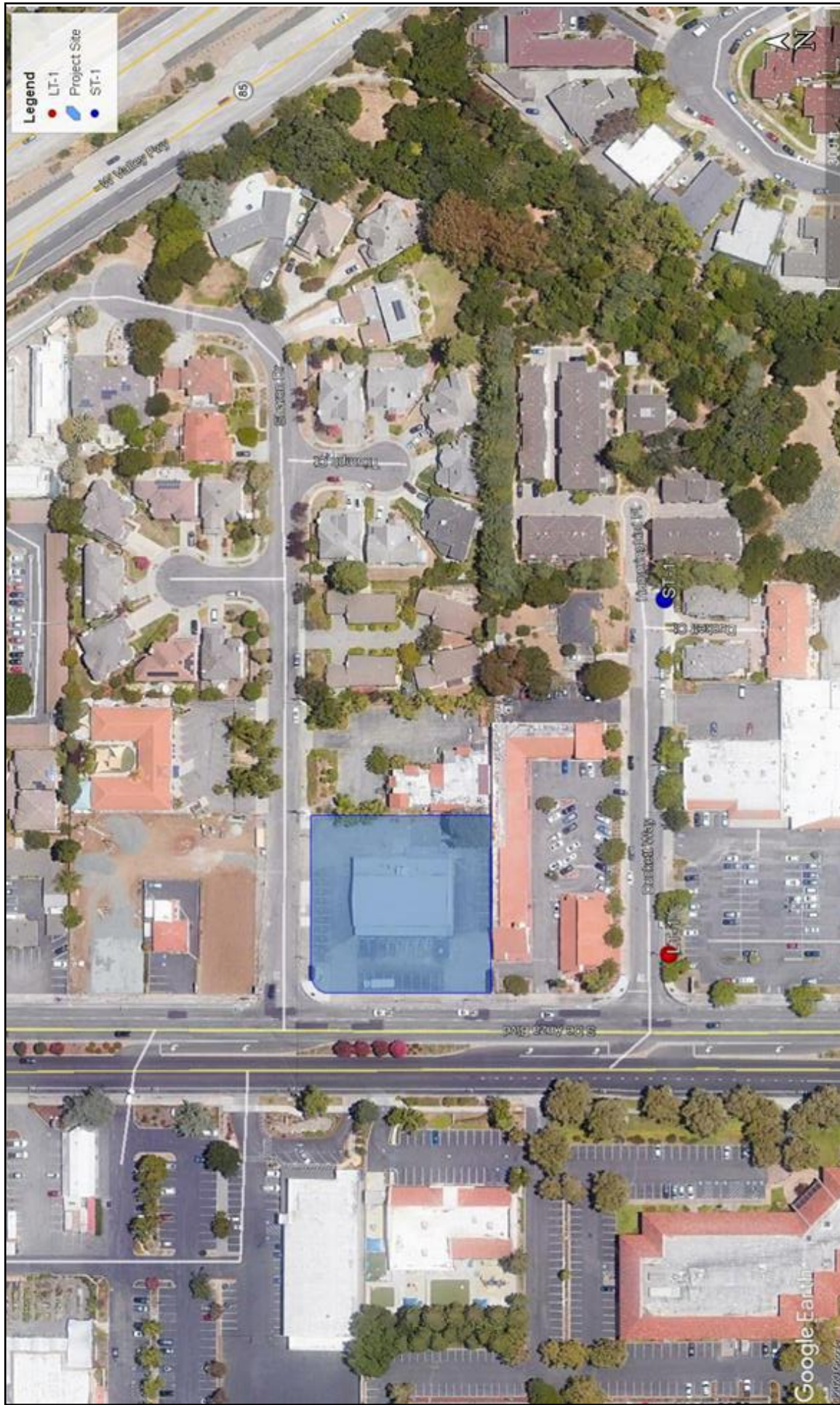
Long-term noise measurement LT-1 was made southeast of the S. De Anza Blvd/Duckett Way intersection, approximately 100 feet east of the centerline of S. De Anza Blvd. The predominant noise source at LT-1 was S. De Anza Blvd. traffic. Hourly average noise levels at this location typically ranged from 62 to 69 dBA Leq during the day and from 51 to 66 dBA Leq at night. There were unknown unusually high noise level events between midnight and 1:00 a.m. on Wednesday, February 26, 2020, which resulted in an hourly average noise level of 72 dBA Leq. Since these events were atypical, the noise data during the affected interval was removed from the data set when calculating the day-night average noise level, which was 68 dBA DNL.

Short-term noise measurement ST-1 was made over a 10-minute period, concurrent with the long-term measurement, on Thursday, February 27, 2020, between 7:40 a.m. and 7:50 a.m. ST-1 was made at the end of Duckett Way/Hummingbird Place. Since this receptor was positioned east of the project site, ST-1 would represent the typical existing ambient noise environment of the residences along Duckett Way/Hummingbird Place and Sharon Drive during daytime hours.

The primary noise source at ST-1 was S. De Anza Blvd. traffic, which generated noise levels ranging from 52 to 57 dBA. Passenger cars traveling along Duckett Way generated noise levels ranging from 55 to 65 dBA. Typical traffic noise levels from SR-85, in the absence of South De Anza Boulevard traffic noise, ranged from 51 to 52 dBA. Crows were also observed during the 10-minute measurement, with noise levels ranging from 55 to 63 dBA. The 10-minute average

NOISE MEASUREMENT LOCATIONS

FIGURE 10



1" ≈ 200'

noise level measured at ST-1 was 56 dBA Leq (10-min). The short-term measurement results are summarized in Table 4.13-1, below.

Noise Measurement Location (Date, Time)	L_{max}	L₍₁₎	L₍₁₀₎	L₍₅₀₎	L₍₉₀₎	L_{eq(10-min)}
ST-1: End of Duckett Way/ Hummingbird Place (2/27/2020, 7:40-7:50 a.m.)	66	64	59	54	52	56

Regulatory Framework

State

California Building Code

The current (2019) version of the California Building Code (CBC) requires interior noise levels attributable to exterior environmental noise sources to be limited to a level not exceeding 45 dBA DNL/CNEL in any habitable room. The State of California established exterior sound transmission control standards for new non-residential buildings as set forth in the 2019 California Green Building Standards Code (Section 5.507.4.1 and 5.507.4.2). These sections identify the standards (e.g., STC rating) that building materials and assemblies need to be in compliance with based on the noise environment and are contained in Appendix F.

Local

Envision San Jose 2040 General Plan

The City’s Envision San José 2040 General Plan includes goals and policies pertaining to noise and vibration. Community Noise Levels and Land Use Compatibility (commonly referred to as the Noise Element) of the General Plan utilizes the DNL descriptor and identifies interior and exterior noise standards for residential uses. The Envision San José 2040 General Plan and the San José Municipal Code include the following criteria for land use compatibility and acceptable noise levels in the City.

Table 4.13-2: General Plan Land Use Compatibility Guidelines (Table EC-1)						
Land Use Category	Exterior DNL Value in Decibels					
	55	60	65	70	75	80
1. Residential, Hotels and Motels, Hospitals and Residential Care ¹						
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
3. Schools, Libraries, Museums, Meeting Halls, and Churches						
4. Office Buildings, Business Commercial, and Professional Offices						
5. Sports Arena, Outdoor Spectator Sports						
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters						

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

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

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

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 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, above.

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). The acceptable exterior noise level objective is established for the City, except in the environs of the San José International Airport and the Downtown, as described below
 - For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments
 - For single family residential uses, use a standard of 60 dBA DNL for exterior noise in private usable outdoor activity areas, such as backyards.

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) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would:

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

- Policy EC-1.3** Mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.
- Policy EC-1.6** Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City's Municipal Code.
- Policy EC-1.7** Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:
- Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.

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

- Policy EC-2.3** Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or building that are documented to be structurally weakened, a continuous vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Equipment or activities typical of generating continuous vibration include but are not limited to: excavation equipment; static compaction equipment; vibratory pile drivers; pile-extraction equipment; and vibratory compaction equipment. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of historical buildings, or buildings in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction. Transient vibration impacts may exceed a vibration limit of 0.08 in/sec PPV only when and where warranted by a technical study by a qualified professional that verifies that there

will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

San José Municipal Code

Per the San José Municipal Code Title 20 (Zoning Ordinance) Noise Performance Standards, the sound pressure level generated by any use or combination of uses on a property shall not exceed the decibel levels indicated in the table below at any property line, except upon issuance and in compliance with a Special Use Permit as provided in Chapter 20.100.

Table 4.13-3: City of San José Zoning Ordinance Noise Standards	
Land Use Types	Maximum Noise Levels in Decibels at Property Line
Residential, open space, industrial or commercial uses adjacent to a property used or zoned for residential purposes	55
Open space, commercial, or industrial use adjacent to a property used for zoned for commercial purposes or other non-residential uses	60
Industrial use adjacent to a property used or zoned for industrial use or other use other than commercial or residential purposes	70

Chapter 20.100.450 of the Municipal Code establishes allowable hours of construction within 500 feet of a residential unit between 7:00 AM to 7:00 PM on Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval. The Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.

Noise and Vibration Environmental Checklist

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
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?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,3,16
b. Generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,3,16

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,16
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Impacts Evaluation

- 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?**

Construction Noise

Construction activities generate considerable amounts of noise, especially during earth-moving activities when heavy equipment is used. Construction of the project would involve demolition, grading, foundation placement, building development, and paving. The project does not propose any pile driving.

