Initial Study and Mitigated Negative Declaration

Rotten Robbie # 11

City File No. CP-18-027

September 2020

Prepared by the:

City of San Jose
200 E. Santa Clara Street
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LIST OF ACRONYMS AND ABBREVIATIONS

ABAG	Association of Bay Area Governments
ACMs	Asbestos-containing materials
AF	Acre-feet
amsl	Above mean sea level
APN	Assessor's Parcel Number
BAAQMD	Bay Area Air Quality Management District
BMPs	Best Management Practices
CAA	Clean Air Act
CAAQS	California Ambient Air Quality Standards
CalEEMod	California Emissions Estimator Model
Cal/EPA	California Environmental Protection Agency
CAL FIRE	California Department of Forestry and Fire protection
CalRecycle	California Department of Resources Recycling and Recovery
CAPCOA	California Air Pollution Control Officers Association
CARB	California Air Resources Board
CBC	California Building Code
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CGS	California Geological Survey
City	City of San Jose
CH_4	Methane
CMP	Congestion Management Program
CN	Commercial Neighborhood Zoning District
CO	Carbon monoxide
CO_2	Carbon dioxide
CO_2e	Carbon dioxide equivalents
CP	Commercial Pedestrian Zoning District
CRHR	California Register of Historical Resources
CSMHSA	County of San Mateo Health Services Agency
CWA	Clean Water Act
dB	Decibel
diesel PM	Diesel particulate matter
DOC	California Department of Conservation

LIST OF ACRONYMS AND ABBREVIATIONS

DOF	California Department of Finance
DTSC	Department of Toxic Substances Control
DWR	Department of Water Resources
EIR	Environmental Impact Report
EO	Executive Order
FEMA	Federal Emergency Management Agency
FHSZ	Fire Hazard Severity Zone
FHWA	Federal Highway Administration
FTA	Federal Transit Authority
GHG	Greenhouse gases
ITE	Institute of Transportation Engineers
kWh	Kilowatt hours
LEED	Leadership in Energy and Environmental Design
L_{dn}/DNL	Average daily noise levels/day-night average level
L_{eq}	Average hourly noise level
LOS	Level of Service
LTA	Local Transportation Analysis
LUST	Leaking underground storage tank
MBTA	Migratory Bird Treaty Act of 1918
mgd	Million gallons per day
MLD	Most Likely Descendant
mph	Miles per hour
MRP	Municipal Regional Stormwater NPDES Permit
MTC	Metropolitan Transportation Commission
MRZ	Mineral Resource Zone
NAAQS	National Ambient Air Quality Standards
NAHC	Native American Heritage Commission
NBD	Neighborhood Business District
NCC	Neighborhood/Community Commercial
NFIP	National Flood Insurance Program
NO_2	Nitrogen dioxide
NO_x	Nitrogen oxide
NPDES	National Pollutant Discharge Elimination System
NRCS	Natural Resources Conservation Service

LIST OF ACRONYMS AND ABBREVIATIONS

NRHP	National Register of Historic Places
N_2O	Nitrous oxide
OEHHA	Office of Environmental Health Hazard Assessment
OSHA	Occupational Safety and Health Administration
O_3	Ozone
PBCE	Planning, Building and Code Enforcement
PG&E	Pacific Gas and Electric Company
PM_{10}	Coarse particulate matter
$PM_{2.5}$	Fine particulate matter
PPV	Peak particle velocity
PRC	Public Resources Code
ROG	Reactive organic gas
RPS	Renewables Portfolio Standard
RTP	Regional Transportation Plan
RWF	San Jose-Santa Clara Regional Wastewater Facility
RWQCB	Regional Water Quality Control Board
SB	Senate Bill
SCS	Sustainable Communities Strategy
SCVHA	Santa Clara Valley Habitat Agency
SCVHP	Santa Clara Valley Habitat Plan
SCVURPPP	Santa Clara Valley Urban Runoff Pollution Prevention Program
SCVWD	Santa Clara Valley Water District
SFBAAB	San Francisco Bay Area Air Basin
SIP	State Implementation Plan
SJFD	San Jose Fire Department
SJPD	San Jose Police Department
SJPL	San Jose Public Library
SJW	San Jose Water Company
SMARA	Surface Mining and Reclamation Act of 1975
SO_2	Sulfur dioxide
SRA	State Responsibility Area
SWPPP	Stormwater pollution prevention plan
SWRCB	State Water Resources Control Board
TAC	Toxic Air Contaminants

LIST OF ACRONYMS AND ABBREVIATIONS

TCMs	Treatment Control Measures
USEPA	U.S. Environmental Protection Agency
USFWS	U.S. Fish and Wildlife Service
USGS	U.S. Geological Survey
UST	Underground storage tank
V/C	Volume-to-capacity ratio
VHFHSZ	Very High Fire Hazard Severity Zone
VMT	Vehicle miles traveled
VTA	Santa Clara Valley Transportation Authority

SECTION 1.0 BACKGROUND INFORMATION

This Initial Study has been prepared to conform to the requirements of the California Environmental Quality Act (CEQA), the CEQA Guidelines (Title 14, California Code of Regulations [CCR] §15000 et seq.), and the regulations and policies of the City of San Jose (City). The purpose of this Initial Study is to provide objective information regarding the environmental consequences of the Proposed Project to the decision makers considering the Project.

The City is the lead agency under CEQA for the Proposed Project. The City has prepared this Initial Study to evaluate the environmental impacts that might reasonably be anticipated to result from implementation of this Project, as described below.

This Initial Study and all documents referenced in it are available for public review in the Department of Planning, Building and Code Enforcement at the City of San Jose, 200 E. Santa Clara Street, San Jose, California 95113.

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SECTION 2.0 PROJECT SUMMARY

2.1 Summary

Project Title:	Rotten Robbie #11 Project.
File Nos.	C19-016 and CP18-027
Lead Agency Name and Address:	Bethelhem Telahun City of San Jose, Department of Planning, Building and Code Enforcement 200 Santa Clara Street San Jose, California 95113 Phone 408-535-7874 Email – Bethelhem.telahun@sanjoseca.gov
Project Location:	The Project site is located at 2305 Story Road in the City of San Jose. (Figure 1. *Project Vicinity* and Figure 2. *Project Site*). The approximate center of the site is located at latitude 37.347429˚ and longitude -121.832473˚. Assessor's Parcel Number (APN) 484-35-022.
Project Description Summary Statement:	The Project includes a conforming rezoning from CP - Commercial Pedestrian Zoning District to CN - Commercial Neighborhood Zoning District, the demolition of the approximately 1,500-square-foot existing convenience store and existing driveway entrances, and the development of an approximately 3,200-square-foot convenience store building along with 24-hour use, off-sale of alcohol, and 11 parking spaces and the replacement of the demolished driveway entrances.
Existing General Plan Designation:	Neighborhood/Community Commercial (NCC)
Existing Zoning:	CP- Commercial Pedestrian
Surrounding Land Uses	Single-family residential, two-family residential, commercial pedestrian, and planned development.

2.2 Project Location

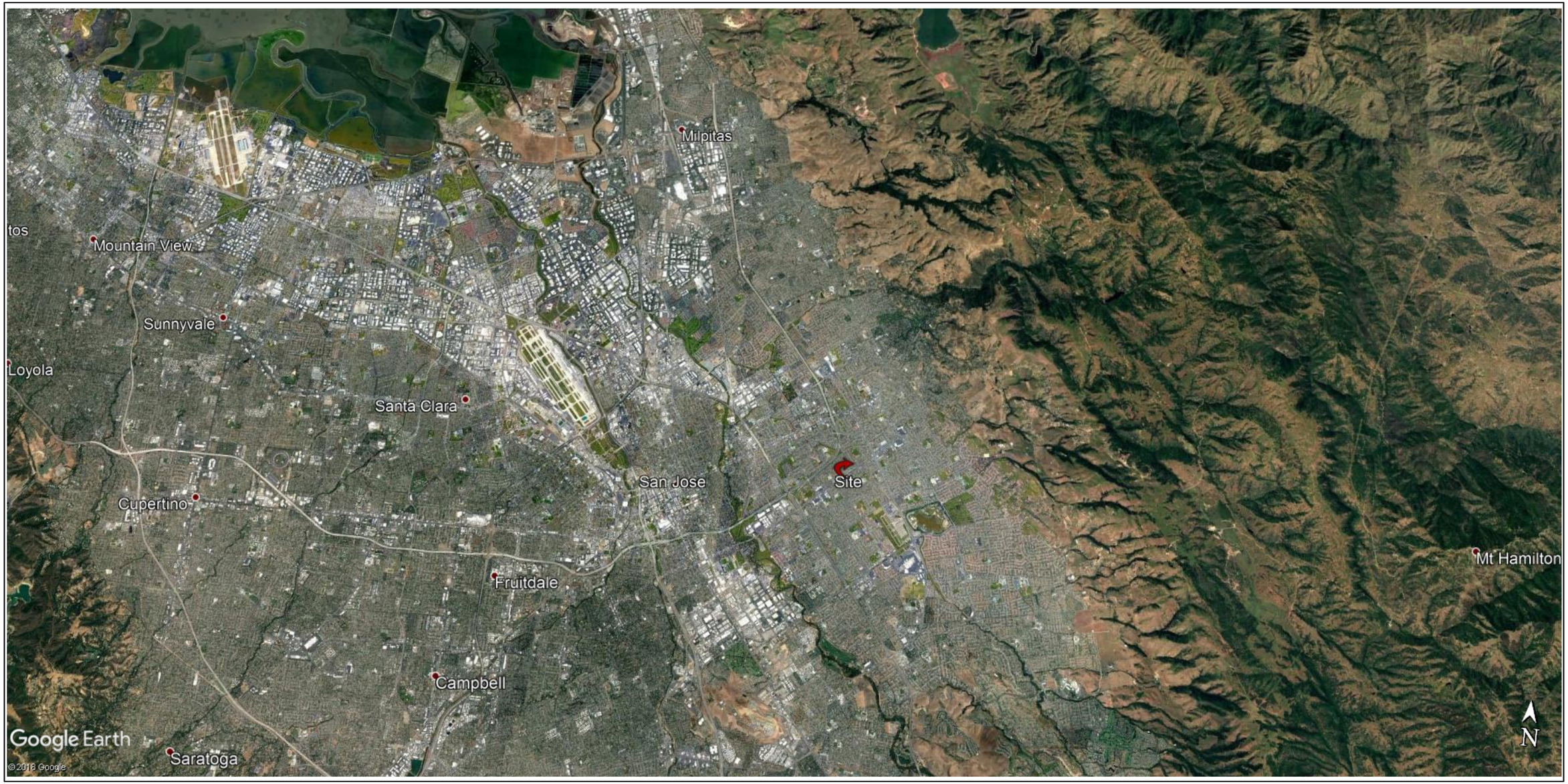
The Project site is located in the city of San Jose, California (see Figure 1), at the corner of the Story Road / S. Jackson Avenue intersection (2305 Story Road) in the central portion of the city. The 0.52-acre site (see Figure 2*)* is east of Downtown and is located in a fully developed portion of the city.

2.3 Environmental Setting / Surrounding Land Use

The Project site is currently an operational gasoline dispensing station with 12 fueling positions, underground gasoline storage tanks and a 1,500-square- foot convenience store. The site is flat, with an elevation of approximately 110 feet above mean sea level (amsl) (Environmental Investigation Services, Inc 2018). The site has been an operational gas station and convenience store since the early 1970s. The site can be accessed from either Story Road or S. Jackson Street, which traverses the western and eastern boundaries of the site, respectively. The Proposed Project site includes APN 484-35-022.

The Project site has a City of San Jose General Plan designation of Neighborhood/Community Commercial (NCC). The General Plan identifies the NCC designation as a land use that supports a very broad range of commercial activity, including commercial uses that serve the communities in neighboring areas, such as neighborhood serving retail and services and commercial/professional office development. General office uses, hospitals and private community gathering facilities are also allowed in this designation (City of San Jose 2011a).

The site is generally bound by residential neighborhoods in all directions, though there are other commercial buildings to the south and west. These surrounding lands are zoned a combination of R-1-8- Single Family Residential, A(PD)- Planned Development, CP- Commercial Pedestrian, and R-2- Two Family Residential.



Map Date: *11/15/2018*
Photo (or Base) Source: *Google Earth 2018*

Figure 1 Vicinity Map

ECORP Consulting, Inc.
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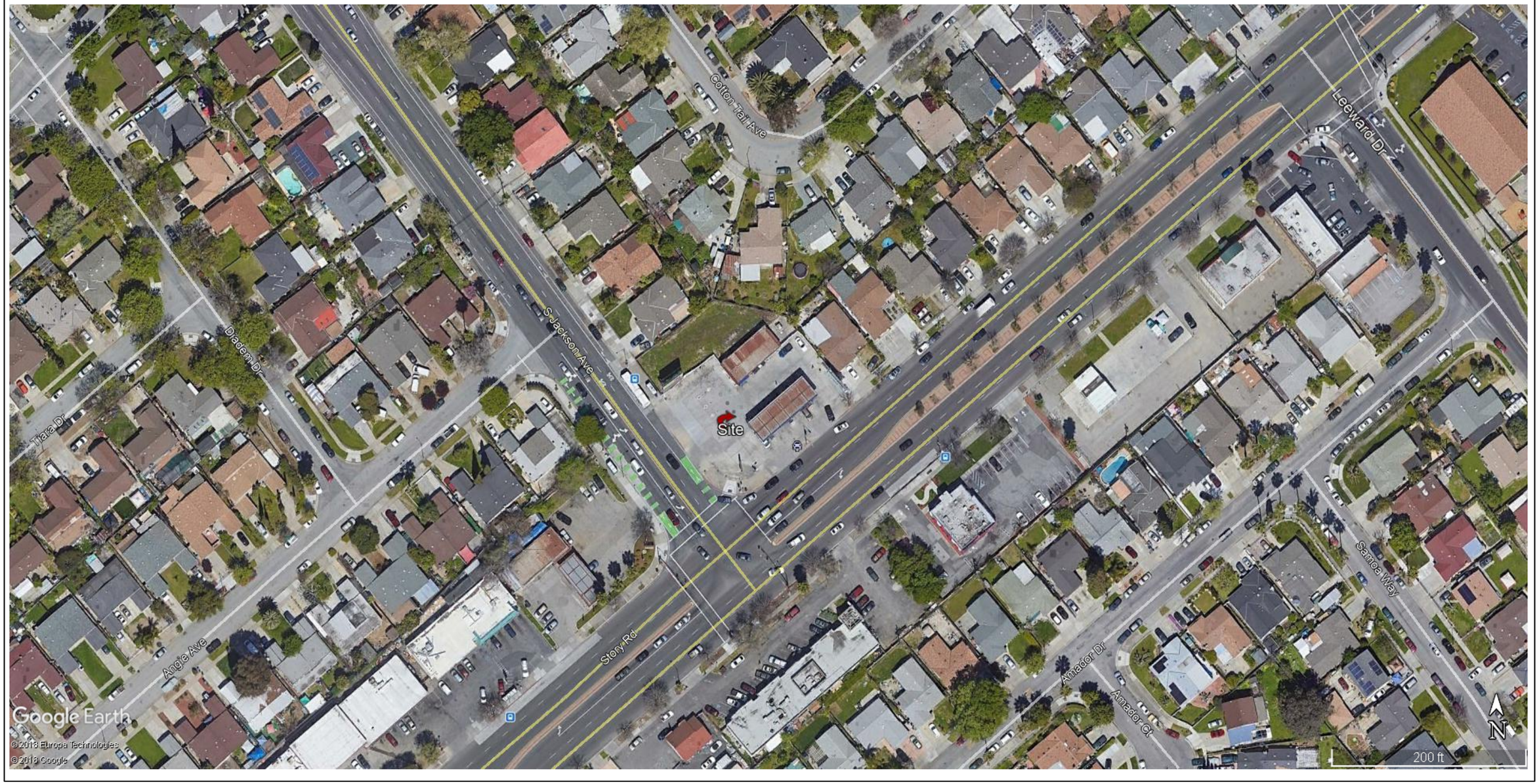

Map Date: *11/15/2018*
Photo (or Base) Source: *Google Earth 2018*

Figure 2 Project Site

ECORP Consulting, Inc.
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SECTION 3.0 PROJECT DESCRIPTION

3.1 Project Description

Project Characteristics

As previously described, the Project site currently contains an operational gasoline dispensing station with 12 fueling positions, underground gasoline storage tanks, and a 1,500-square-foot convenience store. The applicant (Robinson Oil Corporation [Rotten Robbie]) proposes to renovate and reconfigure the existing operation onsite with the demolition of the existing convenience store located at the central portion of the site (see Figure 3). The Project would replace the demolished convenience store building with a new 3,200-square-foot convenience store building located at the northwestern corner of the Project site (see Figure 4). Eleven parking spaces would span the front of the building. The existing fuel island, underground tanks, and pipeline system would remain and will remain untouched and fully intact during the demolition and construction of the new building.

Vehicular Site Access

The site is located at the corner of Story Road / S. Jackson Avenue intersection and has three driveways that access the Project site. These existing driveway entrances would be demolished and replaced. The existing two driveways along Jackson Avenue will be reduced to one driveway.

Parking

The current parking spaces related to the gas station use would be demolished and replaced with 11 new parking spaces that would span the front of the new convenience store.

Landscaping

The entire Project site is paved, and no new landscaping is proposed for the new convenience store building.

Public Improvements

The Project includes the construction of new 12-foot-wide attached sidewalk with tree wells along Story Road, and 13-foot-wide attached sidewalk with tree wells along S. Jackson Avenue project frontages.

3.2 Project Construction

The construction phase is anticipated to last between six months to one year. Construction staging and storage areas are anticipated to be on the Project site. Construction of the Project would not require the use of a pile driver, as a deep foundation is not included as part of the Project design.

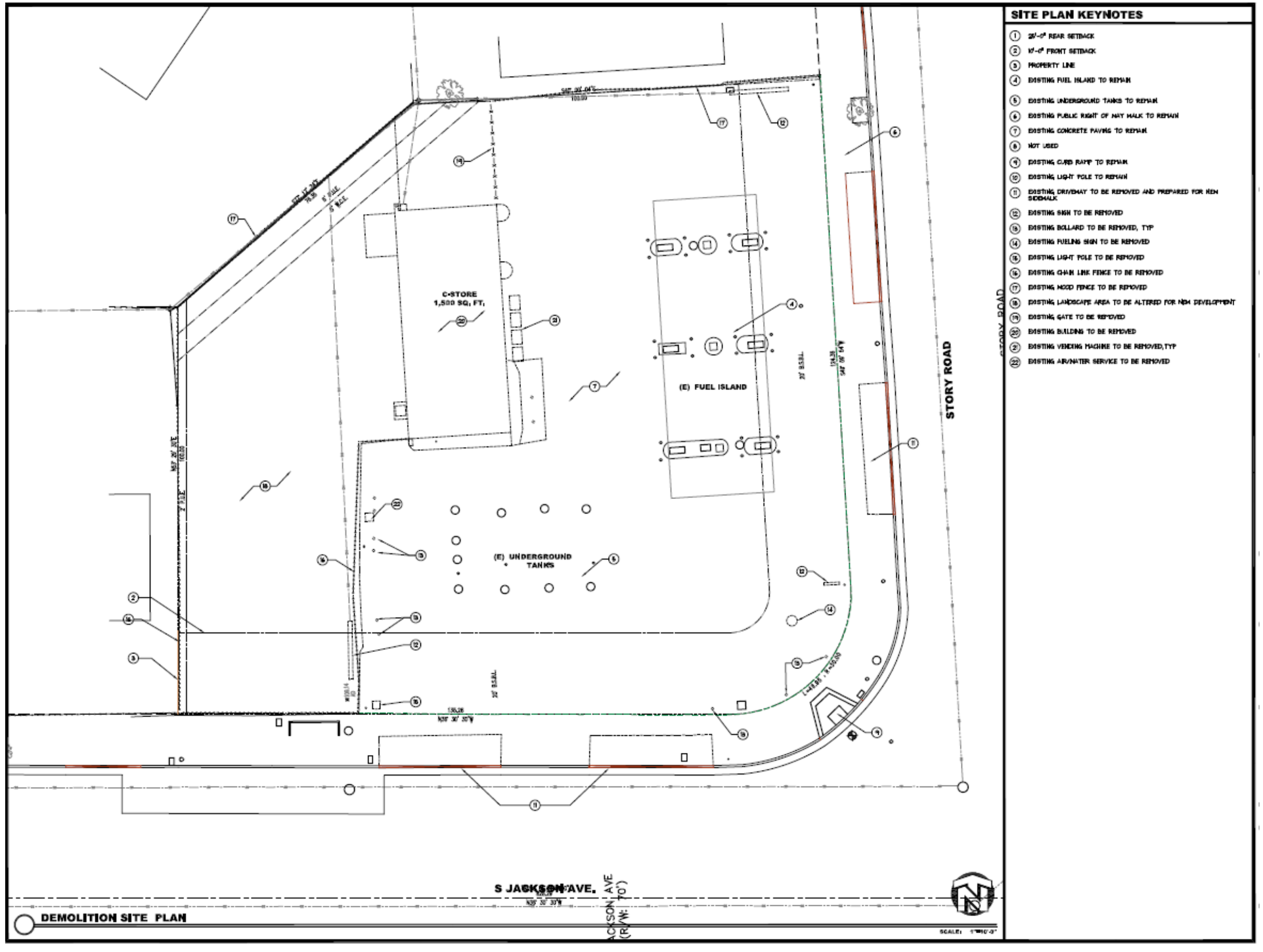
3.3 Regulatory Requirements, Permits, and Approvals

The following approvals and regulatory permits would be required for implementation of the Proposed Project.

Lead Agency Approval

The City of San Jose is the lead agency for the Proposed Project. Project-related approvals, agreements, and/or permits from the City include:

- Conforming Rezoning
- Conditional Use Permit
- Building Clearances: Demolition Permit, Building Permit
- Public Works Clearances: Grading Permit, Public Street Improvement Permit



Map Date: *11/15/2018*
Photo (or Base) Source: *K12 Architects Inc.*

Figure 3 Demolition Plan

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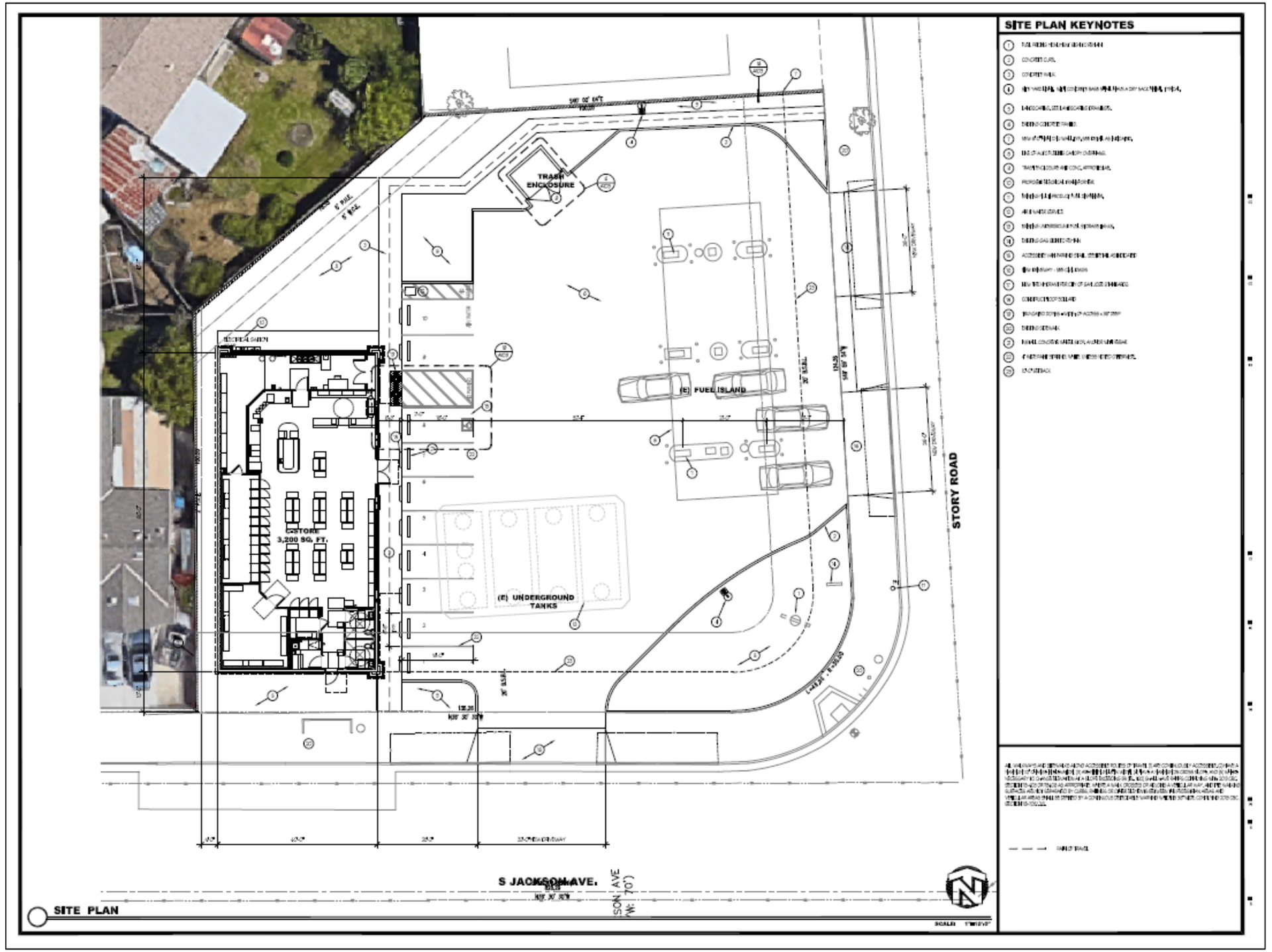

Map Date: *08/15/2020*
Photo (or Base) Source: *K12 Architects Inc.*

Figure 4 Project Site Plan

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SECTION 4.0 ENVIRONMENTAL CHECKLIST AND DISCUSSION

4.1 Environmental Factors Potentially Affected

☐ Aesthetics	☐ Greenhouse Gas Emissions	☐ Public Services
☐ Agriculture and Forestry Resources	☒ Hazards/Hazardous Materials	☐ Recreation
☐ Air Quality	☐ Hydrology/Water Quality	☐ Transportation
☐ Biological Resources	☐ Land Use and Planning	☐ Tribal Cultural Resources
☐ Cultural Resources	☐ Mineral Resources	☐ Utilities and Service Systems
☐ Energy	☐ Noise	☐ Wildfire
☐ Geology and Soils	☐ Population and Housing	☐ Mandatory Findings of Significance

Note to the Reader: In a December 2015 opinion [California Building Industry Association v. Bay Area Air Quality Management District, 62 Cal. 4th 369 (No. S 213478)], the California Supreme Court confirmed that CEQA, with several specific exceptions, is concerned with the impacts of a project on the environment and 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 Jose currently has policies that address existing conditions (e.g., air quality, noise, hazards etc.) 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., Environmental Impact Report [EIR] or Initial Study) can include information of interest even if such information is not an "environmental impact" as defined by CEQA.

Therefore, where applicable, in addition to describing the impacts of the project on the environment, this Initial Study discusses "planning considerations" that relate 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.

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4.2 Aesthetics

4.2.1 Environmental Setting

The city of San Jose is located in the central and eastern portions of the Santa Clara Valley, between the foothills of the Santa Cruz Mountains to the west, the Santa Teresa Hills to the south and the Diablo Mountain Range to the east. Diked ponds, saltmarsh, the waters of San Francisco Bay, and the adjacent cities of Milpitas and Santa Clara border San Jose to the north (City of San Jose 2011b).

In addition, the Project site is located in a Neighborhood Business District (NBD) known as Story Road. NBDs are commercial corridors which contribute to neighborhood identify by serving as a focus for neighborhood activity. The NBD program seeks to preserve, enhance, and revitalize San Jose's neighborhood-serving commercial areas through the coordination of public and private improvements, such as streetscape beautification, and façade upgrading.

Visual Character of the Project Site

The Project site is located in a fully developed urban area of San Jose with no natural un-developed land for many miles. The topography of the site is flat, with an elevation of approximately 110 amsl over the 0.52-acre site. The existing gas station has been on the Project site since the late 1970s.

The Proposed Project is surrounded by residential uses and commercial uses in the immediate vicinity. Story Road and S. Jackson Avenue are two lane roads that boarder the Project site.

