3.7 Hazards and Hazardous Materials

3.7.1 Environmental Setting

This section analyzes the potential effects of the proposed project with respect to hazards and hazardous materials. This section addresses the following potential hazards: releases of hazardous materials from equipment and materials during construction, demolition, and operation; exposure to hazardous materials in buildings and other structures, soil, and groundwater; proximity to schools; proximity to airports; and emergency access and response plans. Possible hazards involving toxic air contaminants are discussed in Section 3.1, *Air Quality*, of this EIR. Possible hazards relative to water quality are also discussed in Section 3.8, *Hydrology and Water Quality*. The analyses are based on information in site investigation reports, a search of regulatory agency databases of hazardous materials sites, and other published reports, all as cited in this section.

On-Site Parcel Information and Evaluation Methodology

The following section discusses the available information for parcels within the project footprint relative to hazardous materials, the parcel evaluation methodology, the screening levels used to evaluate parcels, and land use limitations.

Available Information

To evaluate the status of the parcels within the project footprint relative to hazardous materials, the project applicant collected existing available information for, and conducted investigations of, the parcels within the project footprint. For each parcel, the information was evaluated to assess current conditions and identify whether hazardous materials or contamination is or may be present that could affect the proposed land use. The available information used to evaluate the on-site parcels is provided electronically as Appendix G of this Draft EIR. The appendix includes a reference list organized by parcel that identifies the documents reviewed for each parcel. The types of available information are summarized below.

- **Phase I environmental site assessments** include site inspections, historical land use research, and records searches to identify whether hazardous materials conditions are or may be present that would affect the proposed land use. Phase I assessments do not include the sampling and chemical testing of building materials, soil, and/or groundwater. However, some of the Phase I assessment reports include the results of previous Phase II investigations that were conducted before the Phase I assessment.
- **Phase II site investigations** include chemical testing of soil, soil gas, groundwater, and/or building materials to identify whether hazardous materials are present above environmental screening levels, described in the *Screening Levels* section further below. Soil, soil gas, and/or groundwater with chemical concentrations above screening levels may be the result of spills and leaks to soil and/or groundwater. Hazardous materials in building materials are materials such as asbestos-containing materials (ACM), lead-based paint (LBP), or other hazardous materials that are part of structures.
- **Remedial actions or site cleanups** are actions that remove, mitigate, and/or treat materials with chemical concentrations above screening levels. Some site cleanups remove the hazardous materials, such as the removal of ACM from structures or the

removal of contaminated soil. Some site cleanups may treat hazardous materials to reduce the levels of contamination, such as injecting treatment chemicals into contaminated groundwater to break down the hazardous materials into non-toxic compounds.

- **Other collected information** includes reviews of regulatory agency databases, permits, historical aerial photographs, fire insurance maps, and property records.

Evaluation Methodology

The Phase I assessments were reviewed to identify historical and current land uses, and assess whether the existing conditions have the potential to affect the types of land use (i.e., residential or commercial/industrial). The Phase I assessments were all conducted within the past few years. Although unlikely, changes to the environmental condition of the parcels since the dates of the Phase I assessments are possible. Additional information and considerations related to heating oil tanks, LBP flaking, and Phase II investigations have been included in the description of parcel conditions.

Home and building heating in San José currently uses either natural gas or electricity. In the past, homes and businesses were commonly heated through the use of heating oil tanks.[1] The use of heating oil tanks was, and to some extent still is, common in northern portions of the U.S. and in rural areas, particularly in areas that receive snow or extended sub-freezing temperatures. Heating oil was delivered by a small tanker truck that would drive up to the front of the house or business into the driveway and refill the tank. Tanks were located in the basement, under the sidewalk, or along the side of the house. The tanker truck would fill the tank through a fill port. After natural gas was routed throughout San José, heating oil tanks were no longer used. However, the heating oil tanks were not always removed, and abandoned tanks have been encountered in various locations across the city (e.g., a heating oil tank was removed from Assessor's Parcel Number [APN] 259-27-011, as discussed below). As discussed in the Phase I assessments in the *On-Site Parcel Conditions* section below, this part of the city dates to the 1800s. As noted by some of the Phase I consultants, although not observed on the parcels, the potential exists for abandoned and undocumented heating oil tanks to be encountered during development of the project site.

LBP that has flaked off from structures built before 1978—when lead was banned in paint—is also a concern. Some Phase I consultants have listed the potential for flaking lead paint to have been deposited into the shallow soil around the perimeter of structures. LBP may be a present in soil around pre-1978 structures even if not specifically addressed in a Phase I assessment.

Phase II investigation results, either as stand-alone reports or results reported in Phase I assessments, were available for 78 of the parcels; these are discussed as appropriate in the *On-Site Parcel Conditions* subsection further below. The Phase II investigation results were compared to environmental screening levels (ESLs), discussed below, to identify whether additional testing or cleanup was needed based on whether the parcel's current land use is residential or commercial/industrial.