For the residences located along Sharon Drive and Hummingbird Place/Duckett Way and the daycare/preschool facility, the ambient noise levels would be represented by ST-1, which was 56 dBA Leq during daytime hours. For the commercial uses located to the north, to the south, and to the west of the project site, including the S. De Anza Blvd. KinderCare daycare/preschool facility, LT-1 would represent the ambient noise environment. During daytime hours, typical ambient noise levels at LT-1 ranged from 62 to 69 dBA Leq. Given that the construction equipment anticipated can generate noise levels of up to 90 dBA at a distance of 50 feet, project-related construction activities would temporarily raise ambient noise levels in the project vicinity for a period of over one year.

While construction-related noise levels drop off at a rate of about 6 dBA per doubling of distance between the source and the receptor, the use of multiple pieces of equipment simultaneously would add together as a collective noise source. While every piece of equipment per phase would likely be scattered throughout the site, the noise-sensitive receptors surrounding the site would be subject to the collective noise source generated by all equipment operating at once.

At the nearest residences, commercial development, and the Sharon Drive and S. De Anza Blvd. daycare/preschool centers, ambient noise levels would be exceeded by 5 dBA Leq or more at various times throughout construction. Because project construction would last for a period of more than one year and considering that the project site is within 500 feet of existing

residences and daycare/preschool centers, the construction of the proposed project would cause a significant temporary noise impact.

IMPACT NOI-1: The proposed project would result in a significant temporary noise impact to residential, commercial, and daycare/preschool uses. **(Significant Impact)**

The following Mitigation Measures will be included in the project to reduce significant temporary noise impacts to a less than significant level.

MM NOI-1.1: In accordance with Policy EC-1.7, a construction noise logistics plan shall be developed for the proposed project.

Construction Noise Logistics Plan: Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistic plan shall be prepared, submitted to, and approved by the Director of Planning, Building, and Code Enforcement or Director's designee prior to the issuance of any grading or demolition permits.

MM NOI-1.2: As a part of the noise logistic plan and project, construction activities for the proposed project shall include, but are not limited to, the following best management practices:

- In accordance with Policy EC-1.7 of the City's General Plan, utilize the best available noise suppression devices and techniques during construction activities.
- Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence (San José Municipal Code Section 20.100.450).
- Construct temporary noise barriers, where feasible, around the perimeter of the construction site. The temporary noise barrier fences provide noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receiver and if the barrier is constructed in a manner that eliminates any cracks or gaps.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines shall be strictly prohibited.

- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise source and noise-sensitive receptors nearest the project site during all project construction.
- A temporary noise control blanket barrier shall be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling.
- Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- The project applicant shall prepare a detailed construction schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
- 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.
- 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 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.

With implementation of the identified Mitigation Measures, the project would have a less than significant temporary construction noise impact. **(Less than Significant Impact with Mitigation Incorporated)**

Operational Noise

The proposed project is the construction of a hotel with underground parking, a roof deck, and an emergency generator. Operational noise is generated by traffic, HVAC equipment, truck deliveries, and testing of the emergency generator.

Traffic Generation

A significant impact would result if traffic generated by the project would substantially increase noise levels at sensitive receptors in the vicinity. A substantial increase would occur if:

- a) the noise level increase is 5 dBA DNL or greater, with a future noise level of less than 60 dBA DNL, or
- b) the noise level increase is 3 dBA DNL or greater, with a future noise level of 60 dBA DNL or greater.

The existing noise environment in the surrounding area would exceed 60 dBA DNL, based on the ambient noise measurements; therefore, a significant impact would occur if project-generated traffic and operational activity would permanently increase noise levels by 3 dBA DNL. For reference, a 3 dBA DNL noise increase would be expected if the project would double existing traffic volumes along a roadway.

For the proposed project, peak hour turning movements were provided for the six intersections in the project vicinity. Project trips were added to the existing volumes to calculate the existing plus project scenario, and the existing plus project traffic volumes were compared to existing volumes to determine the project's contribution to the permanent noise level increase. Upon comparison of these traffic conditions, a traffic noise increase of 2 dBA DNL or less was estimated for each roadway segment included in the traffic study. The project would neither result in a doubling of traffic nor result in a permanent noise increase of 3 dBA DNL or more.

(Less than Significant Impact)

Truck Deliveries

The commercial/hotel components of the project would require truck deliveries. For uses of this size, it is assumed that one or two truck deliveries would occur per week. Typical deliveries would take approximately 15 minutes or less. For purposes of this assessment, it is assumed that all deliveries would occur during daytime hours.

The site plan depicts a truck loading zone along the eastern side of the proposed building, just south of the ramp accessing the underground parking. At this location, the existing commercial structure on the east side of the project site would provide at least 20 dBA of noise reduction.

Based on the size of the proposed hotel and commercial use, smaller delivery and vendor would be expected for the proposed project. These trucks typically generate maximum noise levels of 65 to 70 dBA L_{max} at a distance of 50 feet. The nearest residential property line to the east would be approximately 150 feet from this loading zone along Sharon Drive. Using a 6 dBA per doubling of the distance propagation rate, the noise levels due to deliveries at the nearest residence would range below 45 dBA L_{max} , assuming a conservative 20 dBA reduction. Assuming up to two deliveries in a 24-hour period, the worst-case day-night average noise level at the

nearest residences and both of the daycare/preschool centers would be below 55 dBA DNL. This is a less than significant impact.

Loading/unloading activities, maintenance activities, and trash pickup should be limited to the hours of 7:00 a.m. and 9:00 p.m. to further reduce disturbance impacts to the neighbors. **(Less than Significant Impact)**

Mechanical Equipment

The proposed hotel would include mechanical equipment, such as heating, ventilation, and air conditioning (HVAC) systems and an emergency back-up generator. The site plan shows mechanical rooms on both levels of the underground parking structure, as well as each floor of the hotel; however, the specific location for these HVAC units, which are normally on the roof level, were not shown on the site plan; therefore, typical assumptions were used for hotel uses.

For buildings of this size, HVAC units (i.e., heat pumps) typically generate noise levels ranging from 49 to 53 dBA at approximately 1 meter or 3.28 feet. HVAC units cycle on and off continually, and therefore, multiple units would be running at any given time. Assuming up to eight units operating simultaneously, the combined noise levels would be up to 62 dBA at a distance of 3 feet, and assuming that the eight units cycle on and off throughout the daytime and nighttime hours, the day-night average noise level at a distance of 3 feet would be 68 dBA DNL.

Typically, rooftop equipment would have a minimum setback from the edge of the building of about 10 feet. The height of the building and the setbacks of the units from the edge of the building would provide partial shielding for the nearby residences. Because the roof plan does not show any type of screening or enclosures for mechanical units, for purposes of assuming worst-case conditions, no shielding effects are considered for this analysis.

The property line of the nearest residence would be approximately 120 feet east of the nearest building façade. At this distance, combined mechanical equipment would be below 50 dBA DNL at the property line of the nearest residence. All other residences would be further away from the mechanical equipment and would be exposed to lower noise levels. The property line of the Sharon Road Bright Horizons daycare/preschool center is approximately 75 feet from the northern façade of the proposed building. At this distance, combined mechanical equipment would be 41 dBA DNL, which is below 50 dBA DNL. The S. De Anza Blvd. facility would be farther from the nearest building façade, and the mechanical equipment noise levels would be lower.

In addition to mechanical equipment located on the roof of the building, a 200 kW emergency backup generator room would be located along the southern boundary adjacent to the garage exit ramp. Generators of this size typically produce noise levels of 89 dBA at 23 feet if a weather-proof enclosure is included or ranging from 75 to 81 dBA at 23 feet if a Level 1 or Level

2 sound enclosure is included. The project includes at least a weather-proof enclosure and that assumption has been used in the analysis.

During emergency situations, the noise produced by the operation of generators would be exempt from City noise restrictions; however, generators are typically tested for a period of one to two hours every month. During these testing periods, ambient noise levels would temporarily increase and would be required to meet the 55 dBA DNL threshold at nearby residential land uses. Assuming the emergency generator would run continuously during a two-hour period up to 50 times per year, the day-night average noise level at 23 feet would be 78 dBA DNL, assuming a weather enclosure, or would range from 64 to 70 dBA DNL with a Level 1 or Level 2 sound enclosure.

With the location of the generator room being located on the south side of the building, the proposed building would provide at least 20 dBA of shielding. The nearest residential properties would be approximately 150 feet from the generator room. At this distance and assuming a conservative 20 dBA reduction, the day-night average noise level would be 42 dBA DNL with a weather-proof enclosure or would range from 28 to 34 dBA DNL with a Level 1 or Level 2 sound enclosure. Both of the daycare/preschool facilities would be more than 240 feet from the generator room and would be exposed to generator noise below 55 dBA DNL. Therefore, testing the emergency generator, assuming a capacity of 200 kW or less, would not be expected to exceed the City's 55 dBA DNL threshold at the nearest sensitive receptors.

In addition to the General Plan requirements, the Municipal Code states that noise levels generated at the project site would be limited to 60 dBA DNL at nearby commercial properties. While exceeding these zoning code noise standards would not be considered a significant impact, the exposure of the surrounding land uses to operational noise levels generated by the proposed project are also discussed here in comparison to these zoning code standards.

The backup generator room would be located right along the southern boundary of the project site, which is shared with an existing commercial use. At the shared property line, the day-night average noise level would be 92 dBA DNL with a weather enclosure or would range from 78 to 84 dBA DNL with a Level 1 or Level 2 sound enclosure, assuming a conservative 20 dBA reduction due to the building façade. This would exceed the Municipal Code threshold of 60 dBA DNL at the nearest commercial property, but is not a significant impact given the commercial uses.