Lighting

Individuals have a range of reactions to the perceived effects of lighting on the environment. As such, whether light is obtrusive is generally based on perception, but is also a function of the actual amount of light emitted from a source. The following are examples of light levels, expressed in foot-candles:[1]

- Direct sunlight - 10,000
- Full daylight - 1,000
- Twilight - 1
- Full moon - 0.1
- Covered parking lot - 5
- Gas station canopy - 12.5
- Department store - 40
- Grocery store – 50

Typical nighttime street lighting requirements are 1- to 3-foot-candles, which is generally considered to be unobtrusive. A typical example of glare effects is the car headlight. When viewed directly in front of a vehicle with the headlights on full beam, vision is impaired, resulting in disabling glare. However, when viewed from the side, the same headlights would not impair vision.

[1] Foot-candle (fc): A unit of measure of the intensity of light falling on a surface, equal to one lumen per square foot and originally defined with reference to a standardized candle burning at one foot from a given surface. One fc = 0.01609696 watts. Source: Engineering Toolbox, n.d.

Spill Light

Spill light or light trespass is the light that illuminates surfaces beyond the property line. Typically, spill lighting is from a more horizontal source such as streetlights and way-finding/security lighting than sky glow, which emanates from a more vertical source into the atmosphere. Spill light can be accurately calculated, and the effects of spill light can be measured for general understanding and comparison. However, light that is considered to be obtrusive is a subject of debate. A spill light impact is generally considered significant if the increase in spill lighting would exceed one foot-candle at the property line of the nearest sensitive receptor, sky glow is perceptibly increased, or glare is at a level such that it impairs vision.

Sky Glow

Sky glow is the light that illuminates the sky above the horizon and reflects off of moisture and other tiny particles in the atmosphere. Sky glow would be considered a significant impact if it were a permanent addition to the environment. Control features are available on the light sources to reduce sky glow and glare from nighttime lighting. These control features direct light downward, thereby reducing the spill of light that causes sky glow and reducing glare.

Glare

Glare can be described as direct or reflected light, which can then result in discomfort or disability. A well-designed lighting system controls light to provide maximum useful on-field illumination with minimal destructive off-site glare.

4.2.2 Regulatory Setting

State

State Scenic Highways Program

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. In addition, the City's General Plan defines scenic vistas in San Jose 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 San Jose, can also be defined as scenic resources by the City. The designation of a scenic route applies to routes affording especially aesthetically pleasing views.

Local

Council Policy 4-3 Outdoor Lighting Policy

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

General Plan

The *Envision San Jose 2040 General Plan* includes the following aesthetic-related policies applicable to the Proposed Project:

Community Design - General City Design

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

Policy CD-1.7: 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-way.

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

Policy CD-10.2: Require that new public and private development adjacent to Gateways, freeways and Grand Boulevards consist of high-quality architecture, use high-quality materials, and contribute to a positive image of San Jose.

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

4.2.3 Aesthetics (I) Environmental Checklist and Discussion

Would the Project:		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
a)	Have a substantial adverse effect on a scenic vista?	☐	☐	☒	☐

Scenic vistas include natural features such as topography, watercourses, rock outcrops, natural vegetation, and man-made alterations to the landscape. Based on the City's General Plan, views of hillside areas, including the foothills of the Diablo Range, Silver Creek Hills, Santa Teresa Hills, and foothills of the Santa Cruz Mountains are scenic features in the San Jose area. The Project's surrounding vicinity is urban in nature and consists of typical urban development. The Project site does not contain unique visual features that would distinguish it from surrounding areas nor is it located within a designated scenic vista. In addition, there are no distinct or distinguishing rock features on the Project site.

The Project proposal is to renovate and reconfigure the existing operation on-site with the demolition of the existing convenience store, which has been a well-used structure for more than 50 years. The Project would replace the demolished store building with a new and improved store building. Proposed Project

design has been evaluated according to City's Commercial Design Guidelines and will be designed to be architecturally consistent with surrounding urban uses.

No scenic vistas, such as hills and mountains that frame the valley floor, the baylands or the urban skyline can be viewed from the Project site as they are blocked by intervening buildings and urban development. As such, the Project would have a less than significant impact on a scenic vista.

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒

The Proposed Project is not located within the vicinity of an officially designated scenic highway or City-designated scenic route. No natural scenic resources, such as rock outcroppings, are present onsite or in the Project area. Therefore, the Project would not damage scenic resources, such as rock outcroppings and historic buildings, since the property does not contain any trees or other notable aesthetic features. No impact would occur.

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
c) In a non-urbanized area substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point.) If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality	☐	☐	☒	☐

The visual character of the site would remain largely unchanged with implementation of the Project as it proposes to demolish the existing storage building and replace it with a new convenience store. The overall character of the site as a commercial use would remain unchanged.

The Project proposes a Conforming Rezoning from the CP - Commercial Pedestrian to CN - Commercial Neighborhood. The proposed rezoning is in conformance with the General Plan designation of NCC. The CN Commercial Neighborhood Zoning District is intended to provide for neighborhood serving commercial uses, consistent with the Proposed Project. The Project is also consistent with General Plan policies relating to scenic quality focused on creating a well-designed, unique, and vibrant public realm that supports community interaction and attract residents, business, and visitors.

Given its location within a developed area along Story Road and its consistency with the zoning and other regulations related to scenic quality, the Project would not degrade the existing visual character or quality of the site and its surroundings within this urbanized area. The Project would have a less than significant impact on visual character on the site or surrounding area.

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?	☐	☐	☒	☐

No new light or glare sources visible beyond the Project site would be introduced during construction of the Proposed Project. All construction work will be performed during normal daylight hours, thereby eliminating any temporary light source necessary for nighttime work.

The Project would renovate the site with the same land use as the current development and thus would not result in the increase of artificial light and glare into the environment beyond existing conditions. During night operations, interior and exterior lighting from the site would be visible from the surrounding area, as it is under current conditions. Exterior lighting would continue to be used throughout the Project site in order to facilitate pedestrian and vehicle movements. However, all lighting designs and locations would be consistent with adopted City of San Jose lighting standards. For instance, the Proposed Project will comply with the City Council Lighting Policy 4-3, which requires private development to use energy-efficient outdoor lighting that is fully shielded and not directed skyward. Lighting at the Proposed Project would also be required to conform with City of San Jose's Interim Lighting Policy Broad Spectrum Lighting for Private Development which prohibits light trespass. All the ground mounted light fixtures will comply with the height restriction per City Municipal Code Section 20.50.250. These standards are designed to minimize light impacts while still providing security and the necessary lighting needed to serve the public. Compliance with these standards would reduce the potential lighting impacts from the Project's building and exterior lighting to a less than significant level.

4.2.4 Mitigation Measures

No significant impacts were identified, and no mitigation measures are required.

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4.3 Agriculture and Forestry Resources

4.3.1 Environmental Setting

The California Department of Conservation (DOC) manages the Farmland Mapping and Monitoring Program, which identifies and maps significant farmland. Farmland is classified using a system of five categories including Prime Farmland, Farmland of Statewide Importance, Unique Farmland, Farmland of Local Importance, and Grazing Land. The classification of farmland as Prime Farmland, Unique Farmland, and Farmland of Statewide Importance is based on the suitability of soils for agricultural production, as determined by a soil survey conducted by the Natural Resources Conservation Service (NRCS). The California DOC manages an interactive website, the California Important Farmland Finder.

The California DOC (2016) identifies the Project site as Urban and Built-up Land. This site is not subject to a Williamson Act contract, and the site is zoned CP-Commercial Pedestrian in the City of San Jose Zoning Ordinance. This zoning district is not intended for agricultural uses. The Project site contains no forest or timber resources and is not zoned for forestland protection or timber production. The entirety of the Project would occur on the existing 0.52-acre site. The Project site is not located adjacent to or within the vicinity of any farmland.

4.3.2 Regulatory Setting

State

Williamson Act

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

Forest Land and Timberland

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

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

4.3.3 Agriculture and Forestry Resources (II) Environmental Checklist and Discussion

Would the Project:	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less than Significant Impact	No Impact
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?	☐	☐	☐	☒

The California DOC identifies the Project site as Urban and Built-up Land on the Important Farmlands Map for Santa Clara County and does not contain any prime farmland, unique farmland, or farmland of statewide importance. The Project would have no impact in this area.

Would the Project:	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less than Significant Impact	No Impact
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒

This site is not subject to a Williamson Act contract. The site is zoned CP-Commercial Pedestrian in the City of San Jose Zoning Ordinance. There are no Williamson Act contract lands within the vicinity of the Project site. The Project would have no impact in this area.

Would the Project:	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less than Significant Impact	No Impact
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))?	☐	☐	☐	☒

This site is zoned CP –Commercial Pedestrian by the City. No forest lands as defined in PRC section 12220(g), timberland as defined by PRC section 4526, or property zoned for Timberland Production as defined by Government Code section 51104(g) exists on the Project site or within the vicinity of the Project. The Project would have no impact in this area.

Would the project:	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less than Significant Impact	No Impact
d) Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒

No forest lands exist on the Project site or within the vicinity of the Project, see Item c) above. No other changes to the environment will occur from the project that will result in the loss of forest land or conversion of forest land to non-forest uses. The Project would have no impact in this area.

Would the project:	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less than Significant Impact	No Impact
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?	☐	☐	☐	☒

The surrounding land is developed and identified as Urban and Built-up Land by the DOC. No existing agricultural uses or forest land exist within the Project vicinity. The Proposed Project will not involve changes in the existing environment which, due to their location or nature, could result in conversion of farmland or forest land, since none are present on this property. The Project would have no impact in this area.

4.3.4 Mitigation Measures

No significant impacts were identified, and no mitigation measures are required.

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4.4 Air Quality

This section describes the environmental setting for air quality, including the regulatory setting and existing site conditions and the impacts on air quality that would result from the Proposed Project. An air quality analysis report was completed for the Proposed Project (ECORP 2020). This technical report is provided in Appendix A and summarized below.

4.4.1 Environmental Setting

The California Air Resources Board (CARB) and the U.S. Environmental Protection Agency (USEPA) focus on the following criteria pollutants to determine air quality: ozone (O_3), carbon monoxide (CO), nitrogen dioxide (NO_2), sulfur dioxide (SO_2), coarse particulate matter (PM_{10}), fine particulate matter ($PM_{2.5}$), and lead.

Toxic Air Contaminants (TAC) are separated into categories of carcinogens and noncarcinogens. Carcinogens, such as diesel particulate matter (diesel PM), are considered dangerous at any level of exposure. Noncarcinogens, however, have a minimum threshold for dangerous exposure. Common sources of TACs include, but are not limited to: gas stations, dry cleaners, diesel generators, ships, trains, construction equipment, and motor vehicles.

Air quality in a region is determined by the region's topography, meteorology, and existing air pollutant sources. These factors are discussed below, along with the current regulatory structure that applies to the San Francisco Bay Area Air Basin (SFBAAB), which encompasses the Project site, pursuant to the regulatory authority of the Bay Area Air Quality Management District (BAAQMD).

Topography and Air Quality

San Jose is in the Santa Clara Valley climatological sub-region of the SFBAAB. The northwest–southeast-oriented Santa Clara Valley is bounded by the Santa Cruz Mountains to the west, the Diablo Range to the east, the San Francisco Bay to the north, and the convergence of the Gabilan Range and the Diablo Range to the south. Winter temperatures are mild, except for very cool but generally frostless mornings. At the northern end of the Santa Clara Valley, San Jose Airport reports mean maximum temperatures ranging from the high 70s to the low 80s during the summer and from the high 50s to the low 60s during the winter, and mean minimum temperatures ranging from the high 50s in the summer to the low 40s in the winter. Farther inland, where the moderating effect of the bay is not as strong, temperature extremes are greater.

The wind patterns in the valley are influenced greatly by the terrain, resulting in a prevailing flow roughly parallel to the valley's northwest–southeast axis with a north-northwesterly ocean breeze that flows up the valley in the afternoon and early evening and a light south-southeasterly flow during the late evening and early morning. In the summer, a convergence zone is sometimes observed in the southern end of the valley between Gilroy and Morgan Hill when air flowing from the Monterey Bay through the Pajaro Gap is channeled northward into the south end of the Santa Clara Valley and meets with the prevailing north-northwesterly winds. Wind speeds are greatest in the spring and summer; nighttime and early morning

hours have light winds and are frequently calm in all seasons, while summer afternoons and evenings can be windy.

Air pollution potential in the Santa Clara Valley is high. The valley has a large population and the largest complex of mobile sources in the Bay Area, making it a major source of carbon monoxide, particulate, and photochemical air pollution. In addition, photochemical pollution precursors from San Francisco, San Mateo, and Alameda counties can be carried by the prevailing winds to the Santa Clara Valley. Geographically, the valley tends to channel pollutants to the southeast because of its northwest–southeast orientation and its narrowing to the southeast.

Meteorological factors also have an effect on emissions levels. On summer days, pollutants can be recirculated by the prevailing northwesterly winds in the afternoon and by the light flow in the late evening and early morning. This recirculation significantly increases the impact of emissions. Inversions, created by warm, stable air aloft that limits the vertical dispersion of air pollutants, increase the emissions impact in all seasons. During days in the late fall and winter, clear, calm, and cold conditions associated with a strong surface-based temperature inversion tend to prevail, which can result in high levels of particulate and carbon monoxide. Though they can be found during all seasons in the Bay Area, inversions are particularly prevalent in the summer months when they are present about 90 percent of the time, both in the morning and in the afternoon.

Criteria Air Pollutants

Air pollutants emitted into the ambient air by stationary and mobile sources are regulated by federal and state law. These regulated air pollutants are known as criteria air pollutants and are categorized into primary and secondary pollutants. Primary air pollutants are those that are emitted directly from sources. CO, reactive organic gases (ROG), nitrogen oxide (NO_X), SO_2, PM_{10} and $PM_{2.5}$, lead, and fugitive dust are primary air pollutants. Of these, CO, SO_2, PM_{10}, and $PM_{2.5}$ are criteria pollutants. ROG and NO_X are criteria pollutant precursors and go on to form secondary criteria pollutants through chemical and photochemical reactions in the atmosphere. O_3 and NO_2 are the principal secondary pollutants.

O_3, PM_{10}, and $PM_{2.5}$ are the pollutants most intensely affecting the SFBAAB. The USEPA and the State of California have established health-based ambient air quality standards (CAAQS) for 11 air pollutants. As shown in Table 4.4-1, these pollutants are O_3, CO, NO_2, SO_2, PM_{10}, $PM_{2.5}$, lead, sulfates, hydrogen sulfide, vinyl chloride, and visibility-reducing particles. Air quality standards are designed to protect the health and welfare of the populace with a reasonable margin of safety. Table 4.4-1 also shows the federal and State attainment status for the SFBAAB and thus for San Jose. Areas with air quality that exceed adopted air quality standards are designated as nonattainment areas for the relevant air pollutants, while areas that comply with air quality standards are designated as attainment areas for the relevant air pollutants. The SFBAAB's current attainment status with regard to federal and State ambient air quality standards is summarized in Table 4.4-1. The region is nonattainment for federal O_3 and $PM_{2.5}$ standards, as well as for State O_3, PM_{10}, and $PM_{2.5}$ standards (BAAQMD 2017a).

Table 4.4-1. Federal and State Ambient Air Quality Attainment Status for the San Francisco Bay Area Air Basin

Pollutant	Averaging Time	California Standards		National Standards	
		Concentration	Attainment Status	Concentration	Attainment Status
Ozone (O_3)	8 Hours	0.070 ppm (137µg/m^3)	N	0.075 ppm	N
	1 Hour	0.09 ppm (180 µg/m^3)	N	No standard	Not applicable
Carbon Monoxide (CO)	8 Hours	9.0 ppm (10 mg/m^3)	A	9 ppm (10 mg/m^3)	A
	1 Hour	20 ppm (23 mg/m^3)	A	35 ppm (40 mg/m^3)	A
Nitrogen Dioxide (NO_2)	1 Hour	0.18 ppm (339 µg/m^3)	A	0.100 ppm	See footnote #1
	Annual Arithmetic Mean	0.030 ppm (57 µg/m^3)		0.053 ppm (100 µg/m^3)	A
Sulfur Dioxide (SO_2)	24 Hours	0.04 ppm (105 µg/m^3)	A	0.14 ppm (365/µg/m^3)	See footnote # 2
	1 Hour	0.25 ppm (665 µg/m^3)	A	0.075 ppm (196/µg/m^3)	See footnote # 2
	Annual Arithmetic Mean			0.030 ppm (80/µg/m^3)	See footnote # 2
Particulate Matter (PM_{10})	Annual Arithmetic Mean	20 µg/m^3	N	No standard	Not applicable
	24 Hours	50 µg/m^3	N	150 µg/m^3	U/A
Particulate Matter – Fine ($PM_{2.5}$)	Annual Arithmetic Mean	12 µg/m^3	N	12 µg/m^3	A
	24 Hours			35 µg/m^3	N
Sulfates	24 Hours	25 µg/m^3	A	—	—
Lead	30-Day Average	1.5 µg/m^3		—	A
	Calendar Quarter	—	—	1.5 µg/m^3	A
	Rolling 3-Month Average	—	—	0.15 µg/m^3	See footnote #3
Hydrogen Sulfide	1 Hour	0.03 ppm (42 µg/m^3)	U	—	—
Vinyl Chloride (chloroethene)	24 Hours	0.01 ppm (26 µg/m^3)	No information available	—	—
Visibility-Reducing Particles	8 Hours (10:00 to 18:00 PST)	—	—	—	—

Source: BAAQMD 2017a

Notes: A=attainment; N=nonattainment; U=unclassified

mg/m^3=milligrams per cubic meter; ppm=parts per million; ppb=parts per billion; µg/m^3=micrograms per cubic meter

1. *1) To attain this standard, the three-year average of the 98th percentile of the daily maximum 1-hour average at each monitor within an area must not exceed 0.100 ppm (effective January 22, 2010). The U.S. Environmental Protection Agency (USEPA) expects to make a designation for the Bay Area by the end of 2017.*
2. *On June 2, 2010, the USEPA established a new 1-hour SO_2 standard, effective August 23, 2010, which is based on the three-year average of the annual 99th percentile of one-hour daily maximum concentrations. The existing 0.030 ppm annual and 0.14 ppm 24-hour SO_2 National Ambient Air Quality Standards (NAAQS) however must continue to be used until one year following USEPA initial designations of the new one-hour SO_2 NAAQS. The USEPA expects to make designation for the Bay Area by the end of 2017.*
3. *National lead standard, rolling three-month average: final rule signed October 15, 2008. Final designations effective December 31, 2011.*

Toxic Air Contaminants

In addition to the criteria air pollutants listed above, another group of pollutants, commonly referred to as TACs or hazardous air pollutants, can result in health effects that can be quite severe. CARB has designated 244 compounds as TACs. Many TACs are confirmed or suspected carcinogens or are known or suspected to cause birth defects or neurological damage. Secondly, many TACs can be toxic at very low concentrations. For some chemicals, such as carcinogens, there are no thresholds below which exposure can be considered risk-free.

Industrial facilities and mobile sources are significant sources of TACs. However, TAC emissions are also produced by common urban facilities, such as gasoline stations (benzene), hospitals (ethylene oxide), and dry cleaners (perchloroethylene). Automobile exhaust also contains TACs such as benzene and 1,3-butadiene. In addition, diesel PM is a TAC. Diesel PM differs from other TACs in that it is not a single substance but rather a complex mixture of hundreds of substances. BAAQMD (2017b) research indicates that mobile-source emissions of diesel PM, benzene, and 1,3-butadiene represent a substantial portion of the ambient background risk from TACs in the SFBAAB.

The health effects associated with TACs are diverse and generally are assessed locally rather than regionally. TACs can cause long-term health effects such as cancer, birth defects, neurological damage, asthma, bronchitis, or genetic damage, or short-term acute effects such as eye watering, respiratory irritation (a cough), runny nose, throat pain, and headaches. For evaluation purposes, TACs are separated into carcinogens and non-carcinogens based on the nature of the physiological effects associated with exposure to the pollutant. Carcinogens are assumed to have no safe threshold below which health impacts would not occur. Non-carcinogenic substances differ in that there is generally assumed to be a safe level of exposure below which no negative health impact is believed to occur. These levels are determined on a pollutant-by-pollutant basis (BAAQMD 2017b).

Odors

Typically, odors are regarded as an annoyance rather than a health hazard. However, manifestations of a person's reaction to foul odors can range from psychological (e.g., irritation, anger, or anxiety) to physiological (e.g., circulatory and respiratory effects, nausea, vomiting, and headache).

With respect to odors, the human nose is the sole sensing device. The ability to detect odors varies considerably among the population and overall is quite subjective. Some individuals have the ability to smell minute quantities of specific substances; others may not have the same sensitivity but may have sensitivities to odors of other substances. In addition, people may have different reactions to the same odor; in fact, an odor that is offensive to one person (e.g., from a fast-food restaurant) may be perfectly acceptable to another. It is also important to note that an unfamiliar odor is more easily detected and is more likely to cause complaints than a familiar one. This is because of the phenomenon known as odor fatigue, in which a person can become desensitized to almost any odor and recognition only occurs with an alteration in the intensity.

Quality and intensity are two properties present in any odor. The quality of an odor indicates the nature of the smell experience. For instance, if a person describes an odor as flowery or sweet, the person is

describing the quality of the odor. Intensity refers to the strength of the odor. For example, a person may use the word "strong" to describe the intensity of an odor. Odor intensity depends on the odorant concentration in the air. When an odorous sample is progressively diluted, the odorant concentration decreases. As this occurs, the odor intensity weakens and eventually becomes so low that the detection or recognition of the odor is quite difficult. At some point during dilution, the concentration of the odorant reaches a detection threshold. An odorant concentration below the detection threshold means that the concentration in the air is not detectable by the average human.

Sensitive Receptors

Some land uses are considered more sensitive to air pollution than others because of the types of population groups or activities involved. Sensitive population groups include children, the elderly, the acutely ill, and the chronically ill, especially those with cardiorespiratory diseases.

Residential areas are considered to be sensitive receptors to air pollution because residents (including children and the elderly) tend to be at home for extended periods of time, resulting in sustained exposure to any pollutants present. Children are considered more susceptible to health effects of air pollution because of their immature immune systems and developing organs. As such, schools are also considered sensitive receptors because children are present for extended durations and engage in regular outdoor activities.

4.4.2 Regulatory Setting

Federal and State

Federal and California Clean Air Act

At the federal level, the USEPA is responsible for overseeing implementation of the federal Clean Air Act (CAA). As part of its enforcement responsibilities, the USEPA requires each state with nonattainment areas to prepare and submit a State Implementation Plan (SIP) that demonstrates the means to attain the federal standards. The SIP must integrate federal, State, and local plan components and regulations to identify specific measures to reduce pollution in nonattainment areas, using a combination of performance standards and market-based programs. Similarly, under State law, the California CAA requires an air quality attainment plan to be prepared for areas designated as nonattainment with regard to the federal and State ambient air quality standards. Air quality attainment plans outline emissions limits and control measures to achieve and maintain these standards by the earliest practical date. CARB is the State agency that oversees implementation of the State air quality laws and regulations, including the California CAA.

Regional

Bay Area Air Quality Management District

The BAAQMD is the agency responsible for enforcing many federal and State air quality requirements and for establishing air quality rules and regulations. The BAAQMD attains and maintains air quality conditions in the Bay Area through a comprehensive program of planning, regulation, enforcement, technical

innovation, and promotion of the understanding of air quality issues. BAAQMD has permit authority over stationary sources, acts as the primary reviewing agency for environmental documents, and develops regulations that must be consistent with or more stringent than, federal and State air quality laws and regulations.

The BAAQMD is responsible for preparing plans (SIP elements) to attain ambient air quality standards in the SFBAAB. The BAAQMD prepares ozone attainment plans for the national ozone standard and clean air plans for the California standard, both in coordination with the Metropolitan Transportation Commission and the Association of Bay Area Governments (ABAG).

The BAAQMD attains and maintains air quality conditions in the SFBAAB through a comprehensive program of planning, regulation, enforcement, technical innovation, and promotion of the understanding of air quality issues. The BAAQMD's clean air strategy includes the preparation of plans for the attainment of ambient air quality standards, adoption and enforcement of rules and regulations concerning sources of air pollution, and issuance of permits for stationary sources of air pollution. The BAAQMD also inspects stationary sources of air pollution, responds to citizen complaints, monitors ambient air quality and meteorological conditions, and implements programs and regulations required by the federal CAA, the Clean Air Act Amendments, and the California CAA.

Clean Air Plan

With respect to applicable air quality attainment plans, the BAAQMD prepared the 2017 Clean Air Plan: Spare the Air, Cool the Climate (2017 Clean Air Plan). The 2017 Clean Air Plan provides a regional strategy to protect public health and protect the climate. To protect public health, the 2017 Clean Air Plan describes how BAAQMD will continue progress toward attaining all State and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities. To protect the climate, the 2017 Clean Air Plan defines a vision for transitioning the region to a post-carbon economy needed to achieve ambitious greenhouse gas reduction targets for 2030 and 2050, and provides a regional climate protection strategy that will put the Bay Area on a pathway to achieve those greenhouse gases (GHG) reduction targets.

The 2017 Clean Air Plan 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.

Rules and Regulations

The BAAQMD develops regulations to improve air quality and protect the health and welfare of Bay Area residents and their environment. BAAQMD rules and regulations most applicable to the Project area include, but are not limited to, the following:

- ***Regulation 2, Rule 2: New Source Review.*** Requires any new source resulting in an increase of any criteria pollutant to be evaluated for adherence to best available control technology.

- ***Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants.*** Requires all new and modified sources of TAC to be evaluated for emissions in order to evaluate potential public exposure and health risk, to mitigate potentially significant health risks resulting from these exposures, and to provide net health risk benefits by improving the level of control when existing sources are modified or replaced.
- ***Regulation 7: Odorous Substances.*** Establishes general limitations on odorous substances and specific emission limitations on certain odorous compounds.
- ***Regulation 8, Rule 3: Architectural Coatings.*** Limits the quantity of volatile organic compounds in architectural coatings supplied, sold, offered for sale, applied, solicited for application, or manufactured for use within the district.
- ***Regulation 8, Rule 7: Gasoline Dispensing Facilities.*** The purpose of this Rule is to limit emissions of organic compounds from gasoline dispensing facilities by prohibits the transfer or allowance of the transfer of gasoline into stationary tanks at a gasoline-dispensing facility unless a CARB-certified Phase I vapor recovery system is used; and further prohibits the transfer or allowance of the transfer of gasoline from stationary tanks into motor vehicle fuel tanks at a gasoline-dispensing facility unless a CARB-certified Phase II vapor recovery system is used during each transfer.
- ***Regulation 8, Rule 15: Emulsified and Liquid Asphalts.*** Limits the emissions of volatile organic compounds caused by the use of emulsified and liquid asphalt in paving materials and paving and maintenance operations.
- ***Regulation 14: Mobile Source Emissions Reduction Measures.*** Includes measures to reduce emissions of air pollutants from mobile sources by reducing motor vehicle use and/or promoting the use of clean fuels and low-emission vehicles.

The above list includes rules and regulations most applicable to the proposed development of the Project. Additional rules and regulations may apply, depending on the sources proposed and the activities conducted.

BAAQMD Construction Mitigation Measures

The BAAQMD recommends quantifying a proposed project's construction-generated emissions by implementing the Basic Construction Mitigation Measures as mitigation for dust and exhaust construction impacts in CEQA compliance documentation. If additional construction measures are required to reduce construction-generated emissions, the Additional Construction Mitigation Measures should then be applied. Table 4.4-2 identifies the Basic and Additional Construction Mitigation Measures. In addition, all projects must implement any applicable air toxic control measures. For example, projects that have the potential to disturb asbestos (from soil or building materials) must comply with all the requirements of CARB's air toxic control measures for construction, grading, quarrying, and surface mining operations.

Table 4.4-2. BAAQMD Basic and Additional Construction Mitigation Measures

BAAQMD Basic Construction Mitigation Measures
All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to f minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The air district's phone number shall also be visible to ensure compliance with applicable regulations.
BAAQMD Additional Construction Mitigation Measures
All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.
All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
Wind breaks (e.g., trees, fences) shall be installed on the windward side(s) of actively disturbed areas of construction. Wind breaks should have at maximum 50 percent air porosity.
Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.
The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the number of disturbed surfaces at any one time.
All trucks and equipment, including their tires, shall be washed off prior to leaving the site.
Site accesses to a distance of 100 feet from the paved road shall be treated with a 6- to 12-inch compacted layer of wood chips, mulch, or gravel.
Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.
Minimizing the idling time of diesel-powered construction equipment to 2 minutes.
The project shall develop a plan demonstrating that the off-road equipment (more than 50 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a project wide fleet-average 20 percent NOx reduction and 45 percent PM reduction compared to the most recent CARB fleet average. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products,
Use low VOC (i.e., ROG) coatings beyond the local requirements (i.e., Regulation 8, Rule 3: Architectural Coatings).
Requiring that all construction equipment, diesel trucks, and generators be equipped with Best Available Control Technology for emission reductions of NOx and PM.
Requiring all contractors use equipment that meets CARB's most recent certification standard for off-road heavy-duty diesel engines.