[1] City of San José, Environmental Services Department, *Heating Oil UST Info Request*, March 5, 2020.

Note that the Phase II investigations were conducted before the San Francisco Bay Regional Water Quality Control Board issued the current (2020) version of the ESLs. To address this, this analysis compared the reported soil, soil gas, and groundwater result to the 2020 ESLs. Parcels with analytical testing results that are below residential screening levels are considered unlikely to have limitations on current or proposed land use. This is because commercial/industrial and construction worker screening levels are always higher than residential screening levels because residential users are assumed to be on a site year-round whereas commercial, industrial, and construction workers are on a site for less time and thus have a lower level of exposure.

Note that regulatory agencies may close a given site case as a low-threat closure site. This means that residual contamination may be present, but at levels low enough to not pose a threat to surrounding properties. However, the residual on-site concentrations may still exceed screening levels. For example, sites contaminated with petroleum hydrocarbons (fuels and/or motor oil) may have on-site concentrations that exceed screening levels that are expected to naturally attenuate over time.

Parcels with analytical testing results above screening levels may require further evaluation. Depending on the testing results and the type of current or proposed land use (residential or commercial/industrial), remedial action under the jurisdiction of the appropriate regulatory authority may be required to ensure that the parcel is safe for the public and the environment.

Screening Levels

For the San Francisco Bay Area, the regulatory standards typically used to assess whether a given chemical concentration warrants further investigation or remediation are the Regional Water Quality Control Board ESLs. ESLs are risk-based guidelines used to evaluate the potential health and environmental risks associated with chemicals found in soil, groundwater, soil gas (i.e., soil gas samples collected from outdoor soil borings or from sub-slab borings inside buildings), or indoor air samples where a release of hazardous materials has occurred. For certain constituents (e.g., arsenic), the screening level may be below local naturally occurring background levels. In these cases, the background level is used instead of the Regional Water Quality Control Board ESL.

ESLs for soil have been established for both residential and commercial/industrial land uses, protection of construction workers, and prevention of leaching to groundwater. Residential ESLs are usually the most restrictive because they consider the exposure duration to be for a person living on the property year-round. Chemical concentrations below residential screening levels generally would not require remediation and the location would be considered suitable for unrestricted uses. Commercial/industrial ESLs are generally higher than residential ESLs because they are based on a shorter potential duration of worker exposure (e.g., 8 hours per day for 250 days per year) to hazardous materials than residential exposures. ESLs are also typically higher for construction workers than for residential ESLs, with a few exceptions, because construction workers are only exposed to the chemical of concern during the duration of construction and they wear protective clothing. ESLs for leaching to groundwater are the concentrations in soil above which the leaching of that chemical from soil to groundwater is considered to pose an unacceptable risk to groundwater that is currently used, or may be used in

the future, as a source of drinking water. These ESLs may be higher or lower than other ESLs, depending on the specific chemical.

ESLs for groundwater have been established for residential and commercial/industrial soil gas and indoor air intrusion, odor/nuisance, and also use drinking water standards—also called Maximum Contaminant Levels (MCLs).

ESLs have been established for sub-slab/soil gas and for indoor air. Sub-slab/soil gas ESLs are used for gas samples collected from beneath foundation slabs or from outdoor soil borings. Indoor air ESLs are used for gas samples collected from indoor areas where people would be breathing. Both sub-slab/soil gas and indoor air ESLs have residential, commercial/industrial, and odor nuisance levels.

In a few of the Phase II investigations summarized below, chemical concentrations were also compared to California Department of Toxic Substances Control (DTSC) modified Screening Levels for residential and commercial land use and/or U.S. Environmental Protection Agency (EPA) Regional Screening Levels, both of which are similar risk-based screening levels used to assess whether further investigation or cleanup is needed.

For the purposes of this Draft EIR, we have compared the chemical concentrations reported in the Phase II investigations summarized further below to the current (i.e., 2020) Regional Water Quality Control Board ESLs. Although there are the other screening levels, as summarized above (i.e., DTSC and EPA), the Regional Water Quality Control Board ESLs cover more chemicals and are more widely used for the purposes of screening sites, especially in the San Francisco Bay Area.

In addition, some structures that may contain ACM and/or LBP were also noted in the Phase I assessments, based on the age of the structures and, in some cases, materials testing. Although not screening levels in the sense of the ESLs, discussed above, ACM and LBP do have regulatory action levels and are thus included in this section on screening levels.