It is expected that mechanical equipment and generator noise for the proposed project would meet the City's applicable General Plan noise limits at the property lines of the nearest residential land uses. While the City's Municipal Code thresholds at receiving commercial properties would potentially be exceeded by testing of the emergency generator, this impact would not be considered a significant impact. **(Less than Significant Impact)**

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

The construction of the project may generate perceptible vibration when heavy equipment or impact tools (e.g. jackhammers, hoe rams) are used. Construction activities would include demolition, site preparation work, foundation work, and new building framing and finishing. While pile driving equipment can cause excessive vibration, it is not expected to be required for the proposed project.

According to Policy EC-2.3 of the City of San Jose General Plan, a vibration limit of 0.08 in/sec PPV shall be used to minimize the potential for cosmetic damage to sensitive historical structures, and a vibration limit of 0.20 in/sec PPV shall be used to minimize damage at buildings of normal conventional construction. The structure located at 1566 Duckett Way is not considered to be a historic resource, although it has been determined that construction would not generate vibration levels that could affect the structure.

The nearest residential façade would be 130 feet from the nearest project boundary, and at this distance, vibration levels would be at or below 0.034 in/sec PPV. All other structures surrounding the site would be 120 feet or more from the site, where vibration levels would be below 0.2 in/sec PPV

The commercial buildings adjoining the project site to the east and south are located 10 and 5 feet, respectively, from the project boundary. When heavy vibration-generating equipment are used along this shared property line, vibration levels would potentially exceed 0.2 in/sec PPV. This could generate threshold or cosmetic damage at the surrounding buildings. This is a significant impact.

IMPACT NOI-2: Construction of the proposed project could generate vibration levels in excess of 0.2 in/sec. PPV, which is above the threshold and could result in cosmetic damage to surrounding commercial structures. **(Significant Impact)**

Implementation of the following Mitigation Measures will be required prior to the issuance of a grading or demolition permit for the project to reduce significant temporary vibration impacts to a less than significant level.

MM NOI-2.1: Construction Vibration Monitoring, Treatment, and Reporting Plan: Prior to issuance of any grading or demolition permit, the project applicant shall prepare and submit for approval to the Planning, Building, and Code Enforcement Director or Director's Designee, a Construction Vibration, Treatment, and Reporting Plan. 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, Treatment, and Reporting 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 and the anticipated time duration of using the equipment that is known to produce high vibration levels (clam shovel drops, vibratory rollers, hoe rams, large bulldozers, caisson drillings, loaded trucks, jackhammers, etc.) shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee 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. Phase demolition, earth-moving, and ground impacting operations so as not to occur during the same time period.
- Where possible, use of the heavy vibration-generating construction equipment shall be prohibited within 20 feet of any adjacent building.
- With the permission of the owner(s) of the adjacent commercial, document conditions at all structures located within 30 feet of construction and at historic structures located within 300 feet of construction 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. Specifically:
 - Vibration limits shall be applied to vibration-sensitive structures located within 30 feet of all construction activities identified as sources of high vibration levels.
 - Completion of a photo survey, elevation survey, and crack monitoring survey for each structure of normal construction within 30 feet of all construction activities identified as sources of high vibration levels. Surveys shall be performed prior to any construction activity, in regular intervals during construction, and after project completion, and shall include internal and external crack monitoring in structures, settlement, and distress, and shall document the condition of foundations, walls and other structural elements in the interior and exterior of said structures.
- Develop a vibration monitoring and construction contingency plan to identify structures 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 conditions. Construction contingencies shall be identified for when vibration levels approached the limits.

- At a minimum, vibration monitoring shall be conducted during demolition and excavation activities.
- If vibration levels approach limits, suspend construction and implement contingency measures to either lower vibration levels or secure the affected structures.
- 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.
- Conduct a post-construction survey on structures where either monitoring has indicated high vibration levels or complaints of damage has been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities.

The implementation of these Mitigation Measures would reduce vibration impacts to adjacent commercial properties to a less than significant level. **(Less 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?**

The project site is outside the 65 dB noise contour for the Mineta San José International Airport and is not within the vicinity of a private airstrip. The project would not expose people residing or working in the project area to excessive noise levels. **(Less than Significant Impact)**

Conclusion

The project would have significant impacts related to short-term construction noise and vibration. The incorporation of identified Mitigation Measures would reduce potential construction-related impacts to a less than significant level. **(Less than Significant Impact with Mitigation Incorporated)**

4.14 POPULATION AND HOUSING

Environmental Setting

Based on information from the California Department of Finance, the City of San José population was estimated to be 1,049,187 in January 2020 and had an estimated total of 336,507 housing units with an average of 3.19 persons per household.¹⁶ The Association of Bay Area Governments (ABAG) projects that the City’s population will reach 1,377,145 with 472,000 households by 2040.¹⁷

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. At the time of preparation of the General Plan FEIR, San José had a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident) but this trend is projected to reverse with full build-out under the current General Plan.

Population and Housing Environmental Checklist

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
b. Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3

¹⁶ California Department of Finance. “Table 2: E-5 City/County Population and Housing Estimates, 1/1/2020.” Accessed June 18,2020. Available at: <http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/>

¹⁷ Association of Bay Area Governments. Available at <http://projections.planbayarea.org/data> Accessed June 23, 2020.

Impacts Evaluation

- 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)?**

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 proposed project is the construction of a hotel consistent with the zoning and General Plan designations for the site and would not induce substantial population growth in an area either directly (e.g., by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure).

The proposed project would result in a net increase of approximately 25 full-time employees. Therefore, the project would not generate substantial job creation resulting in substantial unplanned population growth and is consistent with the development assumptions in the General Plan. The project would have a less than significant impact on population growth. **(Less than Significant Impact)**

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

The project consists of construction of a hotel on an infill site that does not contain housing. The project would not displace existing housing or require the construction of replacement housing since the site does not contain any residential uses. **(No Impact)**

Conclusion

The project would have a less than significant impact on population and housing. **(Less than Significant Impact)**

4.15 PUBLIC SERVICES

Environmental Setting

Fire Protection: Fire protection services are provided to the project site by the City of San José Fire Department (SJFD). The closest fire station to the project site is Station 14, located at 1201 San Tomas Aquino Road about 2.7 miles northeast of the project site. Station 14 is a part of Battalion 10.

Police Protection: Police protection services are provided to the project site by the San José Police Department (SJPD) headquartered at 201 West Mission Street. The City has four patrol divisions and 16 patrol districts. Patrols are dispatched from police headquarters and the patrol districts consist of 83 patrol beats, which include 357 patrol beat building blocks.

Parks: The nearest City of San Jose Park is Calabazas Park located approximately 0.47 miles northeast of the project site at 6852 Rainbow Drive. The park includes a BMX bike track, horseshoe pits, tennis courts, playgrounds, basketball courts and other features.

The City of San José has adopted the Parkland Dedication Ordinance and Park Impact Ordinance, which require residential developers to dedicate public park land or pay in-lieu fees (or both) to compensate for the increase in demand for neighborhood parks.

Library: The nearest library is the Calabazas Branch Library located at 1230 S. Blaney Avenue, approximately 0.56 miles northeast of the project site.

Schools: The project site is located within the boundaries of the Cupertino Union School District (K-8) and Fremont Union High School District. Students in the project area attend Blue Hill Elementary School at 12300 De Sanka Avenue in Saratoga and Miller Middle School at 6151 Rainbow Drive in San Jose. High school students attend Lynbrook High School at 1280 Johnson Avenue in San Jose.

Regulatory Framework

State

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 the payment 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 for mitigating school impacts 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.

Local

Envision San Jose 2040 General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating public service impacts from development projects. Policies applicable to the project are presented below.

- 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.
 3. Enhance service delivery through the adoption and effective use of innovative, emerging techniques, technologies and operating models.
 4. Measure service delivery to identify the degree to which services are meeting the needs of San José's community.
 5. Ensure that development of police and fire service facilities and delivery of services keeps pace with development and growth in the city.
- 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.

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

Public Services Environmental Checklist

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
b. Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
c. Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
d. Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3,21
e. Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3

Impacts Evaluation

Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or 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:** Although the project site is currently developed with a vacant commercial building, redevelopment with higher intensity hotel uses could result in an incremental increase in the demand for fire protection services. The project site is currently served by the SJFD and the amount of proposed development represents a small fraction of the total growth identified in the General Plan. The project, by itself, would not preclude the SJFD from meeting their service goals and would not require the construction of new or expanded fire facilities because SJFD already provides services to the site. In addition, the proposed project would be constructed in accordance with all current building and fire codes and be maintained in accordance with applicable City policies to promote public and property safety. **(Less than Significant Impact)**

b. **Police Protection:** Although the project site is currently developed with a vacant commercial building, redevelopment with higher intensity hotel uses could result in an incremental increase in the demand for police protection services. The project site is currently served by the SJPD and the proposed redevelopment of an existing commercial site represents a small fraction of the total growth identified in the General Plan. The project, by itself, would not preclude the SJPD from meeting their service goals and would not require the construction of new or expanded fire facilities. In addition, the project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies to promote public and property safety. **(Less than Significant Impact)**

c. **Schools:** The project is a commercial development that will not include any residential uses that would generate a new student population. The proposed hotel/commercial uses would not result in an increase in student demand on school services. **(No Impact)**

d. **Parks:** The proposed development would place more people on-site during regular business hours than exist currently but would not increase the permanent population of the City. While future employees and hotel guests may utilize nearby parks, they are unlikely to place a major physical burden on these facilities. The City of San José has adopted the Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (PIO), which require residential developers to dedicate public parkland or pay in-lieu fees (or both) to compensate for the increase in demand for neighborhood parks. The proposed project is not subject to the City's PDO or PIO.