Source: BAAQMD 2017b

BAAQMD Thresholds

The significance criteria established by the applicable air quality management or air pollution control district (BAAQMD) may be relied upon to make the above determinations. According to the BAAQMD, an air quality impact is considered significant if the Proposed Project would violate any ambient air quality standard, contribute substantially to an existing or projected air quality violation, or expose sensitive receptors to substantial pollutant concentrations. The BAAQMD has established thresholds of significance for air quality for construction and operational activities of land use development projects such as that proposed, as shown in Table 4.4-3.

Table 4.4-3. BAAQMD Significance Thresholds

Air Pollutant	Construction	Operations	
Reactive Organic Gases (ROG)	54 pounds/day	54 pounds/day	10 tons/year
Nitrogen Oxides (NO_x)	54 pounds/day	54 pounds/day	10 tons/year
Coarse Particulates from exhaust (exhaust PM_{10})	82 pounds/day	82 pounds/day	15 tons/year
Fine Particulates from exhaust (exhaust $PM_{2.5}$)	54 pounds/day	54 pounds/day	10 tons/year
PM10/PM2.5 (fugitive dust)	Best Management Practices (BMPs)	None	
Carbon Monoxide (CO)	None	None	
Sulfur Oxides (SO_x)	None		None

Source: BAAQMD 2017b

General Plan

The Proposed Project would be subject to the air quality policies listed in the City General Plan, including the following:

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

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

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

Policy MS-11.2: For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level.

Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.

Policy MS-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.

4.4.3 Air Quality (III) Environmental Checklist and Discussion

Would the Project:		Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less than Significant Impact	No Impact
a)	Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐

As part of its enforcement responsibilities, the USEPA requires each state with nonattainment areas to prepare and submit a SIP that demonstrates the means to attain the federal standards. The SIP must integrate federal, state, and local plan components and regulations to identify specific measures to reduce pollution in nonattainment areas, using a combination of performance standards and market-based programs. Similarly, under State law, the California CAA requires an air quality attainment plan to be prepared for areas designated as nonattainment with regard to the federal and State ambient air quality standards. Air quality attainment plans outline emissions limits and control measures to achieve and maintain these standards by the earliest practical date.

As previously stated, the BAAQMD prepared the 2017 Clean Air Plan, a regional strategy to protect public health from air pollutants and protect the climate. The 2017 Clean Air Plan 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 PM, O_3, and TACs. Criteria for determining consistency with the Clean Air Plan are defined by the following indicators:

- Consistency Criterion No. 1: The Project supports the primary goals of the Clean Air Plan.
- Consistency Criterion No. 2: The Project conforms to applicable control measures from the Clean Air Plan and does not disrupt or hinder the implementation of any Clean Air Plan control measures.

The primary goals to which Consistency Criterion No. 1 refer are compliance with the state ambient air quality standards (CAAQS) and the national ambient air quality standards (NAAQS). As evaluated below in Item b), the Project would not exceed the short-term construction standards. Similarly, the Project would not result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is in non-attainment during Project operation. Thus, a less than significant impact would occur concerning Criterion No. 1.

Regarding Consistency Criterion No. 2, consistency of the Proposed Project with 2017 Clean Air Plan is demonstrated by assessing whether the Project supports all of the Project-applicable Clean Air Plan control measures. The control strategies of the Clean Air Plan include *Stationary Source Measures*, *Mobile Source Measures*, and *Transportation Control Measures*. The 2017 Clean Air Plan also identifies two additional subcategories of control measures, which are *Land Use and Local Impact Measure*s, which address the exposure of sensitive receptors to toxic air contaminants, and *Energy and Climate Measures*, which address greenhouse gas emissions.

Stationary Source Measures in the 2017 Clean Air Plan, such as those implemented to control emissions from metal melting facilities, cement kilns, refineries, and glass furnaces, are not applicable to the Proposed Project. Therefore, consistency with the 2017 Clean Air Plan *Stationary Source Measures* is not evaluated further.

Transportation and Mobile Source Control Measures

The BAAQMD identifies transportation and mobile source control measures as part of the 2017 Clean Air Plan to reduce ozone precursor emissions from these sources. The transportation control measures are designed to reduce emissions from motor vehicles by reducing vehicle trips and vehicle miles traveled (VMT) in addition to vehicle idling and traffic congestion. The Proposed Project is consistent with the Clean Air Plan's transportation and mobile source control measures in that it is the redevelopment of an existing urban environment. The Project is considered "infill development" as it proposes to redevelop a built-out property and enhance the physical design of the urban environment. Under PRC section 21061.3, an "infill site" is defined as a site that "has been previously developed for qualified urban uses." In turn, a "qualified urban use" is defined, pursuant to PRC section 21072, as "any residential, commercial, or public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses." Additionally, the Project site is located in an "urbanized area," which is defined under PRC section 21071 as "an incorporate city" that meets the criteria of having a population of at least 100,000 persons.

The Project would locate a commercial land use in close to proximity to existing off-site residential uses. The preservation of land use diversity and mix of uses in the Project area would continue to reduce vehicle trips and VMT by encouraging walking and non-automotive forms of transportation, which would result in corresponding reductions in transportation-related emissions.

These aspects of the Project would result in the generation of a reduced amount of air pollutants. According to the USEPA, redevelopments produce 32 to 57 percent less air pollutant emissions per capita relative to conventional developments; this is because the number of daily vehicle trips and daily VMT associated with redevelopments tend to be lower compared with development on vacant land (EPA 2011). As a result, the Proposed Project would not conflict with the identified transportation and mobile source control measures of the Clean Air Plan.

Land Use and Local Impact Measures

The BAAQMD Clean Air Plan includes Land Use and Local Impact Measures to ensure that planned growth is focused in a way that protects people from exposure to air pollution associated with stationary and mobile sources of emissions and to promote mixed-use, compact development to reduce motor vehicle

travel and emissions. The Land Use and Local Impact Measures identified by the BAAQMD are not specifically applicable to the Proposed Project as they relate to actions the BAAQMD will take to reduce impacts from goods movement and health risks in affected communities at the plan level. The measures also detail new regulatory actions the BAAQMD will undertake related to land use, including updates to the CEQA Air Quality Guidelines, and indirect source review.

However, the Proposed Project would be a redevelopment infill development Project in support of these measures. For instance, the Project can be identified for its "location efficiency". Location efficiency describes the location of the Project relative to the type of urban landscape its proposed to fit within, such as an "urban area", "compact infill", or "suburban center". In general, compared to the statewide average, a project could realize VMT reductions up to 65 percent in an urban area, up to 30 percent in a compact infill area, or up to 10 percent in a suburban center (California Air Pollution Control Officers Association [CAPCOA] 2017). The Project site represents an urban/compact infill location within San Jose. The location efficiency of the Project site would result in synergistic benefits that would reduce vehicle trips and VMT compared to the statewide average and would result in corresponding reductions in transportation-related emissions.

For these reasons, the Project would not conflict with any of the Land Use and Local Impact Measures of the Bay Area Clean Air Plan.

Energy and Climate Control Measures

The Clean Air Plan also includes Energy and Climate Control Measures, which are designed to reduce ambient concentrations of criteria pollutants and reduce emissions of carbon dioxide. Implementation of these measures is intended to promote energy conservation and efficiency in buildings throughout the community. The proposed new convenience store building would be built to 2016 Title 24 Building Energy Efficiency Standards. The 2016 Building Energy Efficiency Standards are 5 percent more efficient than previous 2013 Standards for nonresidential construction. The 2013 Standards were 25 percent more efficient than the 2010 Standards. Energy-efficient buildings require less energy use, and increased energy efficiency reduces fossil fuel consumption and decreases criteria air pollutant emissions. Therefore, the Proposed Project would not conflict with the BAAQMD Energy and Climate Control Measures as it would be replacing an older building with one constructed to modern, energy-efficient standards.

For these reasons, the Proposed Project would conform to the Project-applicable control measures in the Clean Air Plan and would not disrupt or hinder the implementation of any other control measures. Therefore, a less than significant impact would occur.

Would the Project:	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less than Significant Impact	No Impact
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	☐	☐	☒	☐

By its very nature, air pollution is largely a cumulative impact. No single project is sufficient in size, by itself, to result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. If a project's individual emissions exceed its identified significance thresholds, the project would be cumulatively considerable. Projects that do not exceed significance thresholds would not be considered cumulative considerable.

The Proposed Project's air quality impacts are attributable to construction activities, followed by long-term operations. Construction-related impacts would result primarily from heavy-duty construction equipment and long-term air quality impacts will be due to the operation of motor vehicles traveling to and from the site. For purposes of impact assessment, air quality impacts have been separated into construction impacts and operational impacts.

Construction Impacts

Construction-generated emissions are temporary and short term but have the potential to represent a significant air quality impact. Three basic sources of short-term emissions would be generated through the proposed demolition and construction activities: operation of the construction vehicles (i.e., excavators, trenchers, dump trucks), the creation of fugitive dust during clearing and grading, and the use of asphalt or other oil-based substances during paving activities. Construction activities such as excavation and grading operations, construction vehicle traffic, and wind blowing over exposed soils would generate exhaust emissions and fugitive particulate matter emissions that affect local air quality at various times during construction. Effects would be variable depending on the weather, soil conditions, the amount of activity taking place, and the nature of dust control efforts. The dry climate of the area during the summer months creates a high potential for dust generation.

Construction of the Project would commence with demolition of the existing 1,500-square foot convenience store, as well as three driveway entrances. Based on the square footage of the convenience store and concrete area to be demolished, it is estimated that the demolition of this building and existing driveways onsite will result in the hauling of 104 tons of demolished material offsite per the CARB-approved California Emissions Estimator Model (CalEEMod) computer program (CAPCOA 2017). Construction-generated emissions associated the Proposed Project were calculated using the CalEEMod computer program, which is designed to model emissions for land use development projects, based on typical construction requirements. See Appendix A for more information regarding the construction assumptions, including construction equipment and duration, used in this analysis.

Predicted maximum daily construction-generated emissions for the Proposed Project are summarized in Table 4.4-4. Construction-generated emissions are short term and of temporary duration, lasting only as long as construction activities occur, but would be considered a significant air quality impact if the volume of pollutants generated exceeds the BAAQMD's thresholds of significance.

Table 4.4-4. Construction-Related Criteria Air Pollutant Emissions

Construction Year	Pollutant (maximum pounds per day)					
	ROG	NO_X	Exhaust PM_{10}	Exhaust $PM_{2.5}$	Fugitive Dust PM_{10}	Fugitive Dust $PM_{2.5}$
Project Construction	2.66	19.80	1.17	1.09	0.39	0.20
BAAQMD Potentially Significant Impact Threshold	*54 pounds/ day*	*54 pounds/ day*	*82 pounds/ day*	*54 pounds/ day*	*Basic Construction Mitigation Measures*	*Basic Construction Mitigation Measures*
Exceed BAAQMD Threshold?	**No**	**No**	**No**	**No**	**No**	**No**

Source: CalEEMod version 2016.3.2. Refer to Appendix A for Model Data Outputs.

Notes: Emissions estimates account for the demolition of 1,500 square feet of structure and three existing driveways on-site. Building construction, paving, and architectural coating assumed to occur simultaneously.

All construction projects in San Jose are required to implement the BAAQMD's Basic Construction Mitigation Measures per General Plan Action MS-13.1. Emissions estimates account for the quantifiable components of the BAAQMD's Basic Construction Mitigation Measures, specifically watering unpaved portions of the construction site twice daily, limiting off-road equipment to speeds of 15 mph, and removing dirt track-out on adjacent public roads with a wet power vacuum once daily.

All construction projects in San Jose are required to implement the BAAQMD's Basic Construction Mitigation Measures (see Table 4.4-2) as a condition of Project approval per General Plan Action MS-13.1. This requires the City to include these measures on project plans as conditions of approval to be implemented during all phases of construction as a Project requirement to control dust and exhaust at the Project site, as outlined below.

Standard Permit Conditions

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

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

Therefore, the Proposed Project would conform to BAAQMD recommendations related to fugitive dust emissions. As shown in Table 4.4-4, all criteria pollutant emissions would remain below their respective thresholds during Project construction. Therefore, criteria pollutant emissions generated during Project construction would not result in a violation of air quality standards and a less than significant impact would occur.

Operational Impacts

Implementation of the Project would result in long-term operational emissions of criteria air pollutants such as PM_{10}, $PM_{2.5}$, CO, and SO_2 as well as ozone precursors such as ROG and NO_X. Long-term operational emissions attributable to the Proposed Project are summarized in Table 4.4-5. Projected emissions associated with proposed operations are compared to the existing baseline, which includes the current operation of an existing 1,500-square-foot convenience store and gasoline dispensing station.

Table 4.4-5. Operational-Related Emissions

Emission Source	Pollutant					
	ROG	NO_X	CO	SO_2	PM_{10}	$PM_{2.5}$
Proposed 3,200-Square Foot Convenience Store, 11 Parking Spaces, & 12-Position Gasoline Dispensing Station						
Summer Emissions (Pounds per Day)						
Proposed Project	5.38	19.15	60.30	0.18	15.36	4.23
Winter Emissions (Pounds per Day)						
Proposed Project	4.76	20.43	59.50	0.17	15.36	4.23
Annual Emissions (Tons per Year)						
Proposed Project	0.8	3.6	10.4	0.0	2.7	0.7
Existing 1,500-Square Foot Convenience Store & 12-Position Gasoline Dispensing Station						
Summer Emissions (Pounds per Day)						
Existing Baseline	4.99	17.37	56.50	0.15	13.04	3.60
Winter Emissions (Pounds per Day)						
Existing Baseline	4.43	18.60	55.91	0.14	13.04	3.60
Annual Emissions (Tons per Year)						
Existing Baseline	0.8	3.3	9.8	0.0	2.3	0.6
Difference						
Summer Emissions (Pounds per Day)						
Difference	**0.39**	**1.78**	**3.80**	**0.03**	**2.32**	**0.63**
Winter Emissions (Pounds per Day)						
Difference	**0.33**	**1.83**	**3.59**	**0.03**	**2.32**	**0.63**
BAAQMD Daily Significance Threshold	54 pounds/ day	54 pounds/ day	None	None	82 pounds/ day	82 pounds/ day
Exceed BAAQMD Daily Threshold?	**No**	**No**	**No**	**No**	**No**	**No**
Annual Emissions (Tons per Year)						
Difference	**0.0**	**0.3**	**0.6**	**0.0**	**0.4**	**0.1**
BAAQMD Annual Significance Threshold	10 tons/year	10 tons/year	None	None	15 tons/year	15 tons/year
Exceed BAAQMD Daily Threshold?	**No**	**No**	**No**	**No**	**No**	**No**

Source: CalEEMod version 2016.3.2. Refer to Appendix A for Model Data Outputs.

As shown in Table 4.4-5, the Project's net emissions over the existing baseline would not exceed BAAQMD thresholds for any criteria air pollutants. The proposed new convenience store building would be built to 2019 Title 24 Building Energy Efficiency Standards, which are substantially more efficient than the 2016 standards. The 2016 Building Energy Efficiency Standards are five percent more efficient than previous 2013 Standards for nonresidential construction. The 2013 Standards were 25 percent more efficient than the 2010 Standards. Energy-efficient buildings require less energy use, and increased energy efficiency reduces fossil fuel consumption and decreases criteria air pollutant emissions. The Project's operational emissions would not exceed any BAAQMD thresholds for any criteria air pollutants and therefore would not result in a violation of air quality standards. A less than significant impact would occur.

Would the Project:	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less than Significant Impact	No Impact
c) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☒	☐

Sensitive receptors are defined as facilities or land uses that include members of the population that are particularly sensitive to the effects of air pollutants, such as children, the elderly, and people with illnesses. Examples of these sensitive receptors are residences, schools, hospitals, and daycare centers. CARB has identified the following groups of individuals as the most likely to be affected by air pollution: The elderly over 65, children under 14, athletes, and persons with cardiovascular and chronic respiratory diseases such as asthma, emphysema, and bronchitis. The nearest sensitive receptors to the Project site are several homes within the neighborhood bordering the Project boundaries. A home to the northeast of the Project is approximately five feet from the Project boundary, another home is located approximately 50 feet north of the existing convenience store, and another home is located approximately 61 feet northwest of the convenience store.

Construction Impacts

Construction-related activities would result in temporary, short-term Project-generated emissions of diesel particulate matter (DPM) from the exhaust of off-road, heavy-duty diesel equipment for site preparation (e.g., clearing, grading); soil hauling truck traffic; paving; application of architectural coatings; and other miscellaneous activities. For construction activity, diesel PM is the primary TAC of concern. Particulate exhaust emissions from diesel-fueled engines (i.e., DPM) were identified as a TAC by the CARB in 1998. The potential cancer risk from the inhalation of diesel PM, as discussed below, outweighs the potential for all other health impacts (i.e., non-cancer chronic risk, short-term acute risk) and health impacts from other TACs. Accordingly, diesel PM is the focus of this discussion.

Based on the emission modeling conducted the maximum onsite construction-related annual emissions of $PM_{2.5}$ exhaust, considered a surrogate for diesel PM, would be 0.51 pounds per day (see Table 4.4-4) during construction activity ($PM_{2.5}$ is considered a surrogate for diesel PM because more than 90 percent of diesel PM is less than one microgram in diameter and therefore is a subset of particulate matter under 2.5 microns in diameter (i.e., $PM_{2.5}$). Most $PM_{2.5}$ derives from combustion, such as use of gasoline and

diesel fuels by motor vehicles.) Furthermore, even during the most intense month of construction, emissions of diesel PM would be generated from different locations on the Project site, rather than a single location, because different types of construction activities (e.g., demolition, site preparation, building construction) would not occur at the same place at the same time.

The dose to which receptors are exposed is the primary factor used to determine health risk (i.e., potential exposure to TAC emission levels that exceed applicable standards). Dose is a function of the concentration of a substance or substances in the environment and the duration of exposure to the substance. Dose is positively correlated with time, meaning that a longer exposure period would result in a higher exposure level for any exposed receptor. Thus, the risks estimated for an exposed individual are higher if a fixed exposure occurs over a longer period of time. As shown in Table 4.4-4, the BAAQMD considers the emission of 54 pounds per day of $PM_{2.5}$ exhaust significant and Project construction is projected to result in the emission of 0.51 pounds of onsite $PM_{2.5}$ exhaust per day at the maximum.

Additionally, according to the Office of Environmental Health Hazard Assessment (OEHHA), health risk assessments, which determine the exposure of sensitive receptors to TAC emissions, should be based on a 70-, 30-, or nine-year exposure period; further, such assessments should be limited to the period/duration of activities associated with the Proposed Project. Consequently, an important consideration is the fact that construction of the Proposed Project is anticipated to last less than one year, which is less than the minimum duration of exposure from which to calculate health risk (9 consecutive years), and that on a day-to-day basis construction activity generally spans eight hours as opposed to throughout the entire day. Furthermore, the use of off-road heavy-duty diesel equipment would be limited to the periods of construction for which most diesel-powered off-road equipment use would occur, which are the site preparation and grading phases of construction, and these construction activities are anticipated to last less than a month. Therefore, considering the relatively low mass of diesel PM emissions that would be generated during even the most intense season of construction (0.51 pound maximum) and the fact that construction would not last as long as the minimum duration of exposure from which to calculate health risk, construction-related TAC emissions would not expose sensitive receptors to substantial amounts of air toxics. Project construction would neither pose a cancer risk nor exceed the BAAQMD significance threshold of greater than 0.3 micrograms per cubic foot ($\mu g/m^3$) annual average $PM_{2.5}$ for an individual project. A less than significant impact would occur.

Operational Impacts

The Project site is currently operating with a gasoline dispensing station and is thus a source of gasoline vapors, including TACs such as benzene, methyl tertiary-butyl ether, toluene, and xylene. Benzene is the primary TAC associated with gas stations. Gasoline vapors are released during the filling of the stationary underground storage tanks and during the transfer from those underground tanks to individual vehicles.

The BAAQMD has stringent requirements for the control of gasoline vapor emissions from gasoline-dispensing facilities. BAAQMD Regulation 8 Rule 7, *Gasoline Dispensing Facilities*, limits emissions of organic compounds from gasoline-dispensing facilities. Regulation 8 Rule 7 prohibits the transfer or allowance of the transfer of gasoline into stationary tanks at a gasoline-dispensing facility unless a CARB-certified Phase I vapor recovery system is used; and further prohibits the transfer or allowance of the

transfer of gasoline from stationary tanks into motor vehicle fuel tanks at a gasoline-dispensing facility unless a CARB-certified Phase II vapor recovery system is used during each transfer. Vapor recovery systems collect gasoline vapors that would otherwise escape into the air during bulk fuel delivery (Phase I) or fuel storage and vehicle refueling (Phase II). Phase I vapor recovery system components include the couplers that connect tanker trucks to the underground tanks, spill containment drain valves, overfill prevention devices, and vent pressure/vacuum valves. Phase II vapor recovery system components include gasoline dispensers, nozzles, piping, break away, hoses, face plates, vapor processors, and system monitors. Regulation 8 Rule 7 also requires fuel storage tanks to be equipped with a permanent submerged fill pipe and the storage tank which prevents the escape of gasoline vapors. BAAQMD's permitting procedures require substantial control of emissions, and permits are not issued unless TAC risk screening or TAC risk assessment can show that risks are not significant. BAAQMD may impose limits on annual throughput to ensure that risks are within acceptable limits. In addition, California has statewide limits on the benzene content in gasoline, which greatly reduces the toxic potential of gasoline emissions.

Gasoline-dispensing facilities are also regulated by BAAQMD Regulation 2, Rule 5, *New Source Review of Toxic Air Contaminants*, which provides for the review of TAC emissions in order to evaluate potential public exposure and health risk, to mitigate potentially significant health risks resulting from these exposures, and to provide net health risk benefits by improving the level of control when existing sources are modified or replaced. Pursuant to BAAQMD Regulation 2, Rule 5, stationary sources having the potential to emit TACs, including gas stations, are required to obtain permits from BAAQMD. Permits may be granted to these operations provided they are operated in accordance with applicable BAAQMD rules and regulations. The BAAQMD's permitting procedures require substantial control of emissions, and permits are not issued unless TAC risk screening or TAC risk assessment can show that risks are not significant. The BAAQMD may impose limits on annual throughput to ensure that risks are within acceptable limits. (In addition, California has statewide limits on the benzene content in gasoline, which greatly reduces the toxic potential of gasoline emissions.) The following requirements must be met before a BAAQMD permit is granted to the proposed gasoline station component of the Project.

- The cumulative increase from all TACs emitted from a single piece of equipment in maximum individual cancer risk (MICR) shall not exceed:
    - one in one million (1×10^{-6}) if Best Available Control Technology for Toxics (T-BACT) is not used; or
    - ten in one million (10×10^{-6}) if T-BACT is used.
- The cumulative cancer burden from all TACs emitted from a single piece of equipment (increase in cancer cases in the population) shall not exceed 0.5.
- Neither the chronic hazard index (HIC), the 8-hour chronic hazard index (HIC8), nor the total acute hazard index (HIA) from all TACs emitted from a single piece of equipment shall exceed 1.0 for any target organ system, or an alternate hazard index level deemed to be safe.

Furthermore, while the site is currently operating with a gasoline-dispensing station, the Project is not proposing to increase the quantity of fuel-dispensing pumps beyond existing conditions and therefore

would emit the same intensity of TAC emissions as currently emitted under existing conditions. Further, the Proposed Project would be required to continue compliance with applicable standards and regulations that are required as part of the current BAAQMD permit procedure.

As previously described, this Initial Study has been prepared to conform to the requirements of the CEQA and the CEQA Guidelines (Title 14, CCR §15000 et seq). The CEQA Guidelines specify that the description of the physical environmental conditions serves as the baseline physical conditions by which impacts of a project are considered significant. Impacts associated with implementation of the proposed projects are measured against the existing conditions at the time of the environmental analysis. The site is currently operating with a gasoline-dispensing station. The Project is not proposing to increase the quantity of fuel-dispensing pumps beyond existing conditions and therefore would emit the same intensity of TAC emissions as currently emitted under existing conditions. Thus, the Project would not expose any receptors to substantial concentrations of air toxics beyond existing conditions and a less than significant impact would occur.

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

Typically, odors are regarded as an annoyance rather than a health hazard. However, manifestations of a person's reaction to foul odors can range from psychological (e.g., irritation, anger, or anxiety) to physiological (e.g., circulatory and respiratory effects, nausea, vomiting, and headache).

With respect to odors, the human nose is the sole sensing device. The ability to detect odors varies considerably among the population and overall is quite subjective. Some individuals have the ability to smell minute quantities of specific substances; others may not have the same sensitivity but may have sensitivities to odors of other substances. In addition, people may have different reactions to the same odor; in fact, an odor that is offensive to one person (e.g., from a fast-food restaurant) may be perfectly acceptable to another. It is also important to note that an unfamiliar odor is more easily detected and is more likely to cause complaints than a familiar one. This is because of the phenomenon known as odor fatigue, in which a person can become desensitized to almost any odor and recognition only occurs with an alteration in the intensity.

Quality and intensity are two properties present in any odor. The quality of an odor indicates the nature of the smell experience. For instance, if a person describes an odor as flowery or sweet, then the person is describing the quality of the odor. Intensity refers to the strength of the odor. For example, a person may use the word "strong" to describe the intensity of an odor. Odor intensity depends on the odorant concentration in the air. When an odorous sample is progressively diluted, the odorant concentration decreases. As this occurs, the odor intensity weakens and eventually becomes so low that the detection or recognition of the odor is quite difficult. At some point during dilution, the concentration of the odorant

reaches a detection threshold. An odorant concentration below the detection threshold means that the concentration in the air is not detectable by the average human.

The Project site could be considered a source of unpleasant odors by some given its current and continuing use as a gasoline dispensing station; however, as previously stated, BAAQMD has stringent requirements for the control of gasoline vapor emissions from gasoline-dispensing facilities as articulated in BAAQMD Regulation 8 Rule 7. Additionally, BAAQMD Regulation 7, *Odorous Substances*, states that no person shall discharge any odorous substance which causes the ambient air at or beyond the property line of such person to be odorous and to remain odorous after dilution with four parts of odor-free air. The impacts related to odors would be less than significant.

4.4.4 Mitigation Measures

No significant impacts were identified; no mitigation measures are required.

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4.5 Biological Resources

4.5.1 Environmental Setting

For the last several decades, the Project site has been fully developed with an existing convenience store, gas pumps, pump canopy and asphalt paved surface parking lot. Due to the extensive history of urban development on the Project site, there is no native vegetation on-site. No Waters of the U.S., as defined by the U.S. Army Corp of Engineers, exist on or near the Project site.

4.5.2 Regulatory Setting

Federal

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act of 1918 (MBTA) is one of the nation's oldest environmental laws. The MBTA prohibits killing, possessing, or trading in migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, and bird nests and eggs. Construction disturbance during the breeding season that results in the incidental loss of fertile eggs or nestlings, or otherwise leads to nest abandonment, would violate the MBTA.

Regional

Santa Clara Valley Habitat Plan

The Santa Clara Valley Habitat Plan (SCVHP) was developed through a partnership between Santa Clara County, the Cities of San Jose, Morgan Hill, and Gilroy, Santa Clara Valley Water District (SCVWD), Santa Clara Valley Transportation Authority (VTA), U.S. Fish and Wildlife Service (USFWS), and California Department of Fish and Wildlife (CDFW). The SCVHP is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County (Santa Clara Valley Habitat Agency [SCVHA] 2012).

Local

City of San Jose Tree Ordinance

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

- a street tree;
- a heritage tree;
- an ordinance-size tree, live or dead; or

- any tree of any size located on multifamily, commercial, industrial, or mixed-use property or in a common area.