As a result, the proposed project would have a less than significant impact on park facilities. **(Less than Significant Impact)**

e. **Other Public Services:** The project would not impact other public services, including library services because it is commercial development, consistent with the General Plan, that would not require such public services. **(No Impact)**

Conclusion

The proposed hotel project would have a less than significant impact on public services. **(Less than Significant Impact)**

4.16 RECREATION

Environmental Setting

The City of San José owns and maintains approximately 3,502 acres of parkland, including neighborhood parks, community parks, and regional parks. The City has 51 community centers and over 57 miles of trails. The City’s Department of Parks, Recreation, and Neighborhood Services is responsible for development, operation, and maintenance of all City park facilities. The nearest park is

The nearest City of San Jose Park is Calabazas Park located approximately 0.47 miles northeast of the project site at 6852 Rainbow Drive. The park includes a BMX bike track, horseshoe pits, tennis courts, playgrounds, basketball courts and other features.

Regulatory Framework

The City of San José has adopted the Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (PIO), which require residential developers to dedicate public park land or pay in-lieu fees (or both) to compensate for the increase in demand for neighborhood parks.

Recreation Environmental Checklist

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
b. Include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3

Impacts Evaluation

- a. 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 is the construction of a hotel and associated commercial uses on a site previously used for commercial uses. It would not generate additional population in the City

and would therefore, not increase the use of any existing parks. The proposed project is not subject to the City's PDO or PIO. No policies of the General Plan are applicable to the proposed project. Substantial physical deterioration of existing park or recreational facilities would not occur as a result of the project. **(No Impact)**

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

With the exception of a small fitness room for use by hotel guests, the project does not include any recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment. **(No Impact)**

Conclusion

The proposed project would not result in any impacts to recreational uses in the City. **(No Impact)**

4.17 TRANSPORTATION

The following discussion is based on a Transportation Analysis (TA) prepared for the project by *Hexagon Transportation Consultants* (March 2020). This study is contained in Appendix G.

Environmental Setting

Existing Roadway Network

As shown on Figures 3 and 11, regional access to the project site is provided by SR-85. Local access to the project site is provided via De Anza Boulevard, Prospect Road, and Sharon Drive. These facilities are described below.

SR-85 is a state highway which extends from south San Jose to Mountain View in the north. SR-85 is six lanes wide in the vicinity of the site. SR-85 provides access to the site via its interchange at S. De Anza Blvd.

De Anza Boulevard is a north-south arterial street with striped bike lanes extending from Homestead Road in Cupertino to Prospect Road in San Jose, where it becomes Saratoga-Sunnyvale Road. In the project area, the roadway is S. De Anza Blvd. It is a six-lane roadway with a raised center median and left-turn pockets provided at intersections, and is designated as a Grand Boulevard in the Envision San Jose 2040 General Plan.

The City of San Jose identifies Grand Boulevards as roadways serving major corridors that tie land use with major transportation facilities. S. De Anza Blvd. has a posted speed limit of 40 mph and has sidewalks on both sides of the street. Vehicle access to the site from S. De Anza Boulevard is provided via Sharon Drive.

Prospect Road is an east-west four-lane roadway with striped bike lanes that extends from Saratoga Avenue west to the Fremont Older Open Space Preserve. East of Saratoga Avenue, Prospect Road splits and transitions into Campbell Avenue and Hamilton Avenue. Some segments of Prospect Road east of Saratoga-Sunnyvale Road are divided, while others are undivided with a shared two-way center left-turn lane. Prospect Road provides access to the site via S. De Anza Blvd.

Sharon Drive is a local street that serves mostly residential uses. It extends eastward from S. De Anza Blvd. to where ends in a cul-de-sac on the west side of SR-85. Sharon Drive would provide direct access to the proposed parking garage that would serve the project.

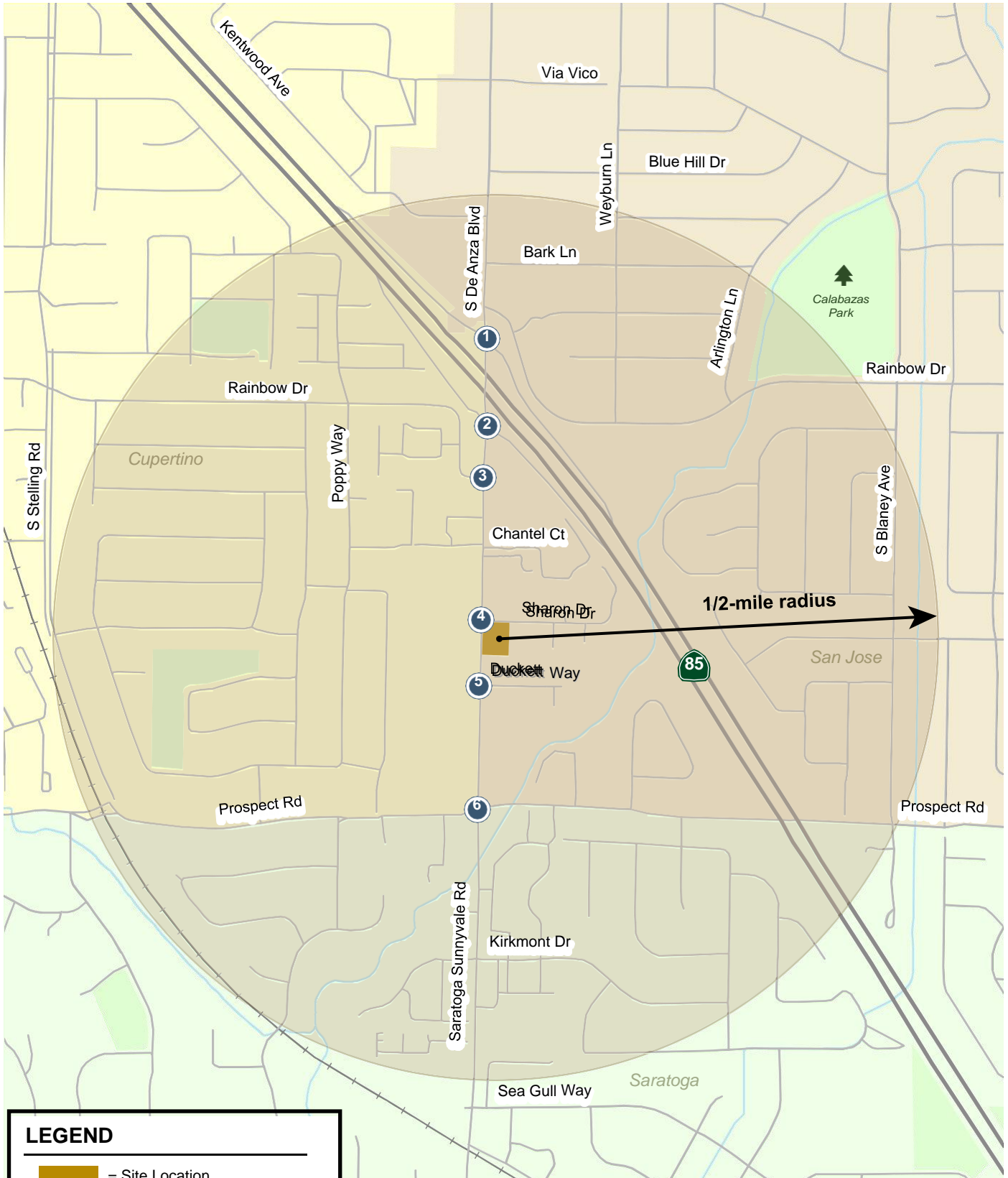


Figure 11 Study Intersections

Existing Pedestrian Facilities

A complete network of sidewalks and crosswalks is found along the roadways in the study area. Note, however, that small segments of sidewalk are missing near the project site as described below:

- 200 feet along the north side of Sharon Drive directly across from the project site, although it is assumed that this sidewalk will be provided by the office development currently under construction; and
- 200 feet along the west side of S. De Anza Blvd., just south of Rainbow Drive (approximately 800 feet north of the project site).

Crosswalks with pedestrian signal heads are located at all the signalized intersections in the study area. The existing pedestrian facilities provide good connectivity between the project site and the surrounding land uses and transit stops in the study area.

Existing Bicycle Facilities

Class II bike lanes are preferential use areas within a roadway designated for bicycles. Class III bike routes are signed bike routes that provide a connection through residential, downtown, and rural/hillside areas to Class I and Class II facilities. Bike routes serve as transportation routes within neighborhoods to parks, schools, and other community amenities. In the project area, Class II striped bike lanes are present on S. De Anza Blvd., Rainbow Drive, Prospect Road, and Stelling Road. A Class III bike route with shared lane markings, or “sharrows”, is present on S. Blaney Avenue, as shown on Figure 12.

Existing Transit Services

The project site is served directly by the VTA on one local bus route. Local Route 51 operates on weekdays only between the West Valley College Transit Center and the Moffett Field/Ames Research Center. Local Route 51 provides weekday service between 6:15 AM and 7:30 PM with approximately 30- to 60-minute headways during the AM and PM peak commute hours, depending on the direction of travel during the peak commute hours.

Because there is only one bus route serving the study area with relatively infrequent service, the area is not well served by transit. There is a bus stop located on S. De Anza Blvd. adjacent to the project site, approximately 120 feet south of the centerline of Sharon Drive.

City of Cupertino and City of Saratoga Study Intersections

1. S. De Anza Blvd. and SR-85 North Ramps (CMP)(Cupertino)
2. S. De Anza Blvd. and SR-85 South Ramps (CMP)(Cupertino)



Figure 12 Existing Bicycle Facilities

3. S. De Anza Blvd. and Rainbow Drive (Cupertino)
4. S. De Anza Blvd. and Sharon Drive (unsignalized)(Cupertino)
5. S. De Anza Blvd. and Duckett Way (unsignalized)(Cupertino)
6. S. De Anza Blvd. and Prospect Road (CMP)(Saratoga)

Unsignalized intersections are not analyzed by either City or the CMP. Traffic conditions were observed in the field in May of 2019 to identify any existing operational deficiencies. Overall, the study intersections operated well. However, field observations revealed that some minor operational problems currently occur as described in Appendix G.

Study Freeway Segments

According to CMP guidelines, an analysis of freeway segment levels of service is only required if a project is estimated to add trips to a freeway segment equal to or greater than one percent of the capacity of that segment. Since the number of project trips added to the freeways in the area is estimated to be well below the one percent threshold, a detailed analysis of freeway segment levels of service was not completed. A simple freeway segment capacity evaluation to substantiate this determination is presented in Table 3 of Appendix G.

Regulatory Framework

Santa Clara County Congestion Management Program

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

Significant Impact Criteria

Significance criteria are used to establish what constitutes an impact. Note that unlike the City of San Jose, the Cities of Cupertino and Saratoga have not yet adopted VMT thresholds for use in determining significant transportation impacts under CEQA. The Cities of Cupertino and Saratoga use intersection level of service (LOS) to determine significant impacts under CEQA. Therefore, for the purposes of this study, the criteria used to determine significant impacts on signalized intersections are based on the level of service standards for the Cities of Cupertino and Saratoga.

City of Cupertino Definition of Significant Intersection Impacts

The project is said to create a significant adverse impact on traffic conditions at a signalized intersection in the City of Cupertino if for either peak hour:

1. The level of service at the intersection degrades from an acceptable level (LOS D or better) under background conditions to an unacceptable level (LOS E or F) when project generated traffic is added, or
2. The level of service at the intersection is an unacceptable level (LOS E or F) under background conditions and the addition of project trips causes both the critical-movement delay at the intersection to increase by four (4) or more seconds *and* the volume-to-capacity ratio (V/C) to increase by one percent (0.01) or more.

An exception to criterion 2 above applies when the addition of project traffic reduces the amount of average delay for critical movements (i.e., the change in average delay for critical movements is negative). In this case, the threshold of significance is an increase in the critical V/C value by 0.01 or more.

City of Saratoga Definition of Significant Intersection Impacts

The project is said to create a significant adverse impact on traffic conditions at a signalized intersection in the City of Saratoga if for either peak hour:

1. The level of service at the intersection degrades from an acceptable level (LOS D or better for non-CMP intersections and LOS E or better for CMP intersections) under background conditions to an unacceptable LOS E or F when project generated traffic is added, or
2. The level of service at the intersection is an unacceptable level (LOS E or F at non-CMP intersections and LOS F at CMP intersections) under background conditions and the addition of project trips causes both the critical-movement delay at the intersection to increase by four (4) or more seconds and the volume-to-capacity ratio (V/C) to increase by one percent (0.01) or more.

An exception to criterion 2 above applies when the addition of project traffic reduces the amount of average delay for critical movements (i.e. the change in average delay for critical movements is negative). In this case, the threshold of significance is an increase in the critical V/C value by .01 or more.

Council Policy 5-1 Transportation Impact Policy

In 2018, consistent with State Senate Bill 743, the City Council adopted Council Policy 5-1 to use vehicle miles traveled (VMT) as the metric to assess transportation impacts from new development. VMT is the total miles of travel by personal motorized vehicles a project is expected to generate in a day. According to the policy, an employment (e.g., office, R&D) or residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional per capita. The VMT policy does not negate Area Development Policies (ADPs) and Transportation Development Policies (TDPs) approved prior to adoption of Policy 5-1.

Council Policy 5-3 Transportation Impact Policy

The City of San José's Council Policy 5-3 "Transportation Impact Policy" was the adopted established threshold for CEQA at the onset of the traffic study. Council Policy 5-3 acts as a guide to analyze and make determinations regarding the overall conformance of a proposed development with the City's various General Plan multi-modal transportation policies, which together seek to provide a safe, efficient, and environmentally sensitive transportation system for the movement of people and goods. It also establishes thresholds to determine environmental impacts and requires new development to mitigate for significant impacts.

San Jose Bicycle Master Plan

The Bicycle Master Plan, also known as the San José Bike Plan 2020, defines the City's vision to make bicycling an integral part of daily life in San José. The plan recommends policies, projects, and programs to realize this vision and create a San José community where bicycling is convenient, safe, and commonplace. The plan defines a 500-mile network of bikeways that focuses on connecting off-street bikeways with on-street bikeways.

Envision San Jose 2040 General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating transportation impacts from development projects. Policies applicable to the project are presented below.

- 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).
- TR-1.2** Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
- TR-1.3** Increase substantially the proportion of commute travel using modes other than the single-occupant vehicle in order to meet the City's mode split targets for San Jose residents and workers.
- 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.
- 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.
- TR-1.6** Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.

- 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.

- 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.

- TR-5.3** The minimum overall roadway performance during peak travel periods should be level of service “D” except for designated areas and specified exceptions identified in the General Plan including the Downtown Core Area. Mitigation measures for vehicular traffic should not compromise or minimize community livability by removing mature street trees, significantly reducing front or side yards, or creating other adverse neighborhood impacts.

- 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.

- TR-8.2** Balance business viability and land resources by maintaining an adequate supply of parking to serve demand while avoiding excessive parking supply that encourages auto use.

- TR-8.9** Consider adjacent on-street and City-owned off-street parking spaces in assessing need for additional parking required for a given land use or new development.

- 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.

Traffic Analysis Methodology

The Local Transportation Analysis (LTA, Appendix G of this Initial Study) was prepared for the purpose of identifying potential traffic impacts at intersections in Cupertino and Saratoga related to the proposed development, as well as potential local operational impacts. The impacts of the project were evaluated following the standards and methodologies set forth by these cities and the VTA CMP guidelines, as described above. The study determined the traffic impacts of the proposed development on the six signalized intersections within the vicinity of the project site during the weekday AM and PM peak periods of traffic. The study also included an operations analysis, based on vehicle-storage requirements at selected intersections, and a review of site access and on-site circulation.

Traffic conditions at the signalized study intersections in Cupertino and Saratoga were evaluated using level of service (LOS). Level of Service 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. The following discussions regarding LOS are applicable to thresholds established in Cupertino and Saratoga and are included for informational purposes. The City of San Jose no longer analyzes impacts according to LOS and instead has thresholds established based on VMT.

Traffic Scenarios Analyzed

The AM peak hour of traffic is generally between 7:00 and 9:00 AM and the PM peak hour is typically between 4:00 and 6:00 PM. It is during these periods on an average weekday that the most congested traffic conditions occur. The traffic was evaluated for the following conditions:

- *Existing Conditions* represent existing peak-hour traffic volumes on the existing roadway.
- *Existing Plus Project Conditions* represent existing peak-hour traffic volumes plus peak-hour traffic from the proposed project. Existing plus project conditions were evaluated relative to existing conditions in order to determine the effects the project would have on existing traffic conditions. Because the City of San Jose does not consider this scenario to be pertinent in the evaluation of CEQA impacts, it is not presented below, but can be found in Appendix G. All signalized intersections would continue to operate at acceptable levels of service (LOS D or better) during the PM peak-hour for this condition.
- *Background Conditions* represent existing peak-hour traffic volumes plus projected peak-hour volumes from approved but not yet completed developments.
- *Background Plus Project Conditions* represent background traffic volumes plus projected peak-hour traffic volumes from the proposed project. Background plus project conditions were evaluated relative to background conditions in order to determine potential project impacts according to the City of San José Level of Service Policy.

Existing Levels of Service

Existing Intersection Levels of Service

The results of the intersection level of service analysis under existing conditions are summarized in Table 4.17-1 and show that all signalized study intersections in Cupertino and Saratoga operate at an acceptable LOS D or better during the PM peak hours.

**Table 4.17-1:
Existing, Background, and Background plus Project Conditions
Intersection Levels of Service**

Study Intersection	Peak Hour	Existing Condition		Background Condition		Background + Project Conditions	
		Ave. Delay ¹	LOS	Ave. Delay ¹	LOS	Ave. Delay ¹	LOS
1. S. De Anza Blvd & SR-85 NB Ramps* (Cupertino)	AM	19.5	B	19.4	B	19.5	B
	PM	11.9	B	11.9	B	12.3	B
2. S. De Anza Blvd & SR-85 SB Ramps* (Cupertino)	AM	12.7	B	12.7	B	12.7	B
	PM	16.0	B	16.0	B	16.1	B
3. S. De Anza Blvd & Rainbow Dr (Cupertino)	AM	19.5	B	19.5	B	19.3	B
	PM	6.0	A	6.0	A	5.9	A
6. S. De Anza Blvd. & Prospect Rd (Saratoga)	AM	24.0	C	23.9	C	23.9	C
	PM	26.4	C	26.4	C	26.4	C

¹In seconds
*CMP Intersections

Background Conditions

Background traffic conditions are defined as conditions just prior to completion of the proposed project. Traffic volumes for background conditions are existing traffic counts plus traffic generated by other approved but not yet completed developments in the vicinity of the site. Background conditions predict a realistic traffic condition that would occur as approved development gets built and occupied. The transportation network under background conditions would be the same as the roadway network described under existing conditions.