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

General Plan

The *Envision San Jose 2040 General Plan* includes the following biological resource policies applicable to the Proposed Project:

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

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

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

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

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

4.5.3 Biological Resources (IV) Environmental Checklist and Discussion

Would the Project:		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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 or U.S. Fish and Wildlife Service?	☐	☐	☐	☒

The Project site is located in a fully urbanized area of San Jose and is developed with an asphalt paved surface lot, gas station and convenience store. There are no ornamental trees or vegetation within the existing parking lot landscaping areas. There are no mature trees in the immediate vicinity of the Project area that could be affected during construction. Given the heavily disturbed nature of the site, no special-status plants or other special-status animals were determined to have the potential to occur in the Project site. The site vicinity is full urbanized and built-up, thus it can be concluded that there is no potential habitat in the Project area for any special-status species. As such, there would be no impacts to special status species.

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	☐	☐	☐	☒

The Project site had been a fully paved and developed gas station and convenience store since the early 1970's. No creeks, stream or rivers exist on the Project site. No riparian habitats or other sensitive natural communities identified in local or regional plans, policies, regulations, or by the CDFW or USFWS have been identified on the Project site. The Project would have no impact in this area.

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒

No Waters of the U.S. are within or in the near vicinity of the Project Area. No surface water bodies or drainages occur on the Project site. No impact would occur.

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	☒

The Project is located within a fully developed urban environment and is bordered by residential and commercial uses. The site does not contain, or is not adjacent to, any water bodies or vegetation that could potentially provide habitat for fish, or other wildlife migratory species. The Project would not restrict wildlife movement. Therefore, no impacts related to movement of fish or wildlife migratory species would occur.

Would the Project:		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
e)	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒

The City Municipal Code Chapter 13.32 regulates the removal of trees, however there are no trees located or proposed for removal on the Project site. As such the policy does not apply. There would be no impact.

Would the Project:		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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 boundaries of the SCVHP in an area designated as "Urban - Suburban". Based on the SCVHP, no covered species are known or expected to occur within the Project site. The nitrogen deposition fee applies to all projects that create new vehicle trips. A Nitrogen Deposition Fee will be required for each new vehicle trip generated by the project. Fees are required at the time of ground disturbance. The project would implement the following Standard Permit Conditions in accordance with the SVCHP, and there would be a less than significant impact in this area.

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 SCVHP and supporting materials can be viewed at www.scv-habitatplan.org.

4.5.4 Mitigation Measures

No significant impacts were identified, and no mitigation measures are required.

4.6 Cultural Resources

4.6.1 Environmental Setting

The Project site is flat, with an elevation of approximately 110 feet amsl. The site has been used as a gas service station since 1975.

The Proposed Project is located in the western portion of San Jose and surrounded by residential/commercial uses to the west, north, south, and east.

Cultural Setting of the City of San Jose

Cultural resources are traces of human occupation and activity. In northern California, cultural resources extend back in time for at least 9,000-11,500 years with Native American occupation and use of the Santa Clara Valley extending over 5,000-8,000 years and possibly longer (San Jose 2009).

The Native American people who originally inhabited the Santa Clara Valley belong to a group known as the "Costanoan" or Ohlone, who broadly occupied the central California coast from the northern tip of the San Francisco Peninsula to Big Sur in the south and as far east as the Diablo Range. Around 1770 (the time of first Spanish contact), there were two Costanoan subgroups in the area – the *Tamyen* (*Tamien*) in the north along the Guadalupe River and the *Mutsun* in the south along San Felipe Creek and the San Benito River. The customary way of living, or lifeway, of the Costanoan/Ohlone people disappeared by about 1810 due to disruption by introduced diseases, a declining birth rate and the impact of the California mission system established by the Spanish in the area in 1777 (San Jose 2011b).

San Jose has developed in the context of the major historical periods that have shaped this region of California: Spanish explorations and colonization beginning in the year 1769 (Spanish Period); subsequent Mexican rule after 1822 (Mexican Period); and later annexation to the United States and Statehood in 1850 (American Period) (City of San Jose 2011b).

4.6.2 Regulatory Setting

General Plan

Federal

National Register of Historic Places (NRHP)

The NRHP is a comprehensive list of historic resources and includes historic resources significant in American history, architecture, archeology, engineering and culture, at the local, state and national level. National Register Bulletin Number 15, How to Apply the National Register Criteria for Evaluation, describes the Criteria for Evaluation as being composed of two factors. First, the property must be "associated with an important historic context", and second the property must retain integrity of those features necessary to convey its significance.

The National Register identifies four possible context types or criteria, at least one of which must be applicable at the national, state, or local level. These are:

A. Property is associated with events that have made a significant contribution to the broad patterns of our history.

B. Property is associated with the lives of persons significant in our past.

C. Property embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction.

D. Property has yielded, or is likely to yield, information important to prehistory or history

State

California Register of Historical Resources (CRHR)

The California Office of Historic Preservation's *Technical Assistance Series #6, California Register and National Register: A Comparison*, outlines the differences between the federal and State processes. 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.

Local

The City of San Jose's Historic Preservation Ordinance

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

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

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

1. Identification or association with persons, eras or events that have contributed to local, regional, state or national history, heritage or culture in a distinctive, significant or important way;

2. Identification as, or association with, a distinctive, significant or important work or vestige:

    a. Of an architectural style, design or method of construction;

    b. Of a master architect, builder, artist or craftsman;

    c. Of high artistic merit;

    d. The totality of which comprises a distinctive, significant or important work or vestige whose component parts may lack the same attributes;

    e. That has yielded or is substantially likely to yield information of value about history, architecture, engineering, culture or aesthetics, or that provides for existing and future generations an example of the physical surroundings in which past generations lived or worked; or

    f. That the construction materials or engineering methods used in the proposed landmark are unusual or significant of uniquely effective.

3. The factor of age alone does not necessarily confer a special historical, architectural, cultural, aesthetic, or engineering significance, value or interest upon a structure or site, but it may have such effect if a more distinctive, significant or important example thereof no longer exists (Section 13.48.020 A).

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

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

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

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

- Visual quality/design

- History/association
- Environment/context
- Integrity
- Reversibility

A rating with numerical "points" is assigned by a qualified evaluator according to the extent to which each building meets the criteria listed above.

33 and above points Structure of Merit (SM)

1-32 points Evaluated and found to be non-significant

The numerical rating system is not used to determine eligibility of a property for City Landmark designation.

Envision San Jose 2040 General Plan

The *Envision San Jose 2040 General Plan* includes the following cultural resource policies applicable to the Proposed Project:

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

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

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

Policy LU-13.4: Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks.

Policy 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.

Policy LU-14.4: Discourage demolition of any building or structure listed on or eligible for the Historic Resources Inventory as a Structure of Merit by pursuing the alternatives of rehabilitation, reuse on the subject site, and/or relocation of the resource.

Policy LU-16.4: Require development approvals that include demolition of a structure eligible for or listed on the Historic Resources Inventory to salvage the resource's building materials and architectural elements to allow re-use of those elements and materials and avoid the energy costs of producing new and disposing of old building materials.

Policy CD-1.26: Apply the Historic Preservation Goals and Policies of this Plan to proposals that modify historic resources or include development near historic resources.

4.6.3 Cultural Resources (V) Environmental Checklist and Discussion

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
a) Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?	☐	☐	☒	☐

Historical sites and structure provide an educational link to San Jose past and foster a sense of place and community identity for the city (2011a). The Project site consists of a convenience store and 12 fueling stations. A review of the City of San Jose Historic Resources Inventory (City of San Jose 2016) indicates that the Project site does not contain any acknowledged historic structures or sites. While the existing building onsite has been identified as being nearly 45 years, it has not been recorded or evaluated per direction of the City's Historic Preservation Officer as no other cultural resources have been previously recorded within the Project area and the Project area is not located within a known historic district. The closest identified historic structure to the site, based on the Historic Resources Inventory, is the Remillard/Dandini Residence at 755 Story Road which is located approximately two miles northeast of the Project site. The building was constructed in the 1860's and is classified as a National Register Structure and City Landmark Structure (City of San Jose 2016). However, the historic site is located two miles from the Project site and thus would not be impacted by the construction and continuation of existing uses at the Project site. Additionally, the cultural resources background report completed for the *Envision San Jose 2040 General Plan* (Appendix J of the General Plan) prepared by Basin Research Associates, Inc.) indicates that the site in not located within an area of cultural or historical importance. The General Plan acts as a guiding document for historical and cultural resource preservation San Jose (City of San Jose 2009). As such, a less than significant impact would occur.

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	☐	☐	☒	☐

The archeological analysis completed for the *Envision San Jose 2040 General Plan* does not indicate that the site in located within an area of archaeological importance (City of San Jose 2009). As the Project site

is located in a highly urbanized and disturbed area, the potential for discovery of archaeological resources is low. However, there always remains the potential for ground-disturbing activities to expose previously unrecorded archaeological resources. With the implementation of the Standard Permit Conditions described below, the Proposed Project would result in a less than significant impact to archaeological resources.

Standard Permit Conditions

- In the event that prehistoric or historic archaeological resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped and the Director of Planning, Building and Code Enforcement 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 during monitoring shall be submitted to the Director of the Department of Planning, Building and Code Enforcement or the Director's designee, Historic Preservation Officer, and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
c) Disturb any human remains, including those interred outside of dedicated cemeteries?	☐	☐	☒	☐

As the Project site is located in a highly urbanized and disturbed area, the potential for discovery of human remains is low. The Project site is not part of a formal cemetery. Although it is extremely unlikely that cultural resources, including human remains, would be uncovered during construction of the proposed retail/commercial project, the Standard Permit Conditions listed below will be incorporated as a condition of approval to the Conditional Use Permit to ensure potential impacts to cultural resources are avoided. The Proposed Project would result in a less than significant impact in this area.

Standard Permit Conditions

- 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 PRC Sections 5097.9 through 5097.99, as amended per Assembly Bill (AB) 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Project applicant shall immediately notify the Director of Planning, Building and Code Enforcement or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains

are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

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

4.6.4 Mitigation Measures

No significant impacts were identified, and no mitigation measures are required.

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4.7 Energy

4.7.1 Environmental Setting

Introduction

Energy consumption is analyzed in this Initial Study due to the potential direct and indirect environmental impacts associated with the Project. Such impacts include the depletion of nonrenewable resources (oil, natural gas, coal, etc.) during both the construction and long-term operational phases

Electricity/Natural Gas Services

The Pacific Gas and Electric Company (PG&E) provides electricity and natural gas to the Project area. PG&E generates or buys electricity from hydroelectric, nuclear, renewable, natural gas, and coal facilities. PG&E provides natural gas and electricity to most of the northern two-thirds of California, from Bakersfield and Barstow to near the Oregon, Nevada, and Arizona state lines. It provides 5.2 million people with electricity and natural gas across 70,000 square miles.

Energy Consumption

Electricity use is measured in kilowatt-hours (kWh), and natural gas use is measured in therms. Vehicle fuel use is typically measured in gallons (e.g., of gasoline or diesel fuel), although energy use for electric vehicles is measured in kWh.

The electricity consumption associated with all non-residential uses in Santa Clara County from 2013 to 2017 is shown in Table 4.7-1. As indicated, the demand has slightly increased since 2013.

Table 4.7-1. Non-Residential Electricity Consumption in Santa Clara County 2013-2017

Year	Non-Residential Electricity Consumption (kilowatt hours)
2017	131,393,209
2016	130,121,713
2015	130,006,265
2014	130,733,142
2013	128,991,091

Source: California Energy Consumption Data Management System (ECDMS) 2018

The natural gas consumption associated with all non-residential uses in Santa Clara County from 2013 to 2017 is shown in Table 4.7-2. As indicated, the demand has increased since 2013.

Table 4.7-2. Non-Residential Natural Gas Consumption in Santa Clara County 2013-2017	
Year	**Non-Residential Natural Gas Consumption (therms)**
2017	205,804,000
2016	203,360,983
2015	195,956,042
2014	189,608,271
2013	198,753,872

Source: ECDMS 2018

Automotive fuel consumption in Santa Clara County from 2015 to 2019 is shown in Table 4.7-3. As shown, fuel consumption has decreased since 2015

Table 4.7-3. Automotive Fuel Consumption in Santa Clara County 2015-2019	
Year	**Fuel Consumption (gallons)**
2019	749,217,551
2018	764,995,071
2017	780,181,747
2016	786,358,984
2015	786,718,025

Source: CARB 2014

4.7.2 Regulatory Setting

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. As described previously, PG&E's electricity mix in 2015 was 30-percent renewable. 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 CCR (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. These standards are a unique California asset that have placed the state on the forefront of energy efficiency, sustainability, energy independence and climate change issues. The 2019 Building Energy Efficiency Standards improve upon the 2016 Energy Standards for new construction of, and additions and alterations to, residential and nonresidential buildings. The 2019 update to the Building Energy Efficiency Standards focuses on several key areas to improve the energy efficiency of newly constructed buildings and additions and alterations to existing buildings. The 2019 standards are a major step toward meeting Zero Net Energy. The most significant efficiency improvement to the residential Standards include the introduction of photovoltaic into the perspective package, improvements for attics, walls, water heating and lighting. Buildings permitted on or after January 1, 2020, must comply with the 2019 Standards. These new standards, applicable to the Project, require all residential development, three stories and under, to have 100 percent electricity production offset by solar.

Local

Council Policy 6-32 Private Sector Green Building Policy

At the local level, the City of San Jose sets green building standards for municipal development. All projects are required to submit a Leadership in Energy and Environmental Design (LEED), GreenPoint, or Build-It-Green checklist as part of their development permit applications. 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 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 San Jose. Private developments are required to implement green building practices if they meet the Applicable Projects criteria defined by Council Policy 6-32.

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).

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.

General Plan

The *Envision San Jose 2040 General Plan* includes the following energy policies applicable to the Proposed Project:

Policy 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.

Policy MS-2.4: Promote energy efficient construction industry practices.

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

Policy MS-14.4: Implement the City's Green Building Policies (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.

4.7.3 Energy (VI) Environmental Checklist and Discussion

Would the Project:		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
a)	Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	☐	☐	☒	☐

The impact analysis focuses on the four sources of energy that are relevant to the Proposed Project: electricity, natural gas, the equipment fuel necessary for Project construction, and the automotive fuel consumed during convenience store operations. Addressing energy impacts requires an agency to make a determination as to what constitutes a significant impact. There are no established thresholds of significance, statewide or locally, for what constitutes a wasteful, inefficient, and unnecessary consumption of energy for a proposed land use project. For the purpose of this analysis, the amount of electricity and natural gas estimated to be consumed by the Project is quantified and compared to that consumed by non-residential land uses (commercial and industrial) in Santa Clara County. Similarly, the amount of fuel

necessary for Project construction and operations is calculated and compared to that consumed in Santa Clara County.

The analysis of electricity and natural gas usage is based on CalEEMod modeling conducted by ECORP (see Appendix A*)*, which quantifies energy use for Project operations. The amount of operational automotive fuel use was estimated using CARB's EMFAC2017 computer program, which provides projections for typical daily fuel usage in Santa Clara County. The amount of total construction-related fuel use was estimated using ratios provided in the Climate Registry's General Reporting Protocol for the Voluntary Reporting Program, Version 2.1. Energy consumption associated with the Proposed Project is summarized in Table 4.7-4.

Table 4.7-4. Proposed Project Energy and Fuel Consumption

Energy Type	Annual Energy Consumption	Percentage Increase Countywide
Electricity Consumption[1]	48,447 kWh	0.03%
Natural Gas[1]	519 therms	0.0002%
Automotive Fuel Consumption		
• Project Construction[2]	12,906 gallons	0.002%
• Project Operations[3]	337,260 gallons	0.04%

Source: [1]Electricity consumption calculated by ECORP using CalEEMod 2016.3.2; [2]Climate Registry 2016; [3]EMFAC2017 (CARB 2017)

Notes: The Project increases in electricity consumption are compared with all of the non-residential buildings in Santa Clara County in 2017, the latest data available. The Project increases in automotive fuel consumption are compared with the countywide fuel consumption in 2019.

As shown in Table 4.7-4, the increase in electricity usage as a result of the Project would constitute a negligible increase of 0.03 percent in the typical annual electricity consumption and 0.0002 percent in the typical annual natural gas consumption attributable to non-residential uses in Santa Clara County. Further, existing operations on the Project site are already consuming energy, and thus the increase of energy consumption compared with existing conditions would be even more negligible. For instance, the existing operations on site are currently consuming 34,350 kWh of electricity and 539 therms of natural gas annually (see Appendix A). Therefore, the Project would only increase electricity consumption by 14,097 kWh annually compare with existing conditions and would result in a reduction of natural gas consumed. The new, modernized building proposed by the Project would adhere to all federal, State, and local requirements for energy efficiency, including the Title 24 standards. Title 24 standards establish minimum efficiency standards related to various building features, including appliances, water and space heating and cooling equipment, building insulation and roofing, and lighting. Implementation of the Title 24 standards significantly reduces energy usage. Due to the relatively low increase in electricity from the Project and the implementation of energy reducing strategies, the Project would not result in the inefficient, wasteful, or unnecessary consumption of building energy.

The Project's gasoline fuel consumption during the construction period is estimated to be 12,906 gallons of fuel, which would increase the annual countywide fuel use in the county by 0.002percent during Project

construction. As such, Project construction would have a nominal effect on local and regional energy supplies, especially over the long-term. Additionally, construction equipment fleet turnover and increasingly stringent state and federal regulations on engine efficiency combined with State regulations limiting engine idling times and require recycling of construction debris, would further reduce the amount of transportation fuel demand during Project construction. For these reasons, it is expected that construction fuel consumption associated with the Project would not be any more inefficient, wasteful, or unnecessary than other similar development projects of this nature.

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. 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 4.4 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.

As indicated in Table 4.7-4, Project operation is estimated to consume approximately 337,260 gallons of automotive fuel per year, predominately associated with automotive traffic visiting the site, which would increase the annual countywide automotive fuel consumption by 0.04 percent. The amount of operational fuel use was estimated using CARB's EMFAC2014 computer program, which provides projections for typical daily fuel usage in Santa Clara County. This analysis conservatively assumes that all of the automobile trips projected to arrive at the Project during operations would be new to Santa Clara County. The Project would not result in any unusual characteristics that would result in excessive long-term operational automotive fuel consumption. Fuel consumption associated with vehicle trips generated by the Project would not be considered inefficient, wasteful, or unnecessary in comparison to other similar developments in the region.

For these reasons, this impact would be less than significant.

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	☐	☐	☒	☐

The Project would be designed in a manner that is consistent with relevant energy conservation plans designed to encourage development that results in the efficient use of energy resources. The *Envision San Jose 2040 General Plan* includes various goals pertaining to renewable energy and energy efficiency. The goals found in the Energy Conservation and Renewable Energy Use section that are relevant to this Project include the following:

MS-2.2: Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.

MS-2.4: Promote energy efficient construction industry practices.

MS-2.6: Promote roofing design and surface treatments that reduce the heat island effect on new and existing development and.

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, through articular design, and through site design.

Furthermore, the Project would be designed to meet the Council Policy 6-32 Private Sector Green Building Policy, as described in detail above. Thus, the Project would be required to submit a LEED, GreenPoint, or Build-It Green Checklist. Meeting the checklist requirements would ensure the Project meets improved standards for reduced use of energy, water, and other resources.

Additionally, the Project would be designed to include numerous energy and waste reduction features that would allow it to comply with and exceed the Title 24 standards and achieve energy savings required by state regulations. The Project would not conflict or obstruct any local or state plans for renewable energy or energy efficiency.

For these reasons, this impact would be less than significant.

4.7.4 Mitigation Measures

No significant impacts were identified, and no mitigation measures are required.

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4.8 Geology and Soils

This section describes the environmental setting for geology and soils, including regulatory settings and existing site conditions, the impacts on the geology and soil that would result from the Proposed Project, and the mitigation measures that would reduce these impacts. A geology and soil analysis report was completed for the Proposed Project (Korbmacher Engineering, Inc. 2018). This technical report is provided in Appendix B and is summarized below.

4.8.1 Environmental Setting

Geomorphic Setting

The Project site is located in the central portion of the Coast Ranges geomorphic province of California. The Coast Ranges are northwest-trending mountain ranges (2,000 to 4,000, occasionally 6,000 feet elevation above mean sea level), and valleys. The ranges and valleys trend northwest, subparallel to the San Andreas Fault. Strata dip beneath alluvium of the Great Valley, to the west is the Pacific Ocean. The coastline is uplifted, terraced and wave-cut. The Coast Ranges are composed of thick Mesozoic and Cenozoic sedimentary strata. The northern and southern ranges are separated by a depression containing the San Francisco Bay. The northern Coast Ranges are dominated by irregular, knobby, landslide-topography of the Franciscan Complex. The eastern border is characterized by strike-ridges and valleys in Upper Mesozoic strata. In several areas, Franciscan rocks are overlain by volcanic cones and flows of the Quien Sabe, Sonoma, and Clear Lake volcanic fields. The Coast Ranges are subparallel to the active San Andreas Fault. The San Andreas is more than 600 miles long, extending from Point Arena to the Gulf of California. West of the San Andreas is the Salinian Block, a granitic core extending from the southern extremity of the Coast Ranges to the north of the Farallon Islands (California Geological Survey [CGS] 2002).

Site Geology

According to the California Department of Conservation (CGS 1991), the Project site is underlain by the Alluvium geological unit. The Alluvium unit consists of unconsolidated stream and basin deposits, clay to boulder size.

Regional Seismicity and Fault Zones

In California, special definitions for active faults were devised to implement the Alquist-Priolo Earthquake Fault Zoning Act of 1972, which regulates development and construction in order to avoid the hazard of surface fault rupture. The State Mining and Geology Board established policies and criteria in accordance with the act. The board defined an active fault as one which has had surface displacement within Holocene time (about the last 11,000 years). A potentially active fault was considered to be any fault that showed evidence of surface displacement during Quaternary time (last 1.6 million years). Because of the large number of potentially active faults in California, the State Geologist adopted additional definitions and criteria in an effort to limit zoning to only those faults with a relatively high potential for surface rupture. Thus, the term sufficiently active was defined as a fault for which there was evidence of Holocene

surface displacement. This term was used in conjunction with the term well-defined, which relates to the ability to locate a Holocene fault as a surface or near-surface feature (CGS 2010).

The San Francisco Bay Area is recognized by geologists and seismologists as one of the most seismically active regions in the U.S. Significant earthquakes occurring in the Bay Area are generally associated with crustal movement along well-defined, active fault zones of the San Andreas Fault system, which spans the Coast Ranges from the Pacific Ocean to the San Joaquin Valley. The San Andreas Fault generated the great San Francisco earthquake of 1906 and the Loma Prieta earthquake of 1989 and passes through the Santa Cruz Mountains southwest of San Jose. Two other major active faults within the City's Sphere of Influence are the Hayward Fault, located to the north, and the Calaveras Fault, located in the hills to the east. These two fault zones merge in a structurally complex area of the hills between Mission Peak and Mount Hamilton (City of San Jose 2011b).

4.8.2 Regulatory Setting

State

The California Alquist-Priolo Earthquake Fault Zoning Act

This act requires the State Geologist to establish regulatory zones (known as Earthquake Fault Zones) around the surface traces of active faults and to issue appropriate maps. Local agencies must regulate the construction of buildings used for human occupancy in these zones.

Seismic Hazards Mapping Act

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

The California Building Code

The California Building Code (CBC) (in Title 24, CCR) serves as the basis for the design and construction of buildings in the state. Currently, the 2013 CBC contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, the strength of the ground, and distance to seismic resources

Local

General Plan

The *Envision San Jose 2040 General Plan* includes various policies for the purpose of avoiding or mitigating geology and soil impacts resulting from planned development within the city, including the following:

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

Policy EC-3.2: Within seismic hazard zones identified under the Alquist-Priolo Fault Zoning Act, California Seismic Hazards Mapping Act and/or by the City of San Jose, complete geotechnical and geological investigations and approve development proposals only when the severity of seismic hazards have been evaluated and appropriate mitigation measures are provided as reviewed and approved by the City of San Jose Geologist. State guidelines for evaluating and mitigating seismic hazards and the City-adopted California Building Code will be followed.

Policy EC-4.2: Approve development in areas subject to soils and geologic hazards, including un-engineered fill and weak soils and landslide-prone areas, only when the severity of hazards has 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 Jose Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.

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

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

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

Policy ES-4.9: Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

4.8.3 Geology and Soils (VII) Environmental Checklist and Discussion

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:	☐	☐	☒	☐
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo	☐	☐	☒	☐

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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.				
ii) Strong seismic ground shaking?	☐	☐	☒	☐
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
iv) Landslides?	☐	☐	☐	☒

i) While the Project site is located in an area identified as having the potential for earthquakes, according to the California DOC Geologic Hazards Zones Map, the Proposed Project site is not located within an Alquist-Priolo Earthquake Zone (DOC 2018). As such, there would be a less than significant impact in this area.

ii) Due to its location in a seismically active region, the proposed site modification would likely be subject to strong seismic ground shaking during their design life in the event of a major earthquake on any of the region's active faults. This could pose a risk to the proposed convenience store structure and related infrastructure. Seismic impacts are minimized by implementation of standard engineering and construction techniques in compliance with the requirements of the CBC for Seismic Zones. The City requires that all construction meet the latest standards of the CBC for construction; these standards consider proximity to potential seismic sources. Project construction would be in accordance with applicable requirements of the most recent version of the CBC, which requires structural design that can accommodate ground accelerations expected from known active faults. Thus, while fault rupture impacts would be potentially damaging, they would also tend to be reduced in their structural effects due to CBC criteria that recognize this potential. The CBC includes provisions for buildings to structurally survive an earthquake without collapsing and includes measures such as anchoring to the foundation and structural frame design. Compliance with these building safety design standards would reduce potential impacts associated with fault rupture and ground shaking to less than significant levels, as outlined in the Standard Permit Condition below. The Proposed Project would have a less than significant impact related to strong ground shaking.

Standard Permit Conditions

- To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of

San Jose 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.

iii) Liquefaction occurs when loose sand and silt saturated with water behaves like a liquid when shaken by an earthquake. Liquefaction can result in the following types of seismic-related ground failure:

- Loss of bearing strength – soils liquefy and lose the ability to support structures.
- Lateral spreading – soils slide down gentle slopes or toward stream banks.
- Flow failures – soils move down steep slopes with large displacement.
- Ground oscillation – surface soils, riding on a buried liquefied layer, are thrown back and forth by shaking.
- Flotation – floating of light buried structures to the surface.
- Settlement – settling of ground surface as soils reconsolidate.
- Subsidence – compaction of soil and sediment.

According to the Geotechnical Report prepared for the Project (Appendix B), tests were performed concerning the selected fine-grained soils encountered at the Project site and it was found that there is a low potential for soil liquification (Korbmacher Engineering, Inc. 2018). Therefore, a less than significant impact would occur related to liquification.

iv) The Project site and surrounding area is relatively flat with no hillsides or other formations susceptible to landslides. As such, the potential for landslides would not occur.

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐

The Project site is flat, developed and very little soil is currently exposed on the site. Ground disturbance would be required for demolition of the existing building and has the potential to expose some soil. However, this would be a short lived and the soil being exposed has been compacted for many years. The loss or erosion of soil is unlikely, but the Project would be nonetheless subject to measures to reduce the potential for soil erosion further.

The City's National Pollutant Discharge Elimination System (NPDES) Municipal Permit, urban runoff policies, and the Municipal Code are the primary means of enforcing erosion control measures through the building permit process. All construction/demolition projects must comply with the City of San Jose's Grading Ordinance, which requires the use of erosion and sediment controls to protect water quality while

the site is under construction. The Project is subject to Municipal Code Section 20.100.470 which requires the Project to incorporate best management practices (BMPs) to control the discharge of storm water pollutants, including sediments from erosion, associated with construction activities. Additionally, the Project would be required to prepare a stormwater pollution prevention plan (SWPPP) in order to comply with the Regional Water Quality Control Board's (RWQCB) General Construction Storm Water Permit. The SWPPP will also identify BMPs to be implemented on the Project site to minimize soil erosion and protect existing drainage systems, as outlined in the Standard Permit Conditions below. Project impacts associated with erosion are less than significant.

Standard Permit Conditions

- To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.
- All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
- The Project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

Would the Project:		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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?	☐	☐	☒	☐

As discussed previously, the Project site has no potential for landslides due to the level terrain surrounding the site.

Lateral spreading is a form of horizontal displacement of soil toward an open channel or other "free" face, such as an excavation boundary. Lateral spreading can result from either the slump of low cohesion and unconsolidated material or, more commonly, by liquefaction of either the soil layer or a subsurface layer underlying soil material on a slope, resulting in gravitationally driven movement. Lateral spreading/lurching is a situation in which soil mass deforms laterally toward a free face, such as a stream bank, during a seismic event. The failure occurs along a liquefiable/weak subsurface layer. According to the Geotechnical Report prepared for the Project (Appendix B), there is a low potential for lateral spreading on the Project site (Korbmacher Engineering, Inc. 2018). As such, the potential for impacts due to lateral spreading would be less than significant.

With the withdrawal of fluids, such as water and oil, the pore spaces within the soils decrease, leading to a volumetric reduction. If that reduction is significant enough over an appropriately thick sequence of sediments, regional ground subsidence can occur. This typically only occurs within poorly lithified sediments and not within competent rock.[2] According to the U.S. Geological Survey (USGS), the Project site is located in an area of land subsidence as a result of groundwater pumping (USGS 2018). However, this has occurred over many years and appears to be effectively halted as a result of remedial action by the SCVWD (USGS 2018). As such, the potential for impacts due to subsidence would be less than significant.

Collapse occurs when water is introduced to poorly cemented soils, resulting in the dissolution of the soil cementation and the volumetric collapse of the soil. In most cases, the soils are cemented with weak clay (argillic) sediments or soluble precipitates. This phenomenon generally occurs in granular sediments situated within arid environments. Collapsible soils will settle without any additional applied pressure when sufficient water becomes available to the soil. Water weakens or destroys bonding material between particles that can severely reduce the bearing capacity of the original soil. The collapse potential of these soils must be determined for consideration in the foundation design. The Project site is not located in an arid climate and as such the potential for collapse at the site is unlikely. As such, the potential for impacts due to collapse would be less than significant.

Would the Project:		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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?	☐	☐	☐	☐

Expansive or shrink-swell soils are soils that swell when subjected to moisture and shrink when dry. Expansive soils typically contain clay minerals that attract and absorb water, greatly increasing the volume of the soil. This increase in volume can cause damage to foundations, structures, and roadways. Structures

[2] The processes by which loose sediment is hardened to rock are collectively called lithification.

built on these soils may experience shifting, cracking, and breaking damage as soils shrink and subside or expand. The soil on the Project site was found to have a moderate to high expansion potential and could be subject to movement with increased moisture content (Korbmacher Engineering, Inc. 2018). An updated geotechnical analysis would be prepared to provide recommendations to minimize these hazards as described in the Standard Permit Condition for Item a-ii above. This would reduce any potentially significant direct or indirect geotechnical impacts to a less than significant level.

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	☐	☐	☐	☒

The Project would connect to the city's waste water collection and treatment plant. The Proposed Project would not use a septic system or other waste water disposal system. No impact.

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☒	☐

The Project site has been previously developed. There are no unique paleontological resource or geologic feature located on the site. The Project proposes minor grading and would not require excavation for a parking garage or any other structure; therefore, it is unlikely to disturb paleontological resources. However, consistent with General Plan Policy ER-10.3, the following Standard Permit Condition will be implemented by the Project to avoid or minimize impacts to paleontological resources during construction. No other unique geological features are found on the Project site. Due to this, a less than significant impact would occur.

Standard Permit Condition

- 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.

4.8.4 Mitigation Measures

No significant impacts were identified, and no mitigation measures are required.

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4.9 Greenhouse Gas Emissions

This section describes the environmental setting for greenhouse gas emissions, including the regulatory setting and existing conditions and the impacts on greenhouse gases that would result from the Proposed Project. A Greenhouse Gas analysis report was completed for the Proposed Project (ECORP 2020). This technical report is provided in Appendix A and summarized below.

4.9.1 Environmental Setting

Greenhouse gases (GHGs) are released as byproducts of fossil fuel combustion, waste disposal, energy use, land use changes, and other human activities. This release of gases, such as carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), and chlorofluorocarbons, creates a blanket around the earth that allows light to pass through but traps heat at the surface, preventing its escape into space. While this is a naturally occurring process known as the greenhouse effect, human activities have accelerated the generation of GHGs beyond natural levels. The overabundance of GHGs in the atmosphere has led to an unexpected warming of the earth and has the potential to severely impact the earth's climate system.

Each GHG differs in its ability to absorb heat in the atmosphere based on the lifetime, or persistence, of the gas molecule in the atmosphere. CH_4 traps more than 25 times more heat per molecule than CO_2, and N_2O absorbs 298 times more heat per molecule than CO_2. Often, estimates of GHG emissions are presented in carbon dioxide equivalents (CO_2e). Expressing GHG emissions in CO_2e takes the contribution of all GHG emissions to the greenhouse effect and converts them to a single unit equivalent to the effect that would occur if only CO_2 were being emitted.

4.9.2 Regulatory Setting

State

Assembly Bill 32 and Senate Bill 375

In California, GHG emission reduction goals are set into law primarily through AB 32 and SB 375. AB 32, also known as the Global Warming Solutions Act, established a goal to reduce GHG emissions in the state to 1990 levels by 2020. SB 375 builds on AB 32 by requiring CARB to develop regional GHG reduction targets to be achieved from the automobile and light truck sectors for 2020 and 2035 in comparison to 2005 emissions. California is on track to meet or exceed the target of reducing GHG emissions to 1990 levels by 2020, as established in the California Global Warming Solutions Act of 2006. In August 2016, Governor Brown signed SB 32 and AB 197, which serve to extend California's GHG reduction programs beyond 2020. SB 32 amended the Health and Safety Code to include Section 38566, which contains language to authorize CARB to achieve a statewide GHG emission reduction of at least 40 percent below 1990 levels by no later than December 31, 2030. SB 32 codified the targets established by Executive Order (EO) B-30-15 for 2030, which set the next interim step in the State's continuing efforts to pursue the long-term target expressed in EOs S-3-05 and B-30-15 of 80 percent below 1990 emissions levels by 2050.

Regional

Association of Bay Area Governments Final Plan Bay Area 2040

The ABAG Plan Bay Area is the Regional Transportation Plan (RTP) and Sustainable Communities Strategy (SCS) for the San Francisco Bay Area. ABAG was tasked by CARB to achieve a seven percent per capita reduction in mobile-source GHG emissions compared to 2005 vehicle emissions by 2020 and a 15 percent per capita reduction by 2035. Plan Bay Area 2040 establishes an overall mechanism to achieve these GHG targets for the Project region consistent with both the target date of AB 32 (2020) and the post-2020 GHG reduction goals of SB 32. CARB has confirmed the Project region will achieve its GHG reduction targets by implementing Plan Bay Area (CARB 2014).

2017 Clean Air Plan

The 2017 Plan provides a regional strategy to protect public health and protect the climate. To protect the climate, the 2017 Clean Air Plan defines a vision for transitioning the region to a post-carbon economy needed to achieve ambitious greenhouse gas reduction targets for 2030 and 2050 and provides a regional climate protection strategy that will put the Bay Area on a pathway to achieve those greenhouse gas emissions reduction targets.

The 2017 Clean Air Plan includes a wide range of control measures designed to reduce emissions of methane and other "super-GHGs" that are potent climate pollutants in the near-term; and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

Local

Climate Smart San José

Climate Smart San José, adopted in February 2018, is a plan to reduce air pollution, save water, and create a healthy community. The plan focuses on three pillars and nine key strategies to transform San José into a climate smart city that is substantially decarbonized and meeting requirements of Californian climate change laws.

Greenhouse Gas Reduction Strategy

On December 15, 2015, the San Jose City Council certified a Supplemental Program Environmental Impact Report to the *Envision San Jose 2040* Final Program EIR and re-adopted the City's GHG Reduction Strategy in the General Plan. The GHG Reduction Strategy is intended to meet the mandates as outlined in the CEQA Guidelines and standards for "qualified plans" as set forth by BAAQMD. Projects that conform to the General Plan Land Use/Transportation Diagram and supporting policies are considered consistent with the City's GHG Reduction Strategy. Projects that are consistent with the GHG Reduction Strategy would have a less than significant impact related to GHG emissions through 2020 and would not conflict with targets in the currently adopted State of California Climate Change Scoping Plan through 2020. The environmental impacts of the GHG Reduction Strategy were analyzed in the General Plan Final EIR as supplemented.

The GHG Reduction Strategy identifies GHG emissions reduction measures to be implemented by development projects in three categories: built environment and energy; land use and transportation; and recycling and waste reduction. Some measures are mandatory for all proposed development projects and others are voluntary. Voluntary measures can be incorporated as mitigation measures for proposed projects, at the City's discretion. Below is a listing of the mandatory criteria utilized to evaluate project conformance with the GHG Reduction Strategy:

1. Consistency with the Land Use/Transportation Diagram (General Plan Goals/Policies: IP-1, LU-10)
2. Implementation of Green Building Measures (General Plan Goals: MS-1, MS-2, MS-14)
    a. Solar Site Orientation
    b. Site Design
    c. Architectural Design
    d. Construction Techniques
    e. Consistency with the City Green Building Ordinance and Policies
    f. Consistency with GHG Reduction Strategy Policies: MS-1.1, MS0-1.2, MC-2.3, MS-2.11, and MS-14.4.
3. Pedestrian/Bicycle Site Design Measures
    a. Consistency with Zoning Ordinance
    b. Consistency with GHG Reduction Strategy Policies: CD-2.1, CD-3.2, CD-3.3, CD-3.4, CD-3.6, CD-3.8, CD-3.10, CD-5.1, LU-5.5, LU-9.1, TR-2.8, TR-2.11, TR-2.18, TR-3.3, TR-6.7.
4. Salvage building materials and architectural elements from historic structures to be demolished to allow re-use (General Plan Policy LU-16.4), if applicable;
5. Complete an evaluation of operational energy efficiency and design measures for energy-intensive industries (e.g., data centers) (General Plan Policy MS-2.8), if applicable;
6. Preparation and implementation of the Transportation Demand Management (TDM) Program at large employers (General Plan Policy TR-7.1), if applicable; and
7. Limits on drive-through and vehicle serving uses; all new uses that serve the occupants of vehicles (e.g., drive-through windows, car washes, service stations) must not disrupt pedestrian flow. (General Plan Policy LU-3.6), if applicable.

General Plan

The following General Plan policies address GHG emission reductions in San Jose:

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

Policy CD-3.3: Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities

and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

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

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

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

4.9.3 Greenhouse Gas Emissions (VIII) Environmental Checklist and Discussion

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐

Construction

Construction-related activities that would generate GHGs include worker commute trips, haul trucks carrying supplies and materials to and from the Project site, and off-road construction equipment (e.g., dozers, loaders, excavators). Table 4.8-1 illustrates the specific construction-generated GHG emissions that would result from construction of the Project.

Table 4.8-1. Construction Related Greenhouse Gas Emissions

Emissions Source	CO_2e (Metric Tons/Year)
Construction	131
Total	**131**

Source: CalEEMod version 2016.3.2. Refer to Appendix A for Model Data Outputs.

Notes: Emissions estimates account for the demolition of 1,500 square feet of structures and three existing driveway entrances. Building construction, paving, and architectural coating assumed to occur simultaneously.

As shown in Table 4.8-1, Project construction (including demolition activities) would result in the generation of approximately 131 metric tons of CO_2e over the course of construction. Once construction

is complete, the generation of these GHG emissions would cease. As previously stated, the BAAQMD does not have an adopted threshold of significance for construction-related GHG emissions. GHG emissions generated by the construction sector have been declining in recent years. For instance, construction equipment engine efficiency has continued to improve year after year. The first federal standards (Tier 1) for new off-road diesel engines were adopted in 1994 for engines over 50 horsepower and were phased in from 1996 to 2000. In 1996, a Statement of Principles pertaining to off-road diesel engines was signed between the USEPA, CARB, and engine makers (including Caterpillar, Cummins, Deere, Detroit Diesel, Deutz, Isuzu, Komatsu, Kubota, Mitsubishi, Navistar, New Holland, Wis-Con, and Yanmar). On August 27, 1998, the USEPA signed the final rule reflecting the provisions of the Statement of Principles. The 1998 regulation introduced Tier 1 standards for equipment under 50 horsepower and increasingly more stringent Tier 2 and Tier 3 standards for all equipment with phase-in schedules from 2000 to 2008. As a result, all off-road, diesel-fueled construction equipment manufactured in 2006 or later has been manufactured to Tier 3 standards. Tier 3 engine standards reduce precursor and subset GHG emissions such as nitrogen oxide by as much as 60 percent. On May 11, 2004, the USEPA signed the final rule introducing Tier 4 emission standards, which are currently phased-in over the period of 2008-2015. The Tier 4 standards require that emissions of nitrogen oxide be further reduced by about 90 percent. All off-road, diesel-fueled construction equipment manufactured in 2015 or later will be manufactured to Tier 4 standards.

In addition, under the current California Building Energy Efficiency Standards, owners/builder of construction projects have been required to divert (recycle) 65 percent of generated construction waste materials generated during the project since 2017. This requirement greatly reduces the generation of GHG emissions by reducing decomposition at landfills, which is a source of CH_4, and reducing demand for natural resources.

GHG emissions related to construction would be less than significant.

Operations

Operation of the Project would result in GHG emissions. Projected GHG emissions associated with proposed operations are quantified and compared to the existing baseline, which as previously stated includes 1,500-square-foot convenience store. Table 4.8-2 summarizes all the direct and indirect annual GHG emissions associated with the Project.

Table 4.8-2. Operational Greenhouse Gas Emissions	
Emissions Source	**CO_2e (Metric Tons/ Year)**
Proposed 3,200-Square Foot Convenience Store, 11 Parking Spaces, & 12-Position Gasoline Dispensing Station	
Area Source (landscaping, hearth)	0
Energy	17
Mobile	2,861
Waste	8
Water	1
Total	**2,887**
Existing 1,500-Square Foot Convenience Store & 12-Position Gasoline Dispensing Station	
Area Source (landscaping, hearth)	0
Energy	13
Mobile	2,490
Waste	6
Water	1
Total	**2,510**
Difference	
Area Source (landscaping, hearth)	0
Energy	+4
Mobile	+371
Waste	+2
Water	0
Total	**+377**
BAAQMD Bright-Line Significance Threshold	*660*
Exceed BAAQMD Daily Threshold?	**No**

Source: CalEEMod version 2016.3.2. Refer to Appendix A for Model Data Outputs.

This assessment utilizes a bright-line threshold of 660 metric tons of CO_2e per year based on the GHG reduction goals of EO B-30-15. The 2030 bright-line threshold is a 40 percent reduction of the 2020 1,100 metric tons of CO_2e per year threshold. As shown in Table 4.8-2, Project operations would result in 2,887 metric tons of CO_2e annually. The increase in operational GHG emissions over the existing baseline would be 377 metric tons of CO_2e per year as a result of the Project and therefore, the Proposed Project would not surpass the BAAQMD bright-line numeric significance threshold of 660 metric tons of CO_2e annually. BAAQMD thresholds were developed based on substantial evidence that such thresholds represent quantitative levels of GHG emissions, compliance with which means that the environmental impact of the GHG emissions will normally not be cumulatively considerable under CEQA (BAAQMD 2017a). Compliance with such thresholds will be part of the solution to the cumulative GHG emissions problem, rather than hinder the state's ability to meet its goals of reduced statewide GHG emissions under AB 32.

GHG emissions related to operations would be less than significant.

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☐	☒

Climate Smart San Jose

Climate Smart San Jose is the City's climate action plan. This plan was adopted in 2017 and provides guidance and strategies for the reduction of GHG emissions in San Jose. The City will achieve reductions in GHG emissions through a mix of voluntary programs and new strategic standards. All standards presented in Climate Smart San Jose respond to the needs of development though achieving more efficient use of resources.

The Project would not obstruct the ability of the City to achieve the Climate Smart San Jose emission reduction targets. Climate Smart San Jose GHG-reducing strategies are derived, in part, by land use designations and associated densities projected in the City of San Jose General Plan. The Proposed Project is consistent with the land use designation and development density presented in the General Plan. As previously described, the Project site has a General Plan designation of NCC, which allows for a broad range of commercial activity including that from convenience stores. Since the Project is consistent with the City of San Jose General Plan it is consistent with the types, intensity, and patterns of land use envisioned for the site vicinity in the General Plan. As a result, the Project would not conflict with the land use assumptions or exceed the population or job growth projections used by the City to develop Climate Smart San Jose.

While Climate Smart San Jose does not contain specific requirements for renovated developments like that proposed by the Project, all development in San Jose, including the Project, is required to adhere to all City-adopted policy provisions, including those contained in the adopted Climate Smart San Jose. The City ensures all feasible GHG-reducing strategies of Climate Smart San Jose are incorporated into projects and their permits through development review and applications of conditions of approval as applicable.

The Proposed Project would not conflict with this adopted plan pertaining to the reduction of GHG emissions, no impact would occur.

Bay Area Air Quality Management Plan 2017 Clean Air Plan

The 2017 Clean Air Plan provides a regional strategy to protect public health and protect the climate. The 2017 Clean Air Plan defines a vision for transitioning the region to a post-carbon economy needed to achieve ambitious GHG reduction targets for 2030 and 2050 and provides a regional climate protection strategy that will put the Bay Area on a pathway to achieve those GHG emissions reduction targets. The 2017 Clean Air Plan includes a wide range of control measures designed to reduce emissions of methane and other "super-GHGs" that are potent climate pollutants in the near-term; and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

The 2017 Clean Air Plan includes a diverse range of control measures designed to decrease GHG emissions. Consistency of the Proposed Project with 2017 Clean Air Plan is demonstrated by assessing whether the Project supports all of the Project-applicable Clean Air Plan control measures for GHG emissions. The GHG-related control strategies of the Clean Air Plan include *Mobile Source Measures*, *Transportation Control Measures* and *Energy and Climate Measures*. (The *Land Use and Local Impact Measure*s address the exposure of sensitive receptors to toxic air contaminants and is thereby not applicable to this impact discussion of GHG emissions. Additionally, the Stationary Source Measures in the Clean Air Plan such as those implemented to control emissions from metal melting facilities, cement kilns, refineries, and glass furnaces are not applicable to the Proposed Project.)

Project-consistency with the 2017 Clean Air Plan has been previously described and in Section 4.4 Air Quality. The Proposed Project would conform to the Project-applicable control measures in the Clean Air Plan and would not disrupt or hinder the implementation of any other control measures.

The Proposed Project would not conflict with this adopted plan pertaining to the reduction of GHG emissions, no impact would occur.

Association of Bay Area Governments Final Plan Bay Area 2040

ABAG's Plan Bay Area is the RTP/SCS for the San Francisco Bay Area. Plan Bay Area establishes GHG emissions goals for automobiles and light-duty trucks, a potent source of GHG emissions attributable to land use development. As previously described, ABAG was tasked by CARB to achieve a seven percent per capita reduction in mobile-source GHG emissions compared to 2005 vehicle emissions by 2020 and a 15 percent per capita reduction by 2035. Plan Bay Area 2013-2040 establishes an overall mechanism to achieve these GHG targets for the Project region consistent with both the target date of AB 32 (2020) and the post-2020 GHG reduction goals of SB 32. CARB has confirmed the Project region will achieve its GHG reduction targets by implementing Plan Bay Area (CARB 2014). The RTP/SCS contains thousands of individual transportation projects, including highway improvements, railway electrification, bicycle lanes, new transit hubs, and replacement bridges. These future investments seek to reduce traffic bottlenecks, improve the efficiency of the region's network, and expand mobility choices. The RTP/SCS is an important planning document for the region, allowing project sponsors to qualify for federal funding. In addition, the RTP/SCS is supported by a combination of transportation and land use strategies that help the region achieve state GHG emission reduction goals and federal CAA requirements, preserve open space areas, improve public health and roadway safety, support the vital goods movement industry, and use resources more efficiently.

Plan Bay Area 2040's core strategy is "focused growth" in existing communities along the existing transportation network. This strategy allows the best "bang for the buck" in achieving key regional economic, environmental and equity goals: It builds upon existing community characteristics, efficiently leverages existing infrastructure and mitigates impacts on areas with less development. The RTP/SCS identifies 200 "Priority Development Areas" which are areas focused for growth and development. Priority Development Areas are defined by the RTP/SCS as existing neighborhoods that are served by public transit and have been identified as appropriate for additional, compact development.

The Project site is located in an area identified as a Priority Development Area in the RTP/SCS. Since the Project site is a Priority Development Area in the RTP/SCS planning period as opposed to "Priority Conservation Area," it is included in an area where urban development is both predicted and encouraged by ABAG (ABAG 2017, Map 4.5). Furthermore, the Project is a modernization of land uses within a built environment (infill development), resulting in an increase of land use densification on the Project site. The Project will increase density in the vicinity over current conditions. Increased density, measured in terms of persons, jobs, or building square footage, potentially reduces emissions associated with transportation as it reduces the distance people travel for work or services and provides a foundation for the implementation of other strategies such as enhanced transit services.

Greenhouse Gas Reduction Strategy

Projects within San Jose must follow the GHG Reduction Strategy in the General Plan. The GHG Reduction Strategy is intended to meet the mandates as outlined in the CEQA Guidelines and standards for "qualified plans" as set forth by BAAQMD. The Proposed Project would conform to the General Plan Land Use/Transportation Diagram and supporting policies and thus would be considered consistent with the City's GHG Reduction Strategy. Consistency with the GHG Reduction Strategy would result in the Project having a less than significant impact related to GHG emissions through 2020 and not conflicting with targets in the currently adopted State of California Climate Change Scoping Plan through 2020.

For these reasons, the Project is consistent with Plan Bay Area and it can be assumed that regional mobile emissions will decrease in line with the goals of Plan Bay Area with implementation of the proposed Project. Implementing ABAG's RTP/SCS will greatly reduce the regional GHG emissions from transportation, and the proposed Project will not obstruct the achievement of Plan Bay Area's emission reduction targets.

4.9.4 Mitigation Measures

No significant impacts were identified, and no mitigation measures are required.

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4.10 Hazards and Hazardous Materials

This section describes the environmental setting for hazards and hazardous materials, including the regulatory setting and existing site conditions, the impact on the surrounding environment that would result from the Proposed Project, and the mitigation measures that would reduce these impacts. Since the early 1800's arsenic containing insecticides and organochlorine pesticides were applied to crops in the normal course of farming operations. Lead arsenate was extensively used up until the 1960's and organochlorine pesticides were used between the 1940's and 1980's. It is not uncommon to find residual agricultural chemicals in the soil of properties with an agricultural history in San José. Additionally, the site has been operating as a gasoline station. Therefore, a Phase I Environmental Site Assessment was completed for the Proposed Project by Environmental Investigation Services (EIS), Inc. (2018). This technical report is provided in Appendix C and is summarized below.

4.10.1 Environmental Setting

A material is considered hazardous if it appears on a list of hazardous materials prepared by a federal, State, or local agency or if it has characteristics defined as hazardous by such an agency. A hazardous material is defined by the California Health and Safety Code, Section 25501 as follows:

> "Hazardous material" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material that a handler or the administering agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment.

A hazardous material is defined in Title 22, Section 662601.10, of the CCR as follows:

> A substance or combination of substances which, because of its quantity, concentration, or physical, chemical or infectious characteristics, may either (1) cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or (2) pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported or disposed of or otherwise managed.

The release of hazardous materials into the environment could potentially contaminate soils, surface water, and groundwater supplies.

Most hazardous materials regulation and enforcement in Santa Clara County (except for the cities of Sunnyvale, Santa Clara, and Gilroy) is managed by the Santa Clara County Hazardous Materials Compliance Division, which refers large cases of hazardous materials contamination or violations to the San Francisco Bay Regional Water Quality Control Board (RWQCB), and the California Department of Toxic Substances Control (DTSC). It is not at all uncommon for other agencies to become involved when issues of hazardous materials arise, such as the BAAQMD and both the federal and California Occupational Safety and Health Administrations (OSHA).

A hazardous materials Phase I Environmental Site Assessment was performed by EIS on August 22, 2018. A visual reconnaissance of the Project site, adjoining properties, and surrounding areas was performed. EIS inspected the usage, storage and disposal of hazardous substances, petroleum products, liquid waste and solid waste, inspected the underground and above ground storage tanks, inspected the subject property for indications for polychlorinated biphenyls, and inspected the Project site for any and all wells.

Under Government Code § 65962.5, both the DTSC and the State Water Resources Control Board (SWRCB) are required to maintain lists of sites known to have hazardous substances present in the environment. Both agencies maintain lists on their websites. A search of the DTSC (2018) and SWRCB (2018) lists identified no open cases of hazardous waste violations within a half mile of the Project site.

However, the 2018 EDR Radius Report created for the project site reported five hazardous waste violations within a half mile from the Project site. Furthermore, the on-site violations are due to the use of underground storage tanks (USTs) with no subsurface investigation since 1991 combined with a history of monitoring system inspection violations and limited soil vapor testing since 2005 represents a recognized environmental condition (EDR 2018). Another hazardous waste violation resulted due to the failure to obtain a permit for the installation, repair, or modification of the UST system containment or leak detection equipment. Furthermore, the site assessment identified a leaking UST but this has since been remediated and was labeled as Completed-Case Closed in 2017 (EDR 2018).

4.10.2 Regulatory Setting

Federal

U.S. Environmental Protection Agency

The USEPA is the federal agency responsible for enforcement and implementation of federal laws and regulations pertaining to hazardous materials. The legislation includes the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (commonly referred to as "Superfund"), the Superfund Amendments and Reauthorization Acts of 1986, and the Resource Conservation and Recovery Act of 1986. The USEPA provides oversight and supervision for site investigations and remediation projects, and has developed land disposal restrictions and treatment standards for the disposal of certain hazardous wastes.

Comprehensive Environmental Response, Compensation, and Liability Act

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted by Congress in 1980. This law provided broad federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. CERCLA established prohibitions and requirements concerning closed and abandoned hazardous waste sites, provided for liability of persons responsible for releases of hazardous wastes at these sites, and established a trust fund to provide for cleanup when no responsible party could be identified.

CCR Title 8, Section 1532.1

The United States Consumer Product Safety Commission banned the use of lead-based paint in 1978. Removal of older structures with lead-based paint is subject to requirements outlined by Cal/OSHA Lead

in Construction Standard, CCR Title 8, Section 1532.1 during demolition activities. Requirements include employee training, employee air monitoring, and dust control. If lead-based paint is peeling, flaking, or blistered, it is required to be removed prior to demolition.

State

California Environmental Protection Agency

The California EPA (Cal/EPA) serves as the umbrella agency for the DTSC, OEHHA, and the SWRCB and its associated regional Water Boards.

Department of Toxic Substances Control

The DTSC regulates remediation of sites where discharges to land could potentially present a public health risk. California legislation, for which the DTSC has primary enforcement authority, includes the Hazardous Waste Control Act and the Hazardous Substance Account Act. The DTSC generally acts as the lead agency for soil and groundwater cleanup projects and establishes cleanup and action levels for subsurface contamination that are equal to, or more restrictive than, federal levels.

Office of Environmental Health Hazard Assessment

The mission of the OEHHA is to protect and enhance public health and the environment by objective scientific evaluation of risks posed by hazardous substances.

State Water Resources Control Board

The SWRCB, through its nine regional boards, regulates discharge of potentially hazardous materials to waterways and aquifers and administers basin plans for groundwater resources in various regions of the State. The San Francisco Bay RWQCB is the regional board that has jurisdiction over the project area. The SWRCB provides oversight for sites at which the quality of groundwater or surface waters is threatened and has the authority to require investigations and remedial actions.

Government Code Section 65962.5

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

California Accidental Release Prevention Program

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

Asbestos-Containing Materials

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

Regional

Regional Water Quality Control Board

San Francisco Bay RWQCB regulates discharges and releases to surface and groundwater in the project area. The RWQCB generally oversees cases involving groundwater contamination. Within the San Francisco Bay RWQCB, the County of San Mateo Health Services Agency (CSMHSA) handles most leaking UST (LUST) cases, so the RWQCB may oversee cases involving other groundwater contaminants (i.e. Spills, Leaks, Incidents, and Clean-up cases). In the case of spills at a project site, the responsible party would notify the CSMHSA, and then a lead regulator (either the CSMHSA, RWQCB, or DTSC) would be determined.

Santa Clara Department of Environmental Health

Businesses that sell and store hazardous materials are subject to the Hazardous Material Business Plan program, which is regulated by the Santa Clara Department of Environmental Health as part of the Certified Unified Program. The program requires the preparation of a document that provides an inventory of hazardous materials on-site, emergency plans and procedures in the event of an accidental release, and training for employees on safety procedures for handling hazardous materials and what to do in the event of a release or threatened release. These plans are routine documents that are intended to disclose the presence of hazardous materials and provide information on what to do if materials are inadvertently released. The goal of the program is to protect both human and environmental health from adverse effects as a result of the storage or possible release of those materials.