Background Traffic Volumes

Background peak hour traffic volumes were estimated by adding to existing peak hour volumes the estimated traffic from approved but not yet constructed developments. The added traffic from approved but not yet constructed developments in the City of San José (the City in which the project is located) was obtained from the City’s Approved Trips Inventory (ATI).

Background Intersection Levels of Service

The results of the intersection level of service analysis under background conditions are summarized in Table 4.17-1. The results of the analysis show that all of the study intersections in Cupertino and Saratoga would operate at an acceptable LOS D or better during both the AM and PM peak hours of traffic under background conditions.

Transportation Environmental Checklist

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,22
b. Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,9,22
c. Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,22
d. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,22

Impacts Evaluation

a. Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?

Significance criteria are used to establish what constitutes an impact. Impacts on intersections are based on the significance criteria and thresholds of the jurisdiction in which the intersection is located. For this analysis, potential impacts were evaluated following the standards and methodologies set forth by the Cities of Cupertino and Saratoga and Santa Clara Valley Transportation Agency (VTA), which administers the County Congestion Management Program (CMP). The City of San Jose bases CEQA traffic impacts on VMT and not LOS.

As described in b., below, the project’s traffic impacts were assessed based on the Cities of Cupertino and Saratoga’s appropriate level of service policy.

Project Trip Estimates for LOS Evaluation in Cities of Cupertino and Saratoga

The magnitude of traffic produced by a new development and the locations where that traffic would appear are estimated using a three-step process: (1) trip generation, (2) trip distribution, and (3) trip assignment. In determining project trip generation, the magnitude of traffic

entering and exiting the site is estimated for the AM and PM peak hours. As part of the project trip distribution, the directions to and from which the project trips would travel are estimated. In the project trip assignment, the project trips are assigned to specific streets and intersections.

Project trip generation was estimated by applying to the size and use of the proposed development using the appropriate trip generation rates obtained from the ITE Trip Generation Manual, 10th Edition, 2017 (ITE). The average trip generation rates for “Hotel” (Land Use Category 310) were applied to the project. Note that a “Hotel” is defined by ITE as a place of lodging that provides sleeping accommodations and supporting facilities such as restaurants, cocktail lounges, meeting and banquet rooms, recreational facilities (e.g., swimming pools and fitness rooms), and/or other retail and service shops.

In accordance with San Jose’s Transportation Analysis Handbook (April 2018, Section 4.8, “Intersection Operations Analysis”), the project is eligible for adjustments and reductions from the baseline trip generation described above. Based on the 2018 San Jose guidelines, the project qualifies for a location-based adjustment based on the “place type” in which the project is located per the San Jose Travel Demand Model. Based on the VMT Evaluation Tool, the project site is located within a designated Urban Low-Transit area.

Since hotels exhibit similar vehicle mode share characteristics, travel patterns and trip length characteristics to that of retail uses, applicable City of San Jose trip generation reductions were applied to the project accordingly. Retail developments within Urban Low-Transit areas have a vehicle mode share of 87 percent (according to Table 6 of the City's Transportation Analysis Handbook). Thus, a 13 percent trip reduction was applied to the project based on the location-based vehicle mode share outputs produced from the San Jose Travel Demand Model for the place type Urban Low-Transit.

After applying the ITE trip rates for Hotel and a 13 percent mode-share trip reduction, the proposed project is estimated to generate 1,436 new daily vehicle trips, with 73 new trips occurring during the AM peak hour and 86 new trips occurring during the PM peak hour. Using the inbound/outbound splits contained in the ITE Trip Generation Manual, the project is estimated to produce 43 new inbound and 30 new outbound trips during the AM peak hour, and 43 new inbound and 43 new outbound trips during the PM peak hour (see Table 4 of Appendix G). Trips were then distributed and assigned based on existing travel patterns on the surrounding roadway network.

Background Plus Project Conditions

The results of the intersection level of service analysis under background plus project conditions for the Cities of Cupertino and Saratoga are summarized in Table 4.17-1. The results show that, measured against the level of service standards of the Cities of Cupertino and Saratoga, none of the intersections are projected to operate at unacceptable levels during the AM or PM peak-hours under background plus project conditions.

The unsignalized intersections on S. De Anza Blvd. at Sharon Drive and Duckett Way were analyzed for operational and signal warrant purposes. The results indicate that overall, these two unsignalized intersections operate well during the AM and PM peak hours and the project is not expected to degrade current traffic operations at these intersections. Signalization of these intersections is not warranted. **(Less than Significant Impact)**

Pedestrian, Bicycle, and Transit Access

The proposed project would maintain all existing on-site sidewalks on S. De Anza Blvd. and Sharon Drive. While there is no sidewalk on the north side of Sharon Drive, opposite of the project, it is anticipated that this sidewalk will be replaced as part of the office project currently under construction. With maintenance of these facilities, the proposed project would provide adequate pedestrian access and no off-site improvements would be required.

Bicycle facilities, including bike lanes, are located adjacent to the project site. The project includes a bike parking room on the ground level of the hotel. The project would not remove any bicycle facilities, nor would it conflict with any adopted plans or policies for new bicycle facilities.

Local VTA bus route 51 runs along S. De Anza Blvd. and there is a bus stop adjacent to the project site. The existing bus stop consists of a standard blue bus stop sign attached to an existing street light pole, with no bench or shelter provided. Since the project site is served directly by a local bus route, it is reasonable to assume that some hotel employees and guests would utilize the bus service.

It is estimated that the small increase in transit demand generated by the proposed hotel could be accommodated by the current available ridership capacity of the VTA bus service (route 51). The project would not result in a significant impact to pedestrian, bicycle, and transit facilities and services. **(Less than Significant Impact)**

b. Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?

In adherence to Senate Bill (SB) 743, the City of San Jose adopted Council Policy 5-1 in March 2018. The policy replaced its predecessor (Council Policy 5-3) and established the thresholds for transportation impacts under the CEQA based on VMT instead of LOS.

The proposed project is the construction of a hotel. Since the City has not established thresholds of significance for hotels, the project cannot be evaluated directly using the City's VMT Evaluation Tool. Accordingly, based on direction from City staff, the VMT analysis for the proposed project was completed by converting the hotel project trip generation estimates to an equivalent retail square footage to obtain project VMT. This is a reasonable approach to VMT analysis, since hotels exhibit similar vehicle mode share characteristics, travel patterns and trip length characteristics to that of local retail uses (e.g., both uses typically serve nearby local businesses and residents).

There are 25 existing hotels within a 5-mile radius of the project site; therefore, it is expected that the proposed hotel project would generate mostly localized traffic. Based on the conversion process, an up to 135-room hotel would generate daily trips equivalent to 43,700 square feet of retail space.

This relatively small amount of retail space meets the screening criteria set forth in the Transportation Analysis Handbook. Since the project would meet the screening criteria, a VMT analysis is not required. For this reason, a Local Transportation Analysis (LTA, Appendix G) was completed for the project utilizing the LOS thresholds of the Cities of Cupertino and Saratoga, as described in a., above. Potential local operational issues were also evaluated as described in c., below. **(Less than Significant Impact)**

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 proposed project would not substantially increase hazards due to a design feature (for example, sharp curves or dangerous intersections) or incompatible uses. Based on the site plan provided, adequate sight distance would be provided at the project driveways on S. De Anza Blvd. and Sharon Drive. This ensures that vehicles can see pedestrians on the sidewalks as well as vehicles and bicycles on S. De Ana Blvd. All the proposed driveways meet the City's standards for width.

Hotel driveway operations would be improved by the installation of signage at the port cochere drop-off exit on Sharon Drive and the parking garage entrance to avoid conflicts between vehicles dropping off guests and guests entering the parking garage. Access to the parking garage would be provided by ramps via Sharon Drives. The site plan shows adequate ramp and drive aisle widths and ramps should have slopes no greater than a 20 percent grade with transition grades of half the maximum grade, or 10 percent. Adequate garbage and delivery truck access is provided as part of the project. **(Less than Significant Impact)**

d) Would the project result in inadequate emergency access?

The City's fire code requires driveways to provide at least 26 feet for fire access. Drive aisles on the site are 26 feet wide, providing adequate emergency access on-site.

The City of San José Fire Department additionally requires that all portions of buildings be within 150 feet of a fire department access road and a minimum of six feet clearance from the property line along all sides of the building. Based on the site plan, the project would meet the six-foot clearance requirement. The project would also meet the 150-foot fire access requirement. The impacts to emergency access would be less than significant. **(Less than Significant Impact)**

Operational Issues Not Addressed Under CEQA

Queuing

A queuing analysis was also completed for the project which evaluated storage capacity at left-turn movements of three intersections in the project area:

- Northbound left-turn at S. De Anza Blvd. and SR-85 Northbound Ramps
- Northbound left-turn/U-turn on S. De Anza Blvd. north of Sharon Drive
- Southbound left-turn/U-turn at S. De Anza Blvd. and Duckett Way

The results show that traffic at the northbound ramps of SR-85 at S. De Anza Blvd. currently exceeds the vehicle storage capacity during the AM peak hour and this condition would continue with the proposed project. The maximum northbound left-turn vehicle queue is not expected to increase as a result of traffic generated by the project or other approved projects in the area. Thus, 150 feet of additional northbound left-turn storage is needed (75 feet per lane) with or without the project.