The Santa Clara Department of Environmental Health also implements the Underground Storage Tank (UST) Program. The goal of the UST Program is to protect public health and safety, the environment, and the waters of the state from discharges and releases of hazardous substances from USTs. These hazardous substances include petroleum, used oil, waste antifreeze, and more. This goal is accomplished by conducting annual inspections, reviewing and approving submissions regarding UST installations, repairs, upgrades, and closures, overseeing UST system closure activities, and more. Operators of a UST system storing any hazardous material must obtain and keep current a UST Permit to Operate issued by Santa Clara Department of Environmental Health. USTs are required to have the following testing done by an International Code Council (ICC) certified California UST Service Technician with current training from the manufacturer(s) of the monitoring equipment and test equipment.

Municipal Regional Permit Provision C.12.f

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

With the adoption of the San Francisco Bay Region Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit (MRP) by the San Francisco Bay Regional Water Quality Control Board on November 19, 2015, Provision C.12.f requires that permittees develop an assessment protocol methodology for managing materials with PCBs in applicable structures planned for demolition to ensure PCBs do not enter municipal storm drain systems. Municipalities throughout the Bay Area are currently modifying demolition permit processes and implementing PCB screening protocols to comply with Provision C.12.f. As of July 1, 2019, buildings constructed between 1955 and 1978 that are proposed for demolition must be screened for the presence of PCBs prior to the issuance of a demolition permit.

Local

General Plan

The Proposed Project will be subject to the hazards and hazardous materials policies of the City's General Plan, including the following:

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

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

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

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

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

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

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

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

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

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

4.10.3 Hazards and Hazardous Materials (IX) Environmental Checklist and Discussion

Would the Project:		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
a)	Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐

Construction of the Proposed Project would involve the use of potentially hazardous materials, including vehicle fuels, oils, and fluids. However, all hazardous materials would be transported, contained, stored, used, and disposed of in accordance with manufacturers' instructions and would be handled in

compliance with all applicable standards and regulations. Construction-related hazardous materials would be used only temporarily (during construction), which does not constitute routine transport, use, or disposal.

Once in operation, the Proposed Project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. Retail uses do not generate significant amounts of hazardous materials, and only a minimal amount of routine day-to-day materials is stored onsite, such as materials used in routine cleaning of buildings or maintenance of landscaping. These materials would be used, stored, and disposed in accordance with existing regulations and product labeling and would not create a significant hazard to the public or to the environment. The Project would have a less than significant impact.

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No 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 discussed in Item a), the Project would not result in the routine transport, use, disposal, handling, or emission of any hazardous materials that would create a significant hazard to the public or the environment. Potential construction-related hazards could be created during the course of Project construction at the Project site given that demolition is proposed for buildings that could potentially contain hazardous materials such as asbestos-containing building materials and lead paint. The presence of asbestos-containing building material and/or lead in buildings does not necessarily endanger the health of building occupants; as long as these materials remain in good condition and are not disturbed or damaged, exposure is unlikely. However, these materials may release hazardous toxins into the environment if disturbed or improperly handled, such as during the demolition activated proposed by the Project. Implementation of the Standard Permit Condition below would reduce potential impacts during demolition to a level of less than significant.

Standard Permit Conditions

- In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of 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, CCR, Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.

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

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No 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 nearest school to the Project site is Aptitud Community Academy, approximately 0.25 mile south of the Project site. As discussed in Items a) and b), the Proposed Project would not emit any hazardous emissions. There is a potential that common hazardous materials may be stored in the proposed new building, including motor oil, diesel exhaust fluid, antifreeze, petroleum distillate-based automotive fluids, and heptane-based quick start fluids. These materials would be stored, used, and disposed of in accordance with product label instructions and existing State and local regulations. Due to the commonplace nature of the substances to be used, the small amount to be stored, and compliance with existing standards and regulations, this impact is considered less than significant.

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No 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, would it create a significant hazard to the public or the environment?	☐	☒	☐	☐

Under Government Code § 65962.5, both the DTSC and the SWRCB are required to maintain lists of sites known to have hazardous substances present in the environment. Both agencies maintain lists on their websites. A search of the DTSC and SWRCB lists identified no open cases of hazardous waste violations on the Project site. There was an open case on this site, which was completed and closed on July 25, 2017. Soil tests show that the site does not pose any significant hazard to the public or to the environment (EIS 2018). However, the 2018 EDR Radius Report created for the project site reported five hazardous waste violations within a half mile from the Project site.

Furthermore, the Phase I study identifies the site as having previous hazardous waste violations. These were associated with a closed LUST case that was granted closure in July 2017 and previous monitoring system inspection violations. Thus, mitigation measure HAZ-1 shall be implemented to reduce potential impacts due to hazardous waste to a less than significant level.

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No 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, would the project result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☒	☐

The Project site is located approximately 1 mile northwest of the Reid-Hillview Airport. This airport is owned and operated by Santa Clara County and primarily serves small aircrafts and general aviation demands (2011b). According to the Santa Clara County Comprehensive Land Use Plan for the Reid-Hillview Airport (2016), the Proposed Project site is located outside the typical flight paths. Therefore, would not result in the exposure of people residing or working in the Project area to excessive noise. A less than significant impact would occur.

Would the Project:		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
f)	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒

The Proposed Project does not include any actions that would impair or physically interfere with an adopted emergency response plan or emergency evacuation plan. All construction activities would occur on-site and not impede the use of surrounding roadways in an emergency evacuation. The Project involves the demolition and reconstruction of buildings on an already developed site and would not interfere with any emergency response or evacuation plans. Implementation of the Proposed Project would result in no impact.

Would the Project:		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
g)	Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	☐	☐	☐	☒

The risk of wildfire is related to a variety of parameters, including fuel loading (vegetation), fire weather (winds, temperatures, humidity levels, and fuel moisture contents), and topography (degree of slope). Steep slopes contribute to fire hazard by intensifying the effects of wind and making fire suppression difficult. Fuels such as grass are highly flammable because they have a high surface area to mass ratio and require less heat to reach the ignition point, while fuels such as trees have a lower surface area to mass ratio and require more heat to reach the ignition point.

The Project site is located in a highly urbanized area that is not subject to wildland fires, which is further discussed in Section 4.21 Wildfires. Therefore, impacts related to exposure of people or structures to a significant risk of loss, injury, or death involving wildland fires would not occur.

4.10.4 Mitigation Measures

HAZ-1: Prior to the construction a limited Phase II subsurface investigation meeting ASTM guidelines (inclusive of Ground Penetrating Radar or similar geophysical survey) will be performed by a qualified environmental professional to determine if the subject property has been adversely impacted by the site's previous agricultural history and long-term use as a gasoline dispensing facility, including a closed Leaking Underground Storage Tank (LUST) case that was granted closure in July 2017; and the site USTs with previous monitoring system inspection violations. If the Phase II results indicate soil, soil gas and/or groundwater contamination above regulatory environmental screening levels, the applicant must obtain regulatory oversight from the Santa Clara County Department of Environment Health (SCCDEH). Any further investigation and remedial actions must be

performed under regulatory oversight to mitigate the contamination and make the site suitable for the proposed development.

Timing/Implementation: Prior to beginning any development activities (grading, excavation, demolition)

Monitoring/Enforcement: City of San José Planning Department and/or Santa Clara County Department of Environmental Health

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4.11 Hydrology and Water Quality

4.11.1 Environmental Setting

Regional Hydrology

Surface Water

The Project site is located in the San Tomas Aquino Creek watershed[3]. San Tomas Aquino Creek originates in the foothills of the Santa Cruz Mountains and its watershed covers approximately 45 square miles. The river flows in a northerly direction through the cities of Campbell and Santa Clara, and ultimately ends at the upper (southern) end of Guadalupe Slough. In addition to incoming flows from Saratoga Creek, San Tomas Aquino Creek also receives water from Vasona Creek and its tributaries that drain portions of Saratoga and Campbell. Other smaller tributaries include Wildcat Creek, Smith Creek, East Smith Creek and Mistletoe Creek (San Jose 2009).

Groundwater

The Santa Clara Valley Groundwater Basin is the source for all groundwater in Santa Clara County and is divided into three subbasins: the Santa Clara Valley Subbasin (which can be further separated into its confined and unconfined portions), the Coyote Valley Subbasin, and the Llagas Subbasin. The former two basins underlie San Jose. The Santa Clara Subbasin (California Department of Water Resources [DWR] Basin 2-9.02), which includes the Santa Clara Plain and Coyote Valley, is located within the California Coast Ranges physiographic province between the San Andreas and Hayward faults at the southern end of the San Francisco Bay.

The Project site is underlain by the unconfined portion of the Santa Clara Valley Subbasin. The Santa Clara Subbasin covers a surface area of 297 square miles (SCVWD 2016). According to the 2003 California Groundwater Bulletin 118 Update, the operational storage capacity of the Santa Clara Valley Subbasin is estimated to be 350,000 acre-feet (AF). This estimate is based on an area defined by the Santa Clara Valley Water District that is approximately 15 square miles smaller than the Santa Clara Subbasin boundaries used by DWR (DWR 2003). According to the SCVWD Groundwater Management Plan, the estimated operational storage capacity of the groundwater subbasins is up to a combined 548,000 AF with both the Santa Clara Valley and Coyote Valley subbasins (SCVWD 2016).

Project Site Hydrology and Onsite Drainage

The Project site is located on flat terrain situated at an elevation of approximately 110 feet amsl[4]. No natural water features existing on the Project site. There is no natural water within one mile of the Project site.

[3] The San Toma Aquino Creek Watershed is approximately 45 square miles in size and is one of the size major watersheds located within the City of San Jose (City of San Jose 2009).

[4] The Project site is located in a flat region of the San Jose Valley (Environmental Investigation Services, Inc. 2018).

The average yearly rainfall varies across San Jose, dictated largely by topography. The mean annual precipitation downtown is 14-15 inches, increasing to 22 inches in the foothills in eastern San Jose. Average annual precipitation generally decreases from south to north. Most of the precipitation occurs between November and April with generally sparse precipitation between May and October. The wettest month of the year is usually January, with an average rainfall of about three inches. Snowfall is not a significant form of precipitation in San Jose; there are only a handful of documented significant snowfalls in over 100 years (City of San Jose 2009).

The Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map for the Project area shows that the Project site is in unshaded Zone AO (06085CO234H), meaning "areas subject to inundation by 1-percent-annual-chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between once and three feet" (Korbmacher Engineering, Inc. 2018).

4.11.2 Regulatory Setting

Federal

Federal Emergency Management Agency

The National Flood Insurance Program (NFIP) makes federally backed flood insurance available for communities that agree to adopt and enforce floodplain management ordinances to reduce future flood damage. FEMA manages the NFIP and creates Flood Insurance Rate Maps that designate 100-year floodplain zones and delineate other flood hazard areas. A 100-year floodplain zone is the area that has a one in one hundred (one percent) chance of being flooded in any one year based on historical data

Federal and State

Clean Water Act and Porter-Cologne Water Quality Control Act

The federal Clean Water Act (CWA) and California's Porter-Cologne Water Quality Control Act are the primary laws that govern water quality. Its objective is to reduce or eliminate water pollution in the nation's rivers, streams, lakes, and coastal waters. The CWA outlines the federal laws for regulating discharges of pollutants, as well as sets minimum water quality standards for all Waters of the U.S. At the federal level, the USEPA implements pollutant control programs to regulate quality standards for surface waters. The Porter-Cologne Act established the SWRCB, which implements water quality regulations on a state-wide level. Several mechanisms are employed to control domestic, industrial, and agricultural pollution under the CWA. At the federal level, the CWA is administered by the USEPA. At the state and regional level, the CWA is administered and enforced by the SWRCB and the nine RWQCBs. The State of California has developed a number of water quality laws, rules, and regulations to assist in the implementation of the CWA and related federally mandated water quality requirements. In many cases, the federal requirements set minimum standards and policies and the laws, rules, and regulations adopted by the State and regional boards exceed the federal requirements. CWA Section 303(d) requires states to list all polluted water bodies that require further attention to support future uses. Currently, Coyote Creek is listed on the California 303(d) list for Diazinon and trash with a Total Maximum Daily Load and the implementation plans are in place. In 1988, the SWRCB adopted the Nonpoint Source Management Plan in an effort to control nonpoint source pollution in California. In December 1999, the Plan was updated to

comply with the requirements of Section 319 of the CWA and Section 6217 of the Coastal Zone Act Reauthorization Amendment of 1990. The Nonpoint Source Program requires individual permits to control discharge associated with construction activities. The Nonpoint Source Program is administered by the RWQCB under the NPDES General Permit for Construction Activities. Projects must comply with the requirements of the Nonpoint Source Program if:

- they disturb one acre or more of soil; or
- they disturb less than one acre of soil but are part of a larger development that, in total, disturbs one acre or more of soil.

The NPDES General Permit for Construction Activity requires the developer to submit a Notice of Intent (NOI) to the RWQCB and to develop a Stormwater Pollution Prevention Plan (SWPPP) to control discharge associated with construction activities.

State

Construction General Permit

The SWRCB has implemented a NPDES General Construction Permit for the State of California. For any projects that disturb one or more acres of land, the project applicant is required to submit a Notice of Intent (NOI) to the SWRCB and a SWPPP must be prepared prior to commencement of construction. The SWPPP addresses appropriate measures for reducing construction and post-construction impacts. All development projects, whether subject to the Construction General Permit or not, shall comply with the City of San Jose's Grading Ordinance, which requires the use of erosion and sediment controls to protect water quality while the site is under construction. Prior to the issuance of a permit for grading activity occurring during the rainy season (October 1 to April 30), the project will submit to the Director of Public Works an Erosion Control Plan detailing BMPs that will prevent the discharge of stormwater pollutants.

Regional

San Francisco Bay Basin Plan

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

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

The San Francisco Bay RWQCB also has issued a Municipal Regional Stormwater NPDES Permit (MRP) for the region. In an effort to standardize stormwater management requirements, this permit replaces the formerly separate countywide municipal stormwater permits with a regional permit for 77 Bay Area municipalities, including San Jose. Under provisions of the NPDES MRP, projects that add and/or replace

more than 10,000 square feet of impervious surface, or 5,000 square feet of uncovered parking area, 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

Municipal Regional Permit Provision C.12.f

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

Water Resources Protection Ordinance and District Well Ordinance

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

Santa Clara Valley Urban Runoff Pollution Prevention Program

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

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

The City of San Jose's Policy No. 6-29 implements the stormwater treatment requirements of Provision C.3 of the NPDES MRP. The City's Policy No. 6-29 requires all new and redevelopment projects regardless of size and land use to implement postconstruction Best Management Practices (BMPs) and Treatment Control Measures (TCM) to the maximum extent practicable. This policy also established specific design standards for postconstruction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surface area to use site design and source control measures and numerically sized LID stormwater treatment measures in accordance with the strategies set forth in the policy.

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

The City of San Jose's Policy No. 8-14 implements the stormwater treatment requirements of Provision C.3 of the NPDES MRP. Policy No. 8-14 requires all new and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation, or other impacts to beneficial uses of local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan. Based on the SCVURPPP watershed map for San Jose, the Project site is exempt from the NPDES hydromodification requirements because it is located in a catchment to hardened channel and/or tidal area. The Project shall comply with Policy 8-14 as it is applicable at the Development Permit stage for any future development on-site.

Local

General Plan

The *Envision San Jose 2040 General Plan* includes the following water quality policies applicable to the Proposed Project:

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

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

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

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

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

4.11.3 Hydrology and Water Quality (X) Environmental Checklist and Discussion

Would the Project:		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
a)	Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	☐	☐	☒	☐

All Project wastewater would be collected and treated by San Jose through their wastewater collection system and wastewater treatment plant. The Proposed Project would not violate any wastewater discharge requirements. No on-site collection and treatment would occur with implementation of the Proposed Project.

The City's NPDES MRP, urban runoff policies, and the Municipal Code are the primary means of enforcing water quality measures through the grading and building permit process. All construction/demolition projects must comply with the City of San Jose's Grading Ordinance, which requires the use of erosion and sediment controls to protect water quality while the site is under construction. The Project is subject to Municipal Code Section 20.100.470 which requires the Project to incorporate BMPs to control the discharge of storm water pollutants including sediments associated with construction activities including erosion, as outlined in the Standard Permit Conditions in Item c-i) below. These BMPs are recognized as effective methods to prevent or minimize the potential releases of pollutants into drainages, surface water, or groundwater.

Section 20.100.470 of the Municipal Code also states that prior to the issuance of a grading permit, projects may be required to submit an erosion control plan to the City engineer. Compliance with Section 20.100.470 and the City's NPDES MRP would reduce impacts for substantial erosion to a less than significant level.

Implementation of BMPs as Standard Permit Conditions would ensure that the Proposed Project would not create or contribute to any violations of water quality standards, waste discharge requirements, or otherwise substantially degrade surface or groundwater. There would be a less than significant impact.

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No 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 water supply to the Project is provided by San Jose Water (SJW). SJW's water source is a mix of groundwater, surface water purchased through the SCVWD, and treated surface water from local water supplies. Location determines the type of water typically received. Although, water sources do shift occasionally in response to changes in availability or drought conditions. The Project site's main source of water is from groundwater (SJW 2019). The Santa Clara Subbasin is able to store the largest amount of local reserves and SCVWD, as the groundwater management agency for Santa Clara County, is tasked with maintaining adequate storage in this basin to optimize reliability during extended dry periods. As groundwater is pumped by SJW, and other retailers and municipalities in Santa Clara County, SCVWD manages groundwater pumping reductions and thus reliability through financial and management practices to protect groundwater storage and minimize the risk of land subsidence (SJW 2016).

Water supplied for the operation of the Proposed Project would come from groundwater. However, the development of the 3,200-square-foot retail building would not increase the use of groundwater to such

an extent that a decrease of groundwater supply would result. Current operations on the site are estimated to consume 0.4 million gallons yearly (mgy) and implementation of the Project would result in a increase of 0.2 mgy.

The Project site is currently paved and does not contribute to groundwater recharge. This site is not a recharge area (typically creeks and ponds) as determined by the SCVWD (Valley Water 2019). Excavation during construction of the proposed building would require relatively shallow cuts (i.e., four feet, and up to nine feet for utility trenching) and, therefore, would not come in contact with groundwater. For these reasons, the Project would not deplete groundwater supplies, interfere with groundwater recharge, or otherwise affect groundwater. The Project would have a less than significant impact to groundwater recharge.

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or through the addition of impervious surfaces, in a manner that would:	☐	☐	☒	☐
i) result in substantial erosion or siltation on- or off-site;	☐	☐	☒	☐
ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite;	☐	☐	☒	☐
(iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	☐	☐	☒	☐
(iv) impede or redirect flood flows?	☐	☐	☐	☒

i) No creeks, streams or rivers exist on the Project site. The Project site is located in a fully developed area of San Jose. The proposed site improvements would not substantially alter the existing drainage pattern of the Project site in such a way to result in substantial erosion or siltation onsite or offsite.

Construction of the Project would require minimal grading activities that could result in a temporary increase in erosion affecting the quality of storm water runoff. This increase in erosion is expected to be minimal, due to the small size and flatness of the site.

Construction

Prior to the commencement of any clearing, grading or excavation, all projects in San Jose are required to comply with the SWRCB's NPDES General Construction Activities Permit, to the

satisfaction of the Director of Public Works. The Project applicant is required to develop, implement and maintain a SWPPP to control the discharge of stormwater pollutants including sediments associated with construction activities. Additionally, the Project applicant is required to file a NOI with the SWRCB.

All projects in San Jose incorporate BMPs into the project to control the discharge of stormwater pollutants including sediments associated with construction activities, as outlined below. Prior to the issuance of a grading permit, the Project applicant may be required to submit an Erosion Control Plan to the City that could include BMPs as specified in ABAG's *Manual of Standards Erosion & Sediment Control Measures* for reducing impacts on the city's storm drainage system from construction activities.

All projects in San Jose, including the Proposed Project, are required to comply with the City of San Jose Grading Ordinance, including erosion and dust control during site preparation, as well as the City Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction. The following specific BMPs are required be implemented by all projects in the city as Standard Permit Conditions to prevent stormwater pollution and minimize potential sedimentation during construction.

Standard Permit Conditions

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be covered 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 Jose Grading Ordinance, including implementing erosion and dust control during site preparation and with the City Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

Post-Construction

The Proposed Project will comply with applicable provisions of the following City Policies: City Council Policy 6-29 Post-Construction Urban Runoff Management and City Council Policy 8-14 Post-Construction Hydromodification Management. Therefore, Project designs include details of specific site design components, pollutant source control, and stormwater treatment control measures demonstrating compliance with Provision C.3 of the MRP (NPDES Permit Number CAS612008). This ensures that the Project would not substantially alter existing drainage patterns or cause alteration of streams or rivers. The Project would not result in substantial erosion or siltation on or off site.

ii) Implementation of the Proposed Project would not result in the substantial increase of the rate or amount of surface runoff in a manner that would result in flooding onsite or offsite. This is because the Project would not change the amount of impervious surfaces onsite. As such, the drainage pattern at the Project site, as well as surface runoff conditions after implementation of the Proposed Project, would remain the same as existing conditions and would not result in onsite or offsite flooding. Therefore, the Proposed Project would have a less than significant impact on flooding onsite or offsite.

iii) As discussed in Items c-i) and c-ii) above, the Proposed Project would not create or contribute to an excess of stormwater runoff. The sites contribution to stormwater drainage systems would remain the same as existing conditions.

Polluted runoff from the Project site during construction and operation could include sediment from soil disturbances, oil and grease from construction equipment, and gross pollutants such as trash and debris. However as previously described, compliance with local permit requirements would ensure that BMPs would be implemented during the construction phase to effectively minimize excessive soil erosion and sedimentation and eliminate non-stormwater discharge offsite. As required by law, BMPs would be included as part of the Proposed Project to ensure that potentially significant impacts are reduced to less than significant levels. Therefore, impacts associated with stormwater volumes and polluted runoff during the construction of the Proposed Project would be less than significant.

iv) The FEMA flood hazard map shows that the Project site is in Zone AO, meaning that the Project site is located in an area having a one-percent chance of shallow flooding each year (2011b). See Item d) below. A less than significant impact would occur.

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☒	☐

A seiche is a seismic-induced wave generated in a restricted body of water. No large bodies of water exist near the Proposed Project site. The California Governor's Office of Emergency Services (Cal OES) provides information on the areas that could potentially be impacted by a tsunami (Cal OES 2018). The Project site

is not located within a potential tsunami area. Damage to the Project due to a seiche or a tsunami would not occur. No impact would occur.

According to the Geotechnical Investigation prepared for the Project (Appendix B), FEMA designates the Project area as a floodplain. The Project site is in Zone AO, meaning that the area has a one percent or greater chance of shallow flooding. However, General Plan Policy EC-5.1 requires the City to evaluate flood hazards prior to approval of development projects within a FEMA-designated floodplain and to ensure that new development in such zones is designed to be protected from flooding. General Plan Action EC-5.14 requires that all development implement the requirements of FEMA relating to construction in FEMA-designated floodplains. These General Plan policy provisions are enforced through the City Municipal Code Chapter 17.08. Section 17.08.620, *New Construction or Substantial Improvements,* of this Municipal Code Chapter states that the City floodplain administrator must review all building permit applications for new construction or substantial improvements of structures within the special flood hazard area. No flood clearance for a building permit can be issued unless the floodplain administrator determines that the proposed construction, repair, reconstruction or improvement meets all of the necessary requirements. For instance, the City floodplain administrator will determine whether the Proposed reconfiguration of the Project site:

- is protected against flood damage;
- is adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic or hydrostatic loads, including the effect of buoyancy;
- uses construction materials and utility equipment that are resistant to flood damage;
- uses construction methods and practices that will minimize flood damage;
- uses electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and
- since the site is located in FEMA Flood Zone AO, has adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures. The City floodplain administrator will ensure that the Project is in conformance with the FEMA-mandated elevation requirements of the applicable flood hazard zone. Upon completion of the Project, the City floodplain administrator certifies that the structure is elevated as set forth in this subsection.

Adherence to General Plan policies and the City Municipal Code will reduce flood risk to less than significant.

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

The Project site is already developed, and existing operations are currently using groundwater supplied by the SJW. As groundwater is pumped by SJW, the SCVWD manages groundwater pumping reductions and thus reliability through financial and management practices to protect groundwater. The proposed new 3,200-square-foot convenience store would be using the same, if not less water, than what is currently being use onsite as a result of system efficiencies required under current State of California building practices. Due to this, the Proposed Project would have a less than significant impact.

4.11.4 Mitigation Measures

No significant impacts were identified, and no mitigation measures are required.

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4.12 Land Use and Planning

4.12.1 Environmental Setting

The City's General Plan currently identifies the Project site as being within the Neighborhood/Community Commercial (NCC) land use designation and within the Commercial Pedestrian (CP) zoning district. However, the Project includes a conforming rezoning from CP zoning district to Commercial Neighborhood (CN) zoning district.

The General Plan identifies the NCC designation as a land use that supports a very broad range of commercial activity, including commercial uses that serve the communities in neighboring areas, such as neighborhood serving retail and services and commercial/professional office development. General office uses, hospitals, and private community gathering facilities are also allowed in this designation (City of San Jose 2011a).

San Jose City Municipal Code Section 20.40.010 describes the CN zoning district as a district intended to provide for neighborhood-serving commercial uses. The CN district does not place an emphasis on pedestrian orientation except within the context of a single development. This district also differs from the CP commercial pedestrian district in that there is no limit on the size of the stores. The type of development supported by this district includes neighborhood centers, multi-tenant commercial development along city connector and main streets, and small corner commercial establishments.

4.12.2 Regulatory Setting

General Plan

The Proposed Project would be subject to the land use policies of the City's General Plan, including the following:

Policy LU-1.2: Create safe, attractive, and accessible pedestrian connections between developments and to adjacent public streets to minimize vehicular miles traveled.

Policy LU 1.6: With new development or expansion and improvement of existing development or uses, incorporate measures to comply with current federal, State, and local standards.

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

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

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

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

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

Policy VN-1.7: Use new development within neighborhoods to enhance the public realm, provide for direct and convenient pedestrian access, and visually connect to the surrounding neighborhood. As opportunities arise, improve existing development to meet these objectives as well.

4.12.3 Land Use and Planning (XI) Environmental Checklist and Discussion

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

The Proposed Project is located in a developed area of San Jose. The Project site is surrounded by existing commercial and residential use. The Project site is currently a gas station and convenience store. The development of a new convenience store is consistent with the intended uses of the General Plan. The Project would not divide an established community. As such, the Proposed Project would have no impact in this area

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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?	☐	☐	☒	☐

The *Envision San Jose 2040 General Plan* and zoning code identifies the site as being within land use designation NCC and within the CP zoning district. The Project includes a proposal to rezoning the property from the CP to the CN zoning district. The use of the Project site as a convenience store and gas station is consistent with the uses allowed in the NCC land use designation as well as the proposed CN zoning district. Based on the Zoning Ordinance, a Conditional Use Permit, as proposed, is required to operate a gas station and convenience store. Therefore, the Project's proposed uses would be consistent with these land use designations.

As such, the Proposed Project would not conflict with applicable land use plans, policies, or regulations, and a less than significant impact would occur.

4.12.4 Mitigation Measures

No significant impacts were identified, and no mitigation measures are required.

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4.13 Mineral Resources

4.13.1 Environmental Setting

The State-mandated Surface Mining and Reclamation Act of 1975 (SMARA) requires the identification and classification of mineral resources in areas within the state subject to urban development or other irreversible land uses that could otherwise prevent the extraction of mineral resources. These designations categorize land as Mineral Resource Zones (MRZ-1 through MRZ-4).

One area in San Jose is designated by the State Mining and Geology Board under SMARA as containing mineral deposits that are of regional significance. An area of Communications Hill in central San Jose, bounded generally by the Union Pacific Railroad, Curtner Avenue, State Route 87, and Hillsdale Avenue, is designated by the State Mining and Geology Board as a regional source of construction aggregate materials (City of San Jose 2011b).

4.13.2 Mineral Resources (XII) Environmental Checklist and Discussion

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

The only area in San Jose designated as containing the mineral resources is Communications Hill, located approximately 4.3 miles from the Project site. Additionally, no operating mineral extraction activities occur on the Project site or in the vicinity of the site. The site is not identified by the City or the DOC as a site of known mineral resources. Additionally, the Proposed Project would not lead to the loss of availability of any unknown mineral resources on the site. Therefore, the Project would have no impact in this area.

Would the Project:		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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 identified as a mineral resource recovery site in the City's General Plan, as discussed in Item a) above. There would be no impact in this area.