The left-turn pockets on northbound and southbound S. De Anza Blvd. at Sharon Drive and Duckett Way currently have sufficient storage capacity to accommodate the maximum vehicle queues (left-turns and U-turns) that would occur during the AM and PM peak hours with the proposed project.

Queuing analyses were also completed at the SR-85 northbound and southbound on-ramps at S. De Anza Blvd. The existing vehicle storages on the on-ramps from De Anza Boulevard would be adequate to accommodate the projected maximum vehicle queue with the addition of traffic generated by the proposed project.

Parking

A parking demand analysis was completed for the project. The standard vehicle parking requirement for hotels is one space per guest room plus one space per employee. Note that since the restaurant is a supporting facility of the hotel and would not have a public entrance, additional parking for the restaurant is not required. Additional parking for the meeting/conference space also is not required for the same reason.

The project proposes up to 135 guest rooms, with a maximum of 10 employees expected to be on site at any one time. Based on the City's standard parking requirement, the project would be required to provide 145 vehicle parking spaces. After applying the allowable 20 percent reduction, the project is required to provide 116 parking spaces.

The site plan for the project shows a total of 130 vehicle parking spaces, including 69 spaces on the basement parking level 1 (including 2 ADA spaces), and 61 spaces on the basement parking

level 2 (including 3 ADA spaces). Therefore, the project would provide an adequate amount of vehicle parking.

The City's bicycle parking requirement for hotels is one space plus one space per ten guest rooms. The project proposes up to 135 guest rooms and, thus, is required to provide 15 bicycle parking spaces. The project would provide a bike room capable of storing 16 bicycles (long-term bicycle parking spaces) on the ground floor level of the hotel building, as well as 4 short-term bicycle parking spaces (bike rack) on the west side of the hotel lobby. Therefore, the project would meet the City's bicycle parking requirement.

Conclusion

The proposed project would have a less than significant impact on transportation. **(Less than Significant Impact)**

4.18 UTILITIES AND SERVICE SYSTEMS

Environmental Setting

Utilities and services are furnished to the project site by the following providers:

- Wastewater Treatment: treatment and disposal provided by the San José/Santa Clara Water Regional Wastewater Facility (RWF); sanitary sewer lines maintained by the City of San José
- Water Service: San Jose Water Company
- Storm Drainage: City of San José
- Solid Waste: Republic Services
- Electricity: San Jose Clean Energy
- Natural Gas: PG&E

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. San José Water Company adopted its most recent 2015 UWMP in June 2016.¹⁸

Assembly Bill (AB) 939

California AB 939 established the California Integrated Waste Management Board (CalRecycle), which required all California counties to prepare Integrated Waste Management Plans. In addition, AB 939 required all municipalities to divert 50 percent of their waste stream by the year 2000.

Assembly Bill 341

Assembly Bill 341 (AB 341) sets forth the requirements of the statewide mandatory commercial recycling program in the Public Resources Code. All businesses that generate four or more cubic yards of garbage per week and multi-family dwellings with five or more units in California

¹⁸ San Jose Water Company UWMP, <https://www.sanjoseca.gov/home/showdocument?id=422>, accessed April 1, 2020.

are required to recycle. AB 341 sets a statewide goal for 75 percent disposal reduction by the year 2020.

Senate Bill 1383

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 not less than 20 percent of currently disposed edible food is recovered for human consumption by 2025.

California Green Building Standards Code

In January 2017, California adopted the most recent version of the California Green Building Standards Code, which establishes mandatory green building standards for new and remodeled structures in California. These standards include a mandatory set of guidelines and more stringent voluntary measures for new construction projects, in order to achieve specific green building performance levels as follows:

- Reduce indoor water use by 20 percent;
- Reduce wastewater by 20 percent;
- Recycle and/or salvage 50 percent of nonhazardous construction and demolition debris; and
- Provide readily accessible areas for recycling by occupant.

Local

San José Zero Waste Strategic Plan/Green Vision

The City's Green Vision provides a comprehensive approach to achieving sustainability through technology and innovation. The Zero Waste Strategic Plan outlines policies to help the City of San José facilitate a healthier community and achieve its Green Vision goals, including 75 percent waste diversion by 2013, which has been achieved, and zero waste by 2022.

San José Construction & Demolition Diversion Program

More than 30 percent of landfill waste is construction and demolition (C&D) debris. The City's Construction & Demolition Diversion (CDD) Program ensures that at least 75 percent of this waste is recovered and diverted from landfills.

Private Sector Green Building Policy

The City of San José Green Building Policy for private sector new construction encourages building owners, architects, developers, and contractors to incorporate sustainable building goals early in the building design process. This policy establishes baseline green building standards for new private construction projects, and provides a framework for the

implementation of these standards. The Policy is also intended to enhance the public health, safety, and welfare of the City’s residents, workers, and visitors by encouraging design, construction, and maintenance practices that minimize the use and waste of energy, water, and other resources in the City.

Envision San Jose 2040 General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating utilities and service system impacts from development projects. Policies applicable to the proposed project are presented below.

- 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.

- 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.

- 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.

- IN-3.5** Require development which will have the potential to reduce downstream LOS to lower than “D”, or development which would be served by downstream lines already operating at a LOS lower than “D”, to provide mitigation measures to improve the LOS to “D” or better, either acting independently or jointly with other developments in the same area or in coordination with the City’s Sanitary Sewer Capital Improvement Program.

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

- 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.

Utilities and Service Systems Environmental Checklist

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Require or result in the relocation or construction of new or expanded water, or wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,25
b. Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,26
c. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
e. Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

Impacts Evaluation

- a. Would the project require or result in the relocation or construction of new or expanded water, or wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?**

The City of San José owns and maintains the sanitary sewer and storm drain system in the project area. There are existing 27- and 18-inch storm drain lines located in Sharon Drive and S. De Anza Blvd., respectively. There are existing six-inch sanitary sewer lines located in both Sharon Drive and S. De Anza Blvd. There are existing six-inch and 24-inch water lines located in Sharon Drive and S. De Anza Blvd., respectively. A 2-inch natural gas line also appears to be located in S. De Anza Blvd. These lines would serve the proposed project site.

As described in Section F. *Energy*, the project would have a less than significant impact related to natural gas and electricity use (among other energy sources). The provision/relocation of telecommunication facilities would be coordinated between the project applicant and telecommunication provider and no significant environmental effects are anticipated as a result of the project.

As described in Section J. *Hydrology and Water Quality*, the project would not significantly impact storm drainage facilities. There are existing storm drain lines within Sharon Drive and S. De Anza Blvd. that will serve the proposed project site, with manholes located at the intersection of Sharon Drive and S. De Anza Blvd. and within Sharon Drive, near the northeast portion of the site. While the project would slightly increase the amount of impervious surfaces on the site, the resulting increase in runoff from the site would be managed and treated in accordance with City policies, which includes implementation of a stormwater control plan.

For the reasons presented above and below in sections b-e, below, the project is not expected to require or result in the relocation or construction of new or expanded water, wastewater treatment, storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects.

The project site is currently developed with commercial uses and lateral lines already exist. These laterals may need to be increased and/or improved; however, such improvements would not cause significant environmental effects. **(Less than Significant Impact)**

b. Would the project have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

The project would incrementally increase demands on water supplies. Water service to the site would be supplied by the San Jose Water Company (SJWC), a private entity that obtains water from a variety of groundwater and surface water sources. The project applicant would be required to acquire a “will serve” letter from SJWC to assure adequate water is available to serve the proposed commercial uses during normal, dry, and multiple dry year conditions.

Additionally, as the project is consistent with the City’s General Plan land use assumptions. Therefore, the growth as proposed in the project and associated water use was assumed in the General Plan FPEIR, which determined that impacts to water supply in 2040 would not be significant. It is not expected that impacts to water supply would be significant. Further, the project would be required to implement the City of San Jose’s Private Development Green building code standards which employ water conservation measures. **(Less than Significant Impact)**

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

The proposed project is redevelopment of an existing commercial development, consistent with the General Plan land use designation for the site. Wastewater in the City of San José is treated at the RWF. The RWF has the capacity to provide tertiary treatment of up to 167 million gallons of wastewater per day (mgd) but is limited to a 120 mgd dry weather effluent flow by the State and Regional Water Quality Control Boards. Based on the General Plan FPEIR, the City's average dry weather flow is approximately 69.8 million gallons per day and the City's capacity allocation is approximately 108.6 mgd, leaving the City with approximately 38.8 mgd of excess treatment capacity.

Development allowed under the General Plan (which includes the project) would not exceed the City's allocated capacity at the RWF; therefore, development of the project would have a less than significant impact on wastewater treatment capacity. **(Less than Significant Impact)**

d.,e. 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? Would the project comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

The project could generate additional solid waste compared to that of previous commercial uses on the site. The City's General Plan FPEIR concluded that growth identified in the General Plan would not exceed the capacity of existing landfills serving the City of San José. The increase in solid waste generation from development of the project would be avoided through implementation of the City's Zero Waste Strategic Plan, which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022.

The Waste Strategic Plan in combination with existing regulations and programs, would ensure that full buildout of the General Plan would not result in significant impacts on solid waste generation, disposal capacity or otherwise impair the attainment of solid waste reduction goals. Furthermore, with the implementation of City policies to reduce waste, the project would comply with all federal, state, and local statutes and regulations related to solid waste.

The 2040 General Plan FPEIR concluded that the increase in waste at buildout of the General Plan would not exceed existing landfill capacity. The proposed project is consistent with the development assumptions in the General Plan and would have a less than significant impact on landfill capacity. Final project design would be required to comply with all federal, state, and local statutes and regulations related to solid waste disposal. **(Less than Significant Impact)**

Conclusion

The project would have a less than significant impact on utilities and service systems. **(Less than Significant Impact)**

4.19 WILDFIRE

Environmental Setting

The project site is surrounded by commercial, office, private daycare/preschool, and residential development and is not located within a Very-High Fire Hazard Severity Zone for wildland fires, as designated by the California Department of Forestry and Fire Protection (Cal Fire, Fire Hazard Severity Maps, 2007, 2008).

Regulatory Framework

Public Resources Code 4201 – 4204

Sections 4201 through 4204 of the California Public Resources Code direct Cal Fire to map Fire Hazard Severity Zones (FHSZ) within State Responsibility Areas (SRA), based on relevant factors such as fuels, terrain, and weather. Mitigation strategies and building code requirements to reduce wildland fire risks to buildings within SRAs are based on these zone designations.

Government Code 51175 – 51189

Sections 51175 through 51189 of the California Government Code directs Cal Fire to recommend FHSZs within Local Responsibility Areas (LRA). Local agencies are required to designate VHFHSZs in their jurisdiction within 120 days of receiving recommendations from Cal Fire, and may include additional areas not identified by Cal Fire as VHFHSZs.

California Fire Code

Chapter 49 of the 2016 California Fire Code establishes the requirements for development within wildland-urban interface areas, including regulations for wildfire protection building construction, hazardous vegetation and fuel management, and defensible space maintained around buildings and structures.

Wildfire Environmental Checklist

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3,23
b. Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3,23

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3,15,23

Impacts Evaluation

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones. Therefore, this section of the CEQA Guidelines do not apply. **(No Impact)**

4.20 MANDATORY FINDINGS OF SIGNIFICANCE

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Does the project:					
a. Have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1-26
b. 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 the past projects, the effects of other current projects, and the effects of probable future projects.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1-26
c. Have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1-26

Impacts Evaluation

- a. Would 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 individual sections, the proposed project would not degrade the quality of the environment with implementation of the identified Standard Permit Conditions, Conditions of Approval, and Mitigation Measures.

As discussed in Section 4.3 *Air Quality*, the proposed project would be required to implement the identified Standard Permit Conditions during all phases of construction to reduce dust and

other particulate matter emissions. In addition, implementation of Mitigation Measure MM AQ-1 would reduce single-source community risk impacts from construction of the project to a less than significant level.

As discussed in Section 4.4 *Biological Resources*, the project would not impact sensitive habitats or species. With implementation of Mitigation measures MM BIO-1.1 – 1.4, the project would not impact nesting raptors or migratory birds and Standard Permit Conditions are included in the project to replace trees per City standards. The proposed project is consistent with the activity described in Section 2.3.2 of the SCVHP and would require discretionary approval by the City. The project would be subject to all applicable SCVHP conditions and fees prior to the issuance of any grading permits. In addition, all projects in the City, including the proposed project, would be required to pay the cumulative nitrogen deposition fees.

Earthmoving activities on-site may result in the loss of unknown subsurface cultural resources. Implementation of the identified Standard Permit Conditions in Section 4.5 *Cultural Resources* would avoid or reduce impacts to cultural resources to a less than significant level. The project would also implement the identified Standard Permit Conditions listed in Section 4.7 *Geology and Soils* to reduce construction-related erosion impacts. As described in Section 4.8 *Greenhouse Gas Emissions*, because the project is consistent with the General Plan Land Use Designation for the site, it would not result in an additional significant impact related to GHG emissions when compared to those identified in the General Plan FEIR, as supplemented. Regardless, a TDM plan is included in the project to further reduce project GHG emissions.

With implementation of MM HAZ-1.1 and the Standard Permit Conditions identified in Section 4.9 *Hazards and Hazardous Materials*, the proposed project would reduce impacts to construction workers and the public from residual soil contamination from former agricultural operations and ACMs and lead based paint related to building demolition. Standard Permit Conditions are also included in the project to reduce the potential to affect water quality during construction as identified in Section 4.18 *Hydrology and Water Quality*.

As discussed in Section 4.13 *Noise and Vibration*, the project would be required to implement Mitigation Measures MM NOI-1.1 and MM NOI-1.2 and Standard Permit Conditions to reduce construction noise levels at the nearby daycare/preschool facilities and residences. The project would also be required to implement Mitigation Measure MM NOI-2.1 to reduce construction-related groundborne vibration impacts to the adjacent commercial buildings to the south.

The proposed project would require the removal of two ordinance size trees. Based on the analysis provided in this Initial Study, the proposed project would not have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory. Standard Permit Conditions are identified for

potential biological, air quality, archaeological, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, and noise impacts which will reduce these impacts to a less than significant level. **(Less than Significant Impact with Mitigation Incorporated)**

- b. Would 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 the past projects, the effects of other current projects, and the effects of probable future projects).**

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.”

Based on the analysis provided in this Initial Study, the project would not significantly contribute to cumulative impacts, because the proposed project is the redevelopment of an existing commercial site with hotel uses, and is located on a site surrounded by existing urban development that is designated for industrial/commercial and public/quasi-public uses in the City’s General Plan.

Land uses in the project area are just now starting to be redeveloped from what was originally constructed in the 1960’s. Any such projects would have been required to mitigate for impacts and include Standard Permit Conditions to reduce impacts and not contribute to cumulative traffic, air quality, noise, or greenhouse gas emissions. In addition, Standard Permit Conditions and Mitigation Measures identified in this Initial Study would reduce environmental impacts to a less than significant level and would not significantly contribute to cumulative impacts in the area.

Cumulative Air Quality Impacts

There are sensitive receptors located approximately 120 feet east (residential), 75 feet northeast (Bright Horizons daycare/preschool), and 180 feet west (KinderCare daycare/preschool) of the project site. As mentioned previously, BAAQMD recommends that projects be evaluated for community health risk when they are located within 1,000 feet of mobile and permitted stationary sources of TACs.

S. De Anza Blvd., Prospect Road, and SR-85 were identified as potential mobile sources in the project area. A review of the project area indicates four stationary sources were identified; Plant #112257, #111252, and #112604 are gasoline dispensing facilities (GDFs) and Plant

#200777 is a diesel-powered generator. The combined effect of mobile and stationary source in the project area is shown in Table 4.20-1 below.

Table 4.20-1 Cumulative Community Risk Impacts from Combined TAC Sources at MEI				
Source		Maximum Cancer Risk (per million)	PM_{2.5} concentration (µg/m³)	Hazard Index
Project Impacts				
Unmitigated Total/Maximum Project (Years 0-30)		89.8	0.68	0.10
Mitigated Total/Maximum Project (Years 0-30)		8.6	0.09	0.01
<i>BAAQMD Single-Source Threshold</i>		>10.0	>0.3	>1.0
<i>Exceed Threshold?</i>	<i>Unmitigated</i>	Yes	Yes	<i>No</i>
	<i>Mitigated</i>	<i>No</i>	<i>No</i>	<i>No</i>
Cumulative Sources				
S.R. 85		5.8	0.29	--
S. De Anza Blvd (N-S), ADT 29,420, MEI 340 feet east		3.5	0.12	--
Prospect Rd (E-W), ADT 16,165, MEI 840 feet north		1.0	0.03	--
Plant #112257 (GDF)		0.4	--	<0.01
Plant #111252 (GDF)		0.3	--	<0.01
Plant #200777 (Generator)		0.4	<0.01	--
Plant #112604 (GDF)		0.1	--	<0.01
Combined Sources	Unmitigated	101.3 (infant)	<1.13	<0.13
	Mitigated	20.1 (infant)	<0.54	<0.04
<i>BAAQMD Cumulative Source Threshold</i>		>100	>0.8	>10.0
<i>Exceed Threshold?</i>	Unmitigated	Yes	Yes	<i>No</i>
	Mitigated	<i>No</i>	<i>No</i>	<i>No</i>

The cumulative community risk impacts at the sensitive receptor most affected by construction and operation (i.e. the MEI) would be significant. The project's unmitigated combined community risk from project construction and operation activities would exceed the annual cancer risk threshold of 100.0 per million and 0.8 µg/m³ for PM_{2.5} concentration. **(Significant Cumulative Impact)**

The proposed project includes Mitigation Measure MM AQ-1 as well as Standard Permit Conditions and Conditions of Approval to reduce project-level and cumulative air quality impacts to a less than significant level. With the use of U.S. EPA Tier 4 interim engine standards, the cumulative maximum increased residential cancer risk from construction, assuming infant exposure, would 20.1 in one million for cancer risk and less than 0.54 $\mu\text{g}/\text{m}^3$ for PM2.5 concentration. With the implementation of MM AQ-1 and Standard Permit Conditions, risk levels would not exceed the BAAQMD cumulative significance thresholds. **(Less than Significant Impact with Mitigation Incorporated)**

c. Have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?

Based on the analysis provided in this Initial Study, the proposed project includes all necessary Mitigation Measures, Standard Permit Conditions, and Conditions of Approval to reduce potential direct and indirect impact on human beings, including hazardous materials, noise, and air quality. Therefore, the project would not result in environmental effects that would cause substantial adverse effects on human beings, either directly or indirectly. **(Less than Significant Impact with Mitigation Incorporated)**

Conclusion

With the implementation of all identified Mitigation Measures, Standard Permit Conditions, and Conditions of Approval, the project would have less than significant impacts related to the CEQA mandatory findings of significance. **(Less than Significant Impact with Mitigation Incorporated)**

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