4.13.3 Mitigation Measures

No significant impacts were identified, and no mitigation measures are required.

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4.14 Noise

This section describes the environmental setting for noise, including the regulatory setting and existing site conditions and the impact on the surrounding environment that would result from the Proposed Project. A Noise Impact Memorandum was completed for the Proposed Project by ECORP (2019). This technical report is provided in Appendix D and is summarized below.

4.14.1 Environmental Setting

Noise Fundamentals

Noise is generally defined as sound that is loud, disagreeable, or unexpected. The selection of a proper noise descriptor for a specific source is dependent on the spatial and temporal distribution, duration, and fluctuation of the noise. The noise descriptors most often encountered when dealing with traffic, community, and environmental noise include the average hourly noise level (in L_{eq}) and the average daily noise levels/day-night average level (in L_{dn}/DNL).

Noise can be generated by a number of sources, including mobile sources, such as automobiles, trucks, and airplanes, and stationary sources, such as construction sites, machinery, and industrial operations. The rate depends on the ground surface and the number or type of objects between the noise source and the receiver. Mobile transportation sources, such as highways, and hard and flat surfaces, such as concrete or asphalt, have an attenuation rate of 3.0 decibels (dBA) per doubling of distance. Soft surfaces, such as uneven or vegetated terrain, have an attenuation rate of about 4.5 dBA per doubling of distance from the source. Noise generated by stationary sources typically attenuates at a rate of approximately 6.0 to 7.5 dBA per doubling of distance from the source.

Sound levels can be reduced by placing barriers between the noise source and the receiver. In general, barriers contribute to decreasing noise levels only when the structure breaks the "line of sight" between the source and the receiver. Buildings, concrete walls, and berms can all act as effective noise barriers. Wooden fences or broad areas of dense foliage can also reduce noise but are less effective than solid barriers.

Sensitive Noise Receptors

Noise-sensitive land uses are generally considered to include those uses where noise exposure could result in health-related risks to individuals, as well as places where quiet is an essential element of their intended purpose. Residential dwellings are of primary concern because of the potential for increased and prolonged exposure of individuals to both interior and exterior noise levels. Additional land uses such as parks, historic sites, cemeteries, and recreation areas are considered sensitive to increases in exterior noise levels. Schools, churches, hotels, libraries, and other places where low interior noise levels are essential are also considered noise-sensitive land uses.

The Project site is located in a very developed area, the nearest noise-sensitive land are single-family residences located directly adjacent, less than 20 feet, from the Project site to the northeast.

Existing Ambient Noise Environment

The Project site is flat developed land with an existing operational gasoline dispensing station with 12 fueling positions, underground gasoline storage tanks and a 1,500-square-foot convenience store. The surround land uses are composed of a mix of residential and commercial uses. In order to quantify existing ambient noise levels in the Project area, ECORP conducted three short-term noise measurements on March 19, 2019. The noise measurement sites were representative of typical existing noise exposure within and immediately adjacent to the Project site (Attachment D). The 10-minute measurements were taken between 11:00 a.m. and 11:39 a.m. Short-term (L_{eq}) measurements are considered representative of the noise levels throughout the day. The average noise levels and sources of noise measured at each location are listed in Table 4.14-1.

Table 4.14-1. Existing (Baseline) Noise Measurements

Site Number	Location	L_{eq} dBA	L_{min} dBA	L_{max} dBA	Time
1	On S. Jackson Avenue facing towards the intersection, behind the Project site, and next to the bus stop.	**72.2**	49.1	98.6	11:00 a.m. – 11:10 a.m.
2	East of Project site on Story Road facing the intersection and adjacent to residence.	**65.1**	48.7	77.6	11:15 a.m.- 11:25 a.m.
3	On Story Road across the street from the Project site and next to the KFC.	**73.8**	51.7	97.3	11:29 a.m. – 11:39 a.m.

Source: Measurements were taken by ECORP with a Larson Davis SoundExpert LxT precision sound level meter, which satisfies the American National Standards Institute for general environmental noise measurement instrumentation. Prior to the measurements, the SoundExpert LxT sound level meter was calibrated according to manufacturer specifications with a Larson Davis CAL200 Class I Calibrator. See Attachment D for noise measurement outputs.

Additionally, Appendix C of the 2040 General Plan EIR, *Environmental Noise Assessment* depicts long-term measurements near the Project area, taken on Story Road, range from 70 to 74 dBA DNL. This same document predicts future traffic noise levels to be 72 dBA DNL at the full Project buildout.

Vibration Fundamentals

Ground vibration can be measured several ways to quantify the amplitude of vibration produced. This can be through peak particle velocity (PPV) or root mean square velocity. These velocity measurements measure maximum particle at one point or the average of the squared amplitude of the signal, respectively. Vibration impacts on people can be described as the level of annoyance and can vary depending on an individual's sensitivity. Generally, low-level vibrations may cause window rattling but do not pose any threats to the integrity of buildings or structures.

4.14.2 Regulatory Setting

General Plan

San Jose General Plan Noise Compatibility Guidelines

The City's *Envision San Jose 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 (day-night average) descriptor and identifies interior and exterior noise standards for residential uses. The *Envision San Jose 2040 General Plan* and the San Jose Municipal Code include the following criteria for land use compatibility and acceptable noise levels in the city.

Table 4.14-2. Land Use Compatibility Guidelines for Community Noise

Land Use Category		Exterior DNL Value in Decibels					
		55	60	65	70	75	80
1.	Residential, Hotels and Motels, Hospitals and Residential Care						
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 Arenas, Outdoor Spectator Sports						
6.	Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters						

	Normally Acceptable: Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.
	Conditionally Acceptable: Specified land use may be permitted only after detailed analysis of the noise reduction requirements and noise mitigation features included in the design.
	Unacceptable: New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies. (Development will only be considered when technically feasible mitigation is identified that is also compatible with relevant design guidelines.)

The following policies are applicable to the Proposed Project.

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

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

Policy EC-1.2: Minimize the noise impacts of new development on land uses sensitive to increased noise levels (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 Jose to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:

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

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

Policy EC-2.3: Require new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction.

Municipal Code

According to the San Jose Municipal Code (Chapter 20.40.600), sound pressure levels generated by any use or combination of uses on a property shall not exceed 60 dBA at any property line shared with land zoned for commercial or other non-residential uses.

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

4.14.3 Noise (XIII.) Environmental Checklist and Discussion

	Would the Project result in	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less than Significant Impact	No Impact
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?	☐	☐	☒	☐

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

Construction Noise

Construction noise associated with the Proposed Project would be temporary and would vary depending on the nature of the activities being performed. Noise generated would primarily be associated with the operation of off-road equipment for on-site construction activities as well as construction vehicle traffic on area roadways. Construction noise typically occurs intermittently and varies depending on the nature or phase of construction (e.g., building construction, paving). Noise generated by construction equipment, including earth movers, material handlers, and portable generators, can reach high levels. Typical operating cycles for these types of construction equipment may involve one or two minutes of full power operation followed by three to four minutes at lower power settings. Other primary sources of acoustical disturbance would be random incidents, which would last less than one minute (such as dropping large pieces of equipment or the hydraulic movement of machinery lifts). During construction, exterior noise levels could negatively affect sensitive receptors in the vicinity of the construction site.

Table 4.14-3 indicates the anticipated noise levels of construction equipment as determined using the Federal Highway Administration's (FHWA's) Roadway Construction noise model. The construction equipment included in the analysis includes the typical construction equipment utilized for this type of project. The average noise levels presented in Table 4.14-3 are based on the quantity, type, and acoustical use factor for each type of equipment that is anticipated to be used.

Table 4.14-3. Maximum Noise Levels Generated by Construction Equipment

Equipment	Maximum Noise (L_{max}) at 50 Feet (dBA)	Maximum 8-Hour Noise (L_{eq}) at 50 Feet (dBA)
Crane	80.6	72.6
Dozer	81.7	77.7
Excavator	80.7	76.7
Generator	80.6	77.6
Grader	85.0	81.0
Paver	77.2	74.2
Roller	80.0	73.0
Tractor	84.0	80.0
Dump Truck	76.5	72.5
Concrete Pump Truck	81.4	74.4
Welder	74.0	70.0

Source: FHWA, Roadway Construction Noise Model (FHWA-HEP-05-054), dated January 2008.

Nearby noise-sensitive land uses consist of single-family residence located directly adjacent, less than 20 feet, from the Project site to the northeast. Due to the close proximity, the residence will experience noise levels in excess of what is presented in Table 4.14-3.

The City limits the time that construction can take place but does not promulgate numeric thresholds pertaining to the noise associated with construction. Specifically, Chapter 20.100.450 of the City's Municipal Code states that construction within 500 feet of a residential unit can take place between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, or at any time on the weekends. It is typical to regulate construction noise in this manner since construction noise is temporary, short term, intermittent in nature, and would cease on completion of the Project. Furthermore, San Jose is a developing urban community and construction noise is generally accepted as a reality within the urban environment. Additionally, construction would occur through the Project site and would not be concentrated at one point. The Standard Permit Conditions below outlined the limited construction hours and other measure to reduce noise during the construction period. Therefore, noise generated during construction activities, as long as conducted within the permitted hours consistent with the Standard Permit Conditions, would not exceed City noise standards. A less than significant impact would occur.

Standard Permit Conditions

- Limit construction hours to between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.

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

Project Operational Noise

Project Land Use Compatibility

The most basic planning strategy to minimize adverse impacts on new land uses due to noise is to avoid designating certain land uses at locations within San Jose that would negatively affect noise-sensitive land uses. Users such as schools, hospitals, child care, senior care, congregate care, churches, and all types of residential use should be located outside of any area anticipated to exceed acceptable noise levels as defined by a set of Land Use Compatibility Guidelines or should be protected from noise through sound attenuation measures such as site and architectural design and sound walls.

The City's *Envision San Jose 2040 General Plan* provides policy direction for minimizing noise impacts on the community based on Land use Compatibility Guidelines established by the State of California. These guidelines, presented as Table 4.14-2, provide the City with a tool to gauge the compatibility of new land users relative to existing noise levels. Specifically, Table 4.14-2 identifies normally acceptable, conditionally acceptable and unacceptable noise levels for various land uses, including commercial land uses such as those proposed by the Project. In the case that the ambient noise levels identified at the Proposed Project site fall within levels considered normally acceptable, the Project is considered compatible with the existing noise environment. As shown in Table 4.14-2, an acceptable existing noise level for locating commercial uses is 55-70 dBA.

In order to quantify existing ambient noise levels in the Project area, ECORP conducted three short-term noise measurements on March 19, 2019. The noise measurement sites were representative of typical existing noise exposure within and immediately adjacent to the Project site and are considered representative of the noise levels throughout the day. As shown in Table 4.14-1, the ambient noise levels near the Project site fall between 65.1 dBA to 73.8 dBA. The location closest to the Project site (approximately 56 feet), and the most representative of noise levels of the Project site, is Site 2 with a recorded noise level of 65.1 dBA. As this noise level falls within the "Normally Acceptable" standards provided for commercial land use compatibility, the Project site is considered an appropriate noise environment to locate the proposed land use. Additionally, Project site is already currently a functioning gas station and convenience store. The Project would be demolishing the existing convenience store building on site and construct a new convenience store. The land use on the site would remain the same. A less than significant impact would occur.

Project Onsite Operational Noise

Noise-sensitive land uses are locations where people reside or where the presence of unwanted sound could adversely affect the use of the land. Residences, schools, hospitals, guest lodging, libraries, and some passive recreation areas would each be considered noise-sensitive and may warrant unique measures for protection from intruding noise. The nearest noise-sensitive land uses consist of single-family residences located directly adjacent (less than 20 feet) from the Project site to the northeast.

As previously stated, the Project would be demolishing the existing convenience store building onsite and building a new convenience store. The use of the site would remain unchanged. The ambient noise level recorded near the Project site fall between 65.1 dBA and 73.8 dBA. Since the land use would not change, the existing noise generated on the Project site would remain the same once construction is complete. The Project would not cause the DNL at noise sensitive receptors to increase by five dBA DNL or more. The onsite operations of the Proposed Project would have no noticeable effect on the existing ambient noise environment and a less than significant impact would occur.

Operational Offsite Traffic Noise

Project operation could also result in additional traffic on adjacent roadways, thereby increasing vehicular noise in the Project vicinity. Future traffic noise levels throughout the Project vicinity were modeled based on the traffic volumes identified by the Project's Local Transportation Analysis prepared by Kimley Horn (Appendix E). The Project is forecasted to generate 2,681 trips per day. This would be an increase of 407

trips compared to the current 2,274 trips per day currently generated at the Project site. According to Caltrans *Technical Noise Supplement to the Traffic Noise Analysis Protocol* (2013), doubling of traffic on a roadway would result in an increase of three dB (a barely perceptible increase). Due to the fact that the Proposed Project would be not result in a doubling of traffic, its contribution to existing traffic noise would not be perceptible and a less than significant impact would occur.

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

Construction Impacts

Excessive groundborne vibration impacts result from continuously occurring vibration levels. Increases in groundborne vibration levels attributable to the Proposed Project would be primarily associated with short-term construction-related activities. Construction on the Project site would have the potential to result in varying degrees of temporary groundborne vibration, depending on the specific construction equipment used and the operations involved. Ground vibration generated by construction equipment spreads through the ground and diminishes in magnitude with increases in distance.

Construction-related ground vibration is normally associated with impact equipment such as pile drivers, jackhammers, and the operation of some heavy-duty construction equipment, such as dozers and trucks. Vibration decreases rapidly with distance and it is acknowledged that construction activities would occur throughout the Project site and would not be concentrated at the point closest to sensitive receptors. Groundborne vibration levels associated with construction equipment are summarized in Table 4.14-4. Construction activities are anticipated include some or all of the items included in Table 4.14-4.

Table 4.14-4. Vibration Source Amplitudes for Construction Equipment at 20 Feet

Equipment Type	Peak Particle Velocity at 20 Feet (inches per second)
Large Bulldozer	0.124
Caisson Drilling	0.124
Loaded Trucks	0.106
Rock Breaker	0.115
Jackhammer	0.049
Small Bulldozer/Tractor	0.004

Source: Federal Transit Authority (FTA) 2018

Policy EC-2.3 of the General Plan requires new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a vibration limit of 0.08 inch per second PPV will be used to minimize the potential for cosmetic damage to a building. A vibration limit of 0.20 inch per second PPV is used to minimize the potential for cosmetic damage at buildings of normal

conventional construction. It is acknowledged that construction activities would occur throughout the Project site and would not be concentrated at the point closest to the nearest structure.

The nearest structures of concern to the construction site are single-family residence located directly adjacent, less than 20 feet, to the northeast. The single-family residences are considered normal conventional construction and are subject to a vibration limit of 0.20 inch per second PPV. Based on the vibration levels presented in Table 4.14-4, ground vibration generated by heavy-duty equipment would not be anticipated to exceed approximately 0.124 inch per second PPV at 20 feet. Multiple pieces of heavy construction equipment shall not be used in conjunction so as to prevent an increase ground vibration above threshold. Therefore, vibration from construction activities experienced at the nearest adjacent residences would be expected to be below the 0.20 inch per second PPV threshold. A less than significant impact would occur.

Operational Impacts

Project operations would not include the use of any stationary equipment that would result in excessive groundborne vibration levels Therefore, the Project would result in no groundborne vibration impacts during operations. A less than significant impact would occur.

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?	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less than Significant Impact	No Impact
		☐	☐	☒	☐

The Project site is located approximately one mile northwest of the Reid-Hillview Airport. This airport is owned and operated by Santa Clara County and primarily serves small aircrafts and general aviation demands. (2011 b). According to the Santa Clara County Comprehensive Land Use Plan for the Reid-Hillview Airport (2016), the Proposed Project site is located outside the typical flight paths. Therefore, would not result in the exposure of people residing or working in the Project area to excessive noise. No impact would occur.

4.14.4 Mitigation Measures

No significant impacts were identified, and no mitigation measures are required.

4.15 Population and Housing

4.15.1 Environmental Setting

The Project site is located in the city of San Jose. U.S. Census data shows that the local population increased 9.8 percent in the city between 2010 and July 1, 2017, from 945,942 to 1,035,317 (U.S. Census 2017). According to the California Department of Finance (DOF), which provides estimated population and housing unit demographics by year throughout the state, San Jose had a population of 1,051,316 persons, there were 335,164 total housing units in the city, and a 3.2 percent vacancy rate as of January 1, 2018. The average household size was estimated to be 3.20 persons per household during the same time period (DOF 2018).

4.15.2 Population and Housing (XIV) Environmental Checklist and Discussion

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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)?	☐	☐	☐	☒

The Project site is located within a developed area of San Jose, and no new roads or extensions of existing roads are proposed. The Project does not include the construction of any new homes or businesses. Development of this Project would not increase population to the area. Therefore, direct or indirect increases in population growth would not occur as a result of the Proposed Project.

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

No persons or residences would be displaced or removed as a result of the Proposed Project, and the Project would have no impact in this area.

4.15.3 Mitigation Measures

No significant impacts were identified, and no mitigation measures are required.

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4.16 Public Services

4.16.1 Environmental Setting

Public services include fire protection, police protection, parks and recreation, and schools. Generally, impacts in these areas are related to an increase in population from a residential development. Levels of service are generally based on a service-to-population ratio, except for fire protection, which is usually based on a response time. For example, the *Envision San Jose 2040 General Plan* Policy ES-3.1 provides a total response time for fire protection of eight minutes and Policy PR-1.2 establishes a parkland to population ratio for regional parks to be 7.5 acres per 1,000 population (City of San Jose 2011a).

Police Services

The San Jose Police Department (SJPD) provides law enforcement services to the Project site. The SJPD is administered by a command staff including the Chief of Police, Assistant Chief of Police, four Deputy Chiefs, and a Civilian Deputy Director presiding over an Operations Command divided into four Bureaus and the office of the Executive Officer. SJPD is authorized to employ approximately 1,400 employees including both sworn and non-sworn. Department employees are assigned to one of four Bureaus comprised of 11 divisions with more than 50 specialized Units and assignments (City of San Jose 2018a). The City's Police Station is located at 201 West Mission Street, approximately 1.6 miles northwest of the Project site.

Fire Services

The City of San Jose Fire Department (SJFD) provides fire protection and emergency medical services to the Project site. SJFD responds to various emergency and non-emergency incidents including, but not limited to, all types of fire, medical emergencies, public assists, and hazardous situations. San Jose has 33 fire stations (City of San Jose 2018b). The fire station closest to the Project site is Station #2 located at 2949 Alum Rock Avenue, approximately 1.6 miles east of the Project site (City of San Jose 2018a).

Schools

San Jose includes 22 public school districts that currently operate 222 public schools serving students in the city (City of San Jose 2011b). The Project site is located in the East Side Union High School District that administers 19 high schools, and the Alum Rock Union Elementary School District that administers nine elementary schools.

Parks

The City of San Jose manages a total of 3,518 acres of regional and neighborhood/community serving parkland (City of San Jose 2017a). Park facilities vary in size and amenities. The City classifies parks as neighborhood-serving/community and regional. The City owns 191 neighborhood-serving parks and nine regional parks (City of San Jose 2017b).

Other Public Facilities

The San Jose Public Library (SJPL) System consists of one main library and 23 open branch libraries. In 2017-2018 fiscal year, San Jose libraries had over 6.3 million visitors and loaned over 8.37 million items. The city libraries have a total of approximately 2.1 million items (SJPL 2019).

4.16.2 Regulatory Setting

General Plan

The Proposed Project will be subject to the following policies:

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

Policy FS-5.6: When reviewing major land use or policy changes, consider the availability of police and fire protection, parks and recreation, and library services to the affected area as well as the potential impacts of the project on existing service levels.

Policy 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.

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

4.16.3 Public Services (XV) Environmental Checklist and Discussion

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire Protection?	☐	☐	☒	☐

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Police Protection?	☐	☐	☒	☐
Schools?	☐	☐	☐	☒
Parks?	☐	☐	☐	☒
Other Public Facilities?	☐	☐	☐	☒

Fire Services

The Project site is located approximately 1.6 miles from Fire Station 2. The Proposed Project would not result in an increase in population and thereby not require additional fire facilities to serve this population. The Project site is currently served by existing SJFD facilities. The Proposed Project would not require any additional SJFD facilities, equipment, and/or staff and is not anticipated to create an additional burden on exiting fire facilities. Therefore, the Project would have a less than significant impact in this area.

Police Services

The Proposed Project would not result in a significant increase in demand for police protection resulting in new or expanded police facilities. Police facilities and the need for expanded facilities are based on the staffing levels these facilities must accommodate. Police staffing levels and new facilities are generally based on the population/police officer ratio, and an increase in population is usually the result of an increase in housing or employment. Because the Proposed Project would not increase the population of San Jose, the Project would not result in the need for increase in police protection or police facilities. Therefore, the Proposed Project would have a less than significant impact in this area.

Schools

The development of the Project will not result in an increase of student population. The Proposed Project does not result in an increase in housing or population in San Jose, which would require additional educational facilities. Therefore, the Proposed Project would have no impact in this area.

Parks

The need for additional parkland is primarily based on an increase in population to an area. Given that the Proposed Project would not increase San Jose's population, the Project would not burden any parks in the surrounding area beyond capacity by generating additional recreational users. Therefore, the Proposed Project would not require the construction or expansion of park and recreational facilities and would also not result in an increase in demand for parks and recreation facilities in the surrounding area. There would be no impact to parks as a result of construction of the Proposed Project.

Other Public Facilities

The Proposed Project does not result in an increase in housing or population in the city resulting in library use. Therefore, the Project would have a less than significant impacts on other public facilities.

4.16.4 Mitigation Measures

No significant impacts were identified, and no mitigation measures are required.

4.17 Recreation

4.17.1 Environmental Setting

In addition to the parkland identified above, San Jose has numerous recreational facilities to serve city residents and visitors. These include gymnasiums, ball fields, bocce ball courts, community centers community gardens, swimming pools, and tennis and volleyball courts. The City also provides over 400 programs at the parks servicing almost 5,600 individuals.

4.17.2 Regulatory Setting

General Plan

The Proposed Project will be subject to the following policies:

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

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

4.17.3 Recreation (XVI) Materials Checklist

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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?	☐	☐	☐	☒

As stated previously, the need for additional parkland is primarily based on an increase in population to an area. Given that the Proposed Project would not increase San Jose's population, the Project would not burden any parks in the surrounding area beyond capacity by generating additional recreational users. Therefore, the Proposed Project would not increase the use of park and recreational facilities resulting in substantial physical deterioration of the facility. There would be no impact to recreational facilities as a result of construction of the Proposed Project.

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	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?	☐	☐	☐	☒

The Proposed Project would not result in additional recreational facilities. As such, the Proposed Project would have no impact in this issue area.

4.17.4 Mitigation Measures

No significant impacts were identified, and no mitigation measures are required.

4.18 Transportation

This section describes the environmental setting for transportation, including the regulatory setting and existing site conditions, and the impacts on transportation that would result from the Proposed Project. A Local Transportation Analysis (LTA) was completed for the Proposed Project (Kimley Horn 2020). This technical report is provided in Appendix E and summarized below.

4.18.1 Environmental Setting

The Project site is located at 2305 Story Road, on the north corner of Story Road and Jackson Avenue. The Project includes the demolition of the existing convenience market and construct a new 3,200-square-foot convenience market on a 0.52-acre site. The existing 12 fueling stations on site would remain and access to the Project would be provided by one driveway along Jackson Avenue and two driveways along Story Road. The Project would also provide up to 10 onsite vehicle parking spaces. The Project is forecasted to generate approximately 2,681 trips per day, 266 a.m. peak hour trips, and 222 p.m. peak hour vehicle trips.

Existing Roadway Network

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

Story Road is a six-lane arterial that becomes a two-lane collector road to the east of Clayton Road and then terminates on the east at Fleming Avenue. Story Road extends to the west to terminate at Senter Road. The posted speed limit on E. Story Road within the study area is 35 mph.

Per the *Envision San Jose 2040 General Plan*, Story Road is identified as a Main Street corridor that plays an important commercial and social role for the local neighborhood area. Main Street locations are identified within new planned Growth Areas where the City envisions increased density of commercial and residential development within established neighborhoods. Thus, Main Streets such as Story Road serve as complete streets to enable safe, attractive, and comfortable access and travel for all users, especially pedestrians. Additional features of Main Streets include ample pedestrian amenities, enhanced street crossings, and pedestrian-oriented signage.

Jackson Avenue is a four-lane arterial street that extends northeast from Story Road to terminate to the north at Berryessa Road. The posted speed limit on Jackson Avenue within the study area is 35 mph.

Per the *Envision San Jose 2040 General Plan*, Jackson Avenue is identified as a City Connector Street that provides equal prioritization of vehicles, transit, bicycles, and pedestrian activity along the corridor. These streets typically have four to six lanes of traffic and accommodates moderate to high volumes of through traffic within and beyond the city.

Interstate 680 (I-680) is an eight-lane freeway that connects with Highway 101 and travels in a north-south direction from San Jose to Fairfield. Access to and from the Project site via the I-680 southbound direction is provided by ramp terminals at Jackson Avenue while access for the I-680 northbound direction is provided by ramp terminals at Capitol Expressway.

Per the *Envision San Jose 2040 General Plan*, I-680 is identified as a freeway, which are designed solely for high traffic mobility of vehicles, trucks, and express transit busses. Bicycles and pedestrians are prohibited or accommodated on separate parallel facilities.

Existing Intersections

The traffic study to identify potential traffic adverse effects was evaluated per the standards and guidelines set forth by the City of San Jose and the Santa Clara VTA, which administers the County Congestion Management Program (CMP). Study intersections for the Project were selected in consultation with City staff and in accordance with the VTA's TIA Guidelines. The following four intersections studied in this LTA are listed below.

1. Jackson Avenue / I-680 NB Off Ramp / Bambi Lane
2. Jackson Avenue / Cinderella Lane
3. Story Road / Jackson Avenue
4. Story Road / Adrian Way

Existing Field Observations

Field observations did not reveal any significant adverse traffic-related issues adjacent to the Project frontage. During the a.m. peak hour, eastbound and westbound traffic along Story Road heading to/from downtown is congested at the Story / Jackson intersection with the peak period occurring from 7:30 to 8:30 a.m. During the p.m. peak period, southbound traffic is heavy on Jackson Avenue with the greatest congestion occurring between 4:45 to 5:45 p.m. for vehicles leaving Downtown and the I-680 freeway. Southbound vehicle queues at the Story/Jackson intersection is heavy with vehicles stacked in the left lane, but the cycle length allows most vehicles to clear the intersection. The I-680 freeway offramp at Jackson is congested with heavy southbound movement and queues.

Existing Pedestrian and Bicycle Facilities

Pedestrian activity within the Project area and throughout the Story Road and Jackson Avenue corridors are substantial. Connected sidewalks at least six feet wide are available along all roadways in the study area with adequate lighting and signing. At signalized intersections, marked crosswalks, Americans with Disabilities Act (ADA) standard curb ramps, and countdown pedestrian signals provide improved pedestrian visibility and safety.

At the Project site frontage, pedestrian features including pedestrian count down signal heads, ADA curb ramps, and marked crosswalks are provided for the north and west legs of the signalized Story Road / Jackson Avenue intersection. Crosswalk facilities are not located on the east leg of the Story / Jackson intersection and the west leg of the Story / Adrian intersection. Overall, the existing sidewalks and pedestrian facilities adjacent to the Project have good connectivity and provide pedestrians with routes to the surrounding land uses.

Bicycle facilities within 1/3 mile of the Project site include Class II bike lanes on Jackson Avenue and Class III sharrow/bike route on Sunset Avenue. Class I separated bike facilities are provided at the Lower Silver

Creek trail that is between Capitol Expressway and Brenford Drive and runs adjacent to the Capitol Park and the Aptitud Community Academy at Goss. There are no existing bike facilities on Story Road adjacent to the Project site. Bicyclists either share the lane with traffic or ride on the sidewalk when travelling on Story Road.

In 2007, the City adopted the Green Vision, which is a 15-year plan for economic growth, environmental sustainability, and enhanced quality of life for the community. From the Green Vision, the City aims to create 100 miles of off-street interconnected trails and 400 miles of on-street bike facilities by 2022. The San Jose Bike Plan 2020 indicates that a variety of bicycle facilities are planned in the Project study area and the following bicycle facility improvements would benefit the Project.

- Lower Silver Creek Extension – Class I facilities to Coyote Creek/Downtown and Lake Cunningham Park.
- Cinderella Lane – Class II facilities from King Road to Jackson Avenue.

Existing Transit Facilities

Transit services in the Project area include shuttles and busses provided by the VTA. Per the updated December 28, 2019 service schedule, the Project is served by the following major bus routes:

- Frequent Bus Route 25
  - De Anza College – Alum Rock Station via Valley Med
  - Local service every 12-15 minutes on weekdays and every 15-30 minutes on weekends
- Frequent Bus Route 70
  - Milpitas BART – Eastridge via Jackson
  - Local service every 12-15 minutes on weekdays and every 15-30 minutes on weekends
- Rapid Bus Route 522
  - Palo Alto Transit Center – Eastridge
  - Limited stop service at frequent intervals – every 15 minutes or better during day times

Most regular bus routes operate on weekdays from early in the morning (5:00 a.m. to 6:00 a.m.) until late in the evening (10:00 p.m. to midnight) and on weekends from early morning (5:00 a.m.to 6:00 a.m.) until mid-evening (8:00 p.m.to 10:00 p.m.). Bus headways during peak commute periods vary between 12 to 30 minutes. Within 1/3 mile from the Project site, the area is served by bus route 25, 70, and 522 in the VTA system, which provide local and regional bus service for commuters between downtown San Jose and major transit destinations in Santa Clara County. These bus routes also provide transit connections to the Eastridge Transit Center and the Alum Rock Transit Center. Bus stops with benches, shelters, and bus pullout amenities are provided within 1/3 mile from the Project site at the Story Road / Jackson Avenue intersection.

4.18.2 Regulatory Setting

Regional

Metropolitan Transportation Commission

The Metropolitan Transportation Commission (MTC) is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted the final Plan Bay Area in July 2013 which includes the region's Sustainable Communities Strategy and the most recently adopted Regional Transportation Plan (2040).

Congestion Management Program

The Santa Clara Valley Transportation Authority (VTA) oversees the Congestion Management Program (CMP). The relevant State legislation requires that all urbanized counties in California prepare a CMP in order to obtain each county's share of the increased gas tax revenues. The CMP legislation requires that each CMP contain the following five mandatory elements:

1) A system definition and traffic level of service standard element.
2) A transit service and standards element.
3) A trip reduction and transportation demand management element.
4) A land use impact analysis program element.
5) A capital improvement element. The Santa Clara County CMP includes the five mandated elements and three additional elements including a county-wide transportation model and database element, an annual monitoring and conformance element, and a deficiency plan element.

CMP Intersection LOS Threshold

Santa Clara County's operations standard for a CMP identified intersection is LOS E. A project is anticipated to create an adverse effect on traffic conditions at a CMP signal if:

- LOS at the intersection degrades from and acceptable LOS E or better under baseline conditions to an unacceptable LOS F under baseline plus project conditions; OR
- LOS at the intersection is an unacceptable LOS F under baseline conditions and the addition of project trips causes both the critical-movement delay at the intersection to increase by four or more seconds AND the volume-to-capacity ratio (V/C) to increase by one percent (0.01) or more.

Local

Council Policy 5-1 Transportation Analysis

In alignment with SB 743 and the City's goals in the Envision San José 2040 General Plan, the City has adopted a new "Transportation Analysis Policy" (Council Policy 5-1) to replace the former Transportation Level of Service Policy (Council Policy 5-3). The new policy establishes the thresholds for transportation impacts under CEQA based on VMT rather than intersection level of service (LOS). VMT is the total miles of travel by personal motorized vehicles from a project in a day. The intent of this change in policy is to shift the focus of transportation analysis under CEQA from vehicle delay and roadway capacity to a reduction in vehicle emissions and the creation of multimodal networks that support integrated land uses. According to the policy, an employment facility (e.g., office, R & D) or a residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional VMT per employee, or the existing average citywide or regional per capita VMT respectively. For industrial projects (e.g., warehouse, manufacturing, distribution), the impact would be less than significant if the project VMT is equal to or less than existing average regional per capita VMT per employee. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible.

The policy also requires preparation of a Local Transportation Analysis (LTA) to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, and site access and circulation. The LTA also addresses CEQA issues related to pedestrian, bicycle access, and transit.

Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to a have a less than significant VMT impact. Under Policy 5-1, the screening criteria are as follows:

1. Small Infill Projects,
2. Local-Serving Retail,
3. Local-Serving Public Facilities,
4. Transit Supportive Projects in Planned Growth Areas with Low VMT and High-Quality Transit,
5. Restricted Affordable, Transit Supportive Residential Projects in Planned Growth Areas with High Quality Transit, and
6. Transportation Projects that reduce or do not increase VMT.

City of San Jose Vehicle Miles Traveled Threshold

The thresholds of significance for development projects, as established in the Transportation Analysis Policy are based on the existing citywide average VMT level for residential uses and the existing regional average VMT level for employment uses. Table 4.18-1 summarizes the City VMT thresholds of significance for development projects. For retail developments, project net increase in existing regional total VMT will create a significant adverse impact.

Table 4.18-1. City VMT Thresholds of Significance

Project Type	Significance Criteria	Current VMT	VMT Threshold
Residential Uses	Project VMT per capita exceeds existing citywide average VMT per capita minus 15 percent, or existing regional average VMT per capita minus 15 percent, whichever is lower.	11.91 VMT per Capita (Citywide Average)	10.12 VMT per Capita
General Employment Uses	Project VMT per employee exceeds existing regional average VMT per employee minus 15 percent.	14.37 VMT per employee (Regional Average)	12.21 VMT per employee
Industrial Employment Uses	Project VMT per employee exceeds existing regional average VMT per employee.	14.37 VMT per employee (Regional Average)	14.37 VMT per employee
Retail/Hotel/School Uses	Net increase in existing regional total VMT.	Regional Total VMT	Net Increase
Public/Quasi Public Uses	In accordance with most appropriate type(s) as determined by Public Works Director.	Appropriate levels listed above	Appropriate levels listed above
Mixed Uses	Evaluate each land use component of a mixed-use project independently and apply the threshold of significance for each land use type included.	Appropriate levels listed above	Appropriate levels listed above
Change of Use/Additions to Existing Development	Evaluate the full site with the change of use or additions to existing development and apply the threshold of significance for each project type included.	Appropriate levels listed above	Appropriate levels listed above
Area Plans	Evaluate each land use component of the Area Plan independently and apply the threshold of significance for each project type included.	Appropriate levels listed above	Appropriate levels listed above

General Plan

The *Envision San Jose 2040 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 transportation and are applicable to the Proposed Project:

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

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

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

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

Policy TR-8.4: Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.

Policy TR-8.6: Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive TDM program, or developments located near major transit hubs or within Villages and Corridors and other growth areas.

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

Policy TR-9.1: Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.

Policy CD-2.5: Integrate Green building Goals and Policies of this Plan into site design to create healthy environments, Consider factors such as shaded parking areas, pedestrian connections, minimization of impervious surfaces, incorporation of stormwater treatment measures, appropriate building orientations, etc.

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

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

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

4.18.3 Transportation (XVII) Environmental Checklist and Discussion

Would the Project:	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less than Significant Impact	No Impact
a) Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle and pedestrian facilities?	☐	☐	☒	☐

Project Trip Generation

Trip generation for the Proposed Project land uses was calculated using trip generation rates from the Institute of Transportation Engineers (ITE) Trip Generation Manual, 10th Edition. Per the 2018 Transportation Analysis Handbook, trip generation adjustments were applied to the Project to include internal capture, location-based mode-share, and trip credit for existing land uses.

Development of the Proposed Project with all applicable trip reductions is anticipated to generate a net total of 407 daily, 95 a.m. peak hour, and 21 p.m. peak hour vehicle trips.

Intersection Traffic Operations

Traffic conditions for each study intersection was analyzed during the 7:00 – 9:00 a.m. and 4:00 – 6:00 p.m. peak hours of traffic, which represent the most heavily congested traffic on a typical weekday. The study intersections were assessed under Existing, Background, and Background Plus Project condition scenarios. City of San Jose and VTA CMP intersection level of service standards and methodologies were used to identify operational issues caused by the Project. However, the determination of Project impacts per CEQA requirements is based solely on the VMT analysis.

The study intersections under all scenarios are anticipated to operate at acceptable LOS, and the proposed Project would not create an adverse effect to the surrounding street network.

Vehicle Site Access and Circulation

The Project provides onsite parking spaces along the proposed convenience store expansion and at the existing fueling stations. Project access is provided by one driveway on Jackson Avenue and two driveways on Story Road. The Project site plan is anticipated to satisfy the City's vehicle driveway and parking standards and provides adequate vehicle access for all anticipated vehicle use.

The LTA recommends because of horizontal constraints, any refueling truck and refuse collection activity should occur outside of a.m. and p.m. peak commute times to minimize onsite vehicle and driveway access conflicts.

Pedestrian and Bicycle Site Access and Circulation

The Project would not have an adverse effect on the existing pedestrian and bicycle facilities in the study area. Existing sidewalks and pathways along the Project frontages on Story Road and Jackson Avenue provide direct bicycle and pedestrian access. The existing network of sidewalks and crosswalks in the study area have adequate connectivity and would provide employees and residents with walkable routes to nearby transit stations, retail, and other points of interest in the immediate area. Many of the streets adjacent to the Project frontage feature lighting, landscaping, and wide sidewalks, which improve pedestrian perceptions of comfort and safety and provide a positive pedestrian and bicycle experience.

Transit Site Access and Circulation

The Project would not have an adverse effect on the existing transit facilities in the study area. The study area is served by several transit stops with intraregional connectivity. Within 1/3 mile near the Project site, VTA bus routes 25, 70, and 522 provide local and regional bus service for commuters between downtown San Jose and major transit destinations in Santa Clara County such as the Eastridge Transit Center and the Alum Rock Transit Center. Bus stops with benches, shelters, and bus pullout amenities are provided within 1/3 mile from the Project site at the Story Road / Jackson Avenue intersection.

Vehicle and Bicycle Parking

Per City Municipal Code, the Project is required to provide a minimum total of 21 off-street vehicle parking spaces and four bicycle parking spaces for the proposed retail use. The Project site plan proposes a total parking supply of 22 vehicle spaces and no bicycle spaces. To satisfy the City's bicycle parking requirement, the Project will need install at least four bicycle parking spaces on-site.

Neighborhood Interface

The Project's onsite parking would satisfy the City's vehicle parking standard and is not anticipated to create an adverse effect to the existing parking condition, pedestrian facilities, and bicycle facilities in the surrounding residential neighborhoods.

Conclusion

In summary, the Project is not anticipated to significantly change local traffic patterns or to cause a significant increase in traffic. The Project would not affect or increase the usage of other modes of transportation, such as bicycles, mass transit, and pedestrians. Additionally, per the LTA, the Proposed Project would not interfere with any existing bus routes and would not remove or relocate any existing or planned bus stops. Impacts are less than significant.

Would the Project:		Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less than Significant Impact	No Impact
b)	Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?	☐	☐	☐	☒

CEQA Guidelines Section 15064.3, subdivision (b) provides criteria for analyzing transportation impacts based on a VMT methodology instead of the now superseded (as of January 1, 2019) LOS methodology. Pertinent to the Proposed Project are those criteria identified in Section 15064.3(b)(1) Land Use Projects. According to this section:

> "Vehicle miles traveled exceeding an applicable threshold of significance may indicate a significant impact. Generally, projects within one-half mile of either an existing major transit stop or a stop along an existing high quality transit corridor[5] should be presumed to cause a less than significant transportation impact. Projects that decrease vehicle miles traveled in the project area compared to existing conditions should be presumed to have a less than significant transportation impact."

[5] "High-quality transit corridor" means an existing corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours. For the purposes of this Appendix, an "existing stop along a high-quality transit corridor" may include a planned and funded stop that is included in an adopted regional transportation improvement program.

Kimley Horn prepared a VMT analysis for the Project. According to Kimley Horn, per City VMT guidelines, the Project meets the screening criteria for VMT analysis exemption. The City of San Jose VMT Evaluation Tool was used to estimate VMT for informational purposes only.

The City's VMT threshold is 10.12 per capita for residential land uses, a 12.21 per employee threshold for general employment land uses, and a net increase in existing regional VMT for retail land uses. For the surrounding land use area, the existing VMT is 8.41 per capita for residential and 14.02 per employee for general employment uses. The evaluation tool estimates that the Project would generate a per employee VMT of 13.97. Per City VMT requirements, the Project under retail use would not generate a net increase in existing regional VMT and would not trigger a City VMT impact.

Would the Project:		Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less than Significant Impact	No Impact
c)	Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☒

No modifications to existing roadways are proposed as part of the Project. The LTA completed a preliminary stopping sight distance and intersection sight distance analysis to determine the feasibility of the proposed project driveway location. According to the LTA, the Proposed Project driveway locations satisfies the 305 feet minimum stopping sight distance required for all approaches on Story Road and Jackson Avenue. Vehicles on the road will have sufficient sight distance to react and stop safely if a vehicle from the project driveway enters or exits the road. It is assumed that vehicles turning left or right at the Story Road / Jackson Avenue intersection would be travelling less than 25 mph and would have sufficient visibility and stopping sight distance to stop and avoid any conflicting vehicles. Vehicles entering Story Road and Jackson Avenue from the project driveway will also have sufficient intersection sight distance in either direction to make a right or left turn onto the road.

Overall, the proposed project driveway locations are feasible and provides sufficient sight distance for traffic conditions. To ensure that exiting vehicles can see bikes and vehicles traveling on the roadway, no parking striped with red curb should be established immediately adjacent to the project driveways.

The Project site will be required to conform to the City design standards and the plan is not expected to create any significant impact to pedestrians, bicyclists or traffic operations. Therefore, the Project would have no impact.

Would the Project:		Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less than Significant Impact	No Impact
d)	Result in inadequate emergency access?	☐	☐	☐	☒

The Project design provides three driveways that act as access points, one on E. Jackson Avenue and two on Story Road. The Proposed Project would not interfere with emergency response access during construction of the Project as all construction would be onsite and not affect the surrounding roadways. Once constructed, the Proposed Project would have no effect on emergency access. All lane widths within the Project shall meet the minimum width that can accommodate emergency vehicles and the final emergency access plan would be subject to final approval from the SJFD. The Project would not result in inadequate emergency access.

4.18.4 Mitigation Measures

No significant impacts were identified, and no mitigation measures are required.

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4.19 Tribal Cultural Resources

4.19.1 Environmental Setting

The Native American people who originally inhabited the Santa Clara Valley belong to a group known as the "Costanoan" or Ohlone, who broadly occupied the central California coast from the northern tip of the San Francisco Peninsula to Big Sur in the south and as far east as the Diablo Range. Around 1770 (the time of first Spanish contact), there were two Costanoan subgroups in the area – the *Tamyen* (*Tamien*) in the north along the Guadalupe River and the *Mutsun* in the south along San Felipe Creek and the San Benito River. The customary way of living, or lifeway, of the Costanoan/Ohlone people disappeared by about 1810 due to disruption by introduced diseases, a declining birth rate and the impact of the California mission system established by the Spanish in the area in 1777 (City of San Jose 2011b).

The Proposed Project site is located in a highly disturbed urban setting. Any excavation or construction would take place in areas that were previously disturbed during the construction of the automobile service station. No Tribal Cultural Resources would be located on or near the site.

4.19.2 Regulatory Setting

Assembly Bill 52

AB 52 went into effect on July 1, 2015 and establishes a new category of CEQA resources for "tribal cultural resources" (PRC §21074). The intent of AB 52 is to provide a process and scope that clarifies California tribal government's involvement in the CEQA process, including specific requirements and timing for lead agencies to consult with tribes on avoiding or mitigating impacts to tribal cultural resources. AB 52 also creates a process for consultation with California Native American Tribes in the CEQA process. Tribal Governments can request consultation with a lead agency and give input into potential impacts to tribal cultural resources before the agency decides what kind of environmental assessment is appropriate for a proposed project. The PRC requires avoiding damage to tribal cultural resources, if feasible. If not, lead agencies must mitigate impacts to tribal cultural resources to the extent feasible.

General Plan

The *Envision San Jose 2040 General Plan* includes the following cultural resource policies applicable to the Proposed Project:

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

Policy ER-10.2: Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological

examination confirms whether the burial is human. If the remains are determined to be Native American, applicable State laws shall be enforced

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

4.19.3 Tribal Cultural Resources (XVIII) Environmental Checklist and Discussion

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and, and that is:				
i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or	☐	☐	☒	☐
ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☐	☒	☐

AB 52 requires lead agencies to conduct formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the lead agency. At the time of the preparation of this Initial Study, no tribes have sent written requests for notification of projects to the City of San Jose except for in downtown San Jose (approximately five miles east of the site) and Coyote Valley

(approximately 15 miles southeast of the site). Due to the distance of the Project site from these areas, the Project would not have a significant impact on tribal cultural resources.

Additionally, a review of the City of San Jose Historic Resources Inventory (City of San Jose 2016a) indicates that the Project site does not contain any acknowledged historic structures or sites. The cultural resources background report completed for the *Envision San Jose 2040 General Plan* indicates that the site in not located within an area of cultural or historical importance (City of San Jose 2009). No known cultural resources or significant archaeological resources have been identified within the Project area. The site has not been identified as a site, feature, place, cultural landscape, sacred place, or object with cultural value to a California Native American tribe. Although it is extremely unlikely that cultural resources, including human remains, would be uncovered during construction of the proposed retail/commercial project, the Standard Permit Conditions listed under Section 4.6 Items b) and c) will be incorporated as conditions in the Conditional Use Permit to ensure potential impacts to cultural resources are avoided. Proposed Project would result in a less than significant impact in this area. Therefore, as less than significant impact would occur.

4.19.4 Mitigation Measures

No significant impacts were identified, and no mitigation measures are required.

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4.20 Utilities and Service Systems

4.20.1 Environmental Setting

Water Service

The Santa Clara Valley Water District (SCVWD) is an independent special district that provides wholesale water supply, groundwater management, flood protection, and stream stewardship for its service area, which includes all of Santa Clara County. Nearly half of the water used in Santa Clara County is pumped from the Santa Clara and Llagas subbasins. Imported water includes the District's State Water Project and Central Valley contract supplies and supplies delivered by the San Francisco Public Utilities Commission to cities in northern Santa Clara County. Local sources include natural groundwater recharge and surface water supplies. A small, but growing, portion of the county's water supply is recycled water.

The water supply to the Project is provided by the San José Water Company (SJW). SJW's water source is a mix of groundwater, surface water purchased through the SCVWD, and treated surface water from local water supplies. Location determines the type of water typically received, although, water sources do shift occasionally in response to changes in availability or drought conditions. The Project site's main source of water is from groundwater.

Wastewater

San Jose treats wastewater at the San Jose-Santa Clara Regional Wastewater Facility (RWF) via the City of San Jose and West Valley Sanitation District collection systems. The treated wastewater is then discharged into a tributary to South San Francisco Bay via Coyote Creek. The RWF is the largest tertiary-level treatment facility in the western U.S. The RWF has a wastewater treatment daily capacity of 167 million gallons per day (mgd) and an average daily treatment of 110 mgd (City of San Jose 2016b). There are existing 24-inch and 30-inch vitrified clay pipe sanitary sewer mains along Story Road and S. Jackson Avenue, which serve the existing Project site.

Storm Drainage

The Project site is located on flat terrain situated at an elevation of approximately 170 feet amsl. No natural water features exist on the Project site. No lakes or ponds exist in the Project vicinity.

The average yearly rainfall varies across San Jose, dictated largely by topography. The mean annual precipitation downtown is 14-15 inches, increasing to 22 inches in the foothills in eastern San Jose. Average annual precipitation generally decreases from south to north. Most of the precipitation occurs between November and April with generally sparse precipitation between May and October. The wettest month of the year is usually January, with an average rainfall of about three inches. Snowfall is not a significant form of precipitation in San Jose; there are only a handful of documented significant snowfalls in over 100 years (San Jose 2009). There is an existing 48-inch reinforced concrete pipe storm drain along Story Road and S. Jackson Avenue, which may serve the Proposed Project site.

Solid Waste

According to California Department of Resources Recycling and Recovery (CalRecycle), the majority of solid waste generated in San Jose is disposed of at the Billy Write Disposal Site. This landfill has projected adequate capacity through 2054 and is permitted up to 1,500 tons per day (CalRecycle 2019).

4.20.2 Regulatory Setting

The *Envision San Jose 2040 General Plan* includes the following utility and service system policies applicable to the Proposed Project:

Policy MS-1.4: Foster awareness in San Jose's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.

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

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

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

Policy IN-3.10: Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's NPDES MRP. Action EC-5.16: Implement the Post-Construction Urban Runoff Management requirements of the City's NPDES MRP to reduce urban runoff from project sites.

San Jose Zero Waste Strategic Plan/Green Vision

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

Private Sector Green Building Policy

The City of San Jose's Green Building Policy for private sector new construction encourages building owners, architects, developers, and contractors to incorporate meaningful sustainable building goals early in building design process. This policy establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. It is also intended to enhance the public health, safety and welfare of San Jose residents, workers, and visitors by fostering practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water, and other resources in San Jose. In accordance with the Private Sector Green Building Policy, the proposed project would be required to achieve LEED Silver Certification, at a minimum.

4.20.3 Utilities and Service Systems (XIX) Environmental Checklist and Discussion

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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?	☐	☐	☒	☐

The Proposed Project would be implemented with existing utilities and service systems in place. The Project would not represent a new or expanded land use on site, as the Project is the modernization of an existing facility. Future activities would include the same activities that currently take place at the Project site. The Proposed Project is consistent with the site's General Plan land use designation. Furthermore, the project shall comply with CalGreen and the City's Private Sector Green Building Policy. The Project would have a less than significant impact in this area.

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☒	☐

The Proposed Project would not require expanded water entitlements. Additionally, as stated above, the future activities would include the same activities that currently take place at the Project site. The General Plan EIR determined that the three water suppliers for San Jose could serve planned growth under the City's General Plan until 2025. Water demand could exceed water supply with implementation of the General Plan during dry and multiple dry years after 2025. The General Plan has specific policies to reduce water consumption including expansion of the recycled water system and implementation of water conservation measures. The General Plan Final EIR concluded that with implementation of existing regulations and adopted General Plan policies, full build out under the General Plan would not exceed the available water supply. Therefore, implementation of the Proposed Project would have a less than significant impact on the city's water supply. A less than significant impact would occur.

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No 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?	☐	☐	☒	☐

Under existing conditions, stormwater runoff from the Project site enters the storm drainage system untreated. There is an existing 48-inch reinforced concrete pipe storm drain along Story Road and S. Jackson Avenue, which may serve the Proposed Project site. Compared to existing conditions, the Proposed Project would incrementally change the amount of onsite impervious surfaces and associated runoff. As discussed in Section 4.11 Hydrology and Water Quality, development of the Proposed Project would comply with stormwater provisions. For these reasons, the runoff generated by the Project would not exceed the capacity of the storm drainage facilities serving the Project site and would not require new or expanded stormwater drainage facilities. Future activities would include the same activities that currently take place at the Project site. The Project would have a less than significant impact in this area.

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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?	☐	☐	☒	☐

Future activities would include the same activities that currently take place at the Project site. The current facilities abide by the City's Zero Waste Strategic Plan/Green Vision and the new building would be required to do the same. According to Santa Clara County's Integrated Waste Management Plan, Santa Clara County has adequate disposal capacity beyond 2022. In October 2007, the San Jose City Council adopted a Zero Waste Resolution that set a goal of 75-percent waste diversion by 2013 and zero waste by 2022. San Jose generates approximately 700,000 tons per year of solid waste that is disposed of in landfills, including 578,000 tons per year at landfills in San Jose. The total permitted landfill capacity of the five operating landfills in the city is approximately 5.3 million tons per year.

The 2040 General Plan EIR 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. The Project would have a less than significant impact in this area.

Would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
e) Comply with federal, state, and local statutes and management and reduction regulations related to solid waste?	☐	☐	☒	☐

The Proposed Project is required to comply with all State and federal statutes regarding solid waste. This impact is considered less than significant.

4.20.4 Mitigation Measures

No significant impacts were identified, and no mitigation measures are required.

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4.21 Wildfire

4.21.1 Environmental Setting

The risk of wildfire is related to a variety of parameters, including fuel loading (vegetation), fire weather (winds, temperatures, humidity levels and fuel moisture contents), and topography (degree of slope). Steep slopes contribute to fire hazard by intensifying the effects of wind and making fire suppression difficult. Fuels such as grass are highly flammable because they have a high surface area to mass ratio and require less heat to reach the ignition point, while fuels such as trees have a lower surface area to mass ratio and require more heat to reach the ignition point.

The California Department of Forestry and Fire protection (CAL FIRE) has designated the Project site as being within a Non-Very High Fire Hazard Severity Zone (FHSZ).

4.21.2 Regulatory Setting

State

California Public Resources and Government Code

California PRC Sections 4201 through 4204 direct CAL FIRE to map FHSZs within State Responsibility Areas (SRAs), 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.

California Government Code Sections 51175 through 51189 directs CAL FIRE to recommend FHSZs within Local Responsibility Areas. Local agencies are required to designate Very High (VH) FHSZs 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

The 2016 California Fire Code Chapter 49 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.

Local

General Plan

Policy EC-8.1: Minimize development in very high fire hazard zone areas. Plan and construct permitted development so as to reduce exposure to fire hazards and to facilitate fire suppression efforts in the event of a wildfire.

Policy EC-8.2: Avoid actions which increase fire risk, such as increasing public access roads in very high fire hazard areas, because of the great environmental damage and economic loss associated with a large wildfire.

Policy EC-8.3: For development proposed on parcels located within a very high fire hazard severity zone or wildland-urban interface area, implement requirements for building materials and assemblies to provide a reasonable level of exterior wildfire exposure protection in accordance with City-adopted requirements in the CBC.

Policy EC-8.4: Require use of defensible space vegetation management best practices to protect structures at and near the urban/wildland interface.

4.21.3 Wildfire (XX) Environmental Checklist and Discussion

If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒

The Project site is not located in or near a SRA or land classified as a VHFHSZ. No impact would occur.

If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☐	☒

The Project site is not located in or near a SRA or land classified as a VHFHSZ. No impact would occur.

If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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?	☐	☐	☐	☒

The Project site is not located in or near a SRA or land classified as a VHFHSZ. No impact would occur.

If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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?	☐	☐	☐	☒

The Project site is not located in or near a SRA or land classified as a VHFHSZ. No impact would occur.

4.21.4 Mitigation Measures

No significant impacts were identified, and no mitigation measures are required.

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4.22 Mandatory Findings of Significance

4.22.1 Mandatory Findings of Significance (XXI) Environmental Checklist and Discussion

Does the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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?	☐	☐	☒	☐

Based on the analysis provided in this Initial Study, the Proposed Project would not have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory. The Project is proposed on a developed site with low habitat value. Standard Permit Conditions are identified for potential impacts of the Project on potential disturbance to buried archaeological resources during construction to reduce these effects to a less than significant level, in the event that archaeological resources are encountered during construction. As discussed in Sections 4.5 Biological Resources and 4.6 Cultural Resources, the Proposed Project would not have the potential to impact to these resources. A less than significant impact would occur.

Does the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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 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 proposed project would not significantly contribute to cumulative impacts. Operation of the Project would emit criteria air pollutants and GHG emissions and contribute somewhat to the overall regional and global emissions of such pollutants. By

their nature, air pollution and GHG emissions are largely a cumulative impact. However, this initial Study concluded that the project would be below BAAQMD screening levels and consistent with the General Plan designation, and thus have a less than significant effect on air quality emissions. Therefore, implementation of the Proposed Project would not have the potential to result in cumulatively considerable impacts to the physical environment. Cumulative impacts would be reduced to a level that is considered less than significant.

Does the Project:	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
c) Have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☒	☐

Direct and indirect impacts to human beings would be less than significant with the implementation of mitigation measures, regulations, and policies listed in this document.

SECTION 5.0 LIST OF PREPARERS

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5.2 ECORP Consulting, Inc.

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5.3 Other Technical Consultants

Korbmacher Engineering, Inc. Geotechnical Investigation

EIS Incorporated, Phase I Environmental Site Assessment

Kimley Horn, Local Transportation Analysis

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ATTACHMENT A

Air Quality and Greenhouse Gas Emissions Assessment – ECORP Consulting

ATTACHMENT B

Geotechnical Study – Kormacher Engineering, Inc.

ATTACHMENT C

Phase I Environmental Site Assessment – Environmental Investigation Services, Inc**.**

ATTACHMENT D

Noise Impact Memorandum – ECORP Consulting

ATTACHMENT E

Trip Generation Analysis – Abrams Associates