Limitations on Land Use

For some parcels that have contamination in soil, soil gas, and/or groundwater at concentrations above screening levels, the contamination may be left in place under specific conditions approved and enforced by the overseeing regulatory agency (i.e., DTSC, the Regional Water Quality Control Board, or the Santa Clara County Department of Environmental Health [SCCDEH]). Some of these agreements are called land use covenants (LUCs), but they may have other names (e.g., Environmental Restrictions). The LUC conditions are typically dependent on a particular land use that is not expected to change in the future, and on screening levels that are appropriate to that particular land use. The LUCs typically require that the contaminated materials be made inaccessible to the public and the environment through measures such as capping with pavement, concrete, or several feet of clean soil. For example, Lots A, B, and C have a pavement cap that prevents access and exposure. The LUC requires that the cap and the underlying soil not be disturbed without the written approval of the regulatory agency. In addition, the LUC enforces restrictions on land use and requires annual inspections to ensure the remedy is still in place and effective. For example, the LUC for Lots A, B, and C limits site uses to commercial, industrial,

parks, and/or open space use. Prohibited uses include residences, hospitals, schools for persons under the age of 21, and daycare centers. Raising of food such as cattle and food crops is also prohibited. The regulatory agency requires notification and approval before any disturbances of the cap. The discussion of Lots A, B, and C below provides additional details for its specific LUC.

As noted above, a parcel with a LUC has limitations and restrictions on its land use. The limitations and restrictions can be reduced or removed entirely if the underlying contamination is removed or treated to below the screening levels or regulatory approved cleanup levels for the proposed land use (e.g., residential, commercial, industrial, open space). For some sites, site-specific cleanup levels may be developed that may be different than the screening levels, as approved by the regulatory agency. The parcel owner and/or the party liable for the contamination (the "responsible party") would be required to apply for regulatory oversight, and then prepare a remedial action plan describing the proposed cleanup actions, the target cleanup levels, and the proposed land use after cleanup. The remedial action plan would be submitted to the regulatory agency enforcing the LUC for its review and approval. Upon regulatory agency approval, the parcel owner would implement the remedial action to clean up the site, followed by confirmation sampling and testing of soil and/or groundwater to verify that the cleanup achieved the target cleanup levels. The parcel owner would prepare a report documenting the cleanup activities, comparing the sample results to the target cleanup levels, and requesting that the LUC be modified or removed. The regulatory agency would review the report and, if satisfied that the cleanup is sufficient, modify or remove the LUC.

On-Site Parcel Conditions

Using the available information summarized above, the existing conditions for each parcel within the project footprint are described below, relative to the presence of hazardous materials that may affect the land use. Note that some parcels are grouped together (e.g., Lots A, B, and C consist of APNs 259-28-031, 259-28-041, 259-28-043, and 259-28-044). At the end of each parcel or group of parcels described below, the effect of hazardous materials, if any, relative to land use is stated.

Table 3.7-1 provides a summary that lists each parcel in numerical order (with some variations because of grouped parcels), generally from north to south, and by increasing parcel number. Each listing identifies whether one or more chemicals in soil, soil gas, and/or groundwater exceed or may exceed construction worker, commercial/industrial, or residential screening levels. This indicates which land uses would be acceptable for commercial/industrial or residential land use given the parcel's existing condition, and whether protective measures for construction workers would be required during construction. In addition, each listing identifies whether ACM and/or LBP is or may be present in structures on the parcel. Finally, each listing identifies the type of information source in the comments column. For each screening level (residential, commercial/industrial, and construction worker), Table 3.7-1 identifies whether the screening level is known to be exceeded (red color-coding with the word "yes"), may be exceeded (yellow with the word "potential"), or is not expected to be exceeded (green with the word "no" or "unlikely").

TABLE 3.7-1
SUMMARY OF PER-PARCEL HAZARDOUS MATERIALS ASSESSMENT STATUS

Parcel(s)	Address	Current Land Use	Exceed Screening Levels?[a]				ACM and/or LBP?	Comments
			Construction Worker	Commercial/ Industrial	Residential	Leaching to Groundwater		
259-26-017	587 Cinnabar Street	Industrial	Potential	Potential	Potential	Potential	Potential	Has Phase I assessment
259-27-003	357 North Montgomery Street	Industrial	No	No	Yes	No	Potential	Has Phase I & II assessments
259-27-007	311 and 313 North Montgomery Street	Residential	Unlikely	Unlikely	Unlikely	Unlikely	Potential	Has Phase I assessment
259-27-008	551 West Julian Street[b]	Parking Lot	Unlikely	Unlikely	Unlikely	Unlikely	No	Has Phase I assessment
259-27-009	559, 563, 567, & 573 West Julian Street[b]	Residential	Potential	Potential	Potential	Potential	Potential	Has Phase I assessment
259-27-010	573 West Julian Street	Industrial/ Commercial	Potential	Potential	Potential	Potential	Potential	Has Phase I assessment
259-27-011, 259-27-014, 259-27-015	341-347 North Montgomery Street	Industrial	Yes	Yes	Yes	Yes	Potential	Has Phase I & II assessments
259-27-016	333 North Montgomery Street	Industrial	Potential	Potential	Potential	Potential	Potential	Has Phase I assessment
259-27-017	501 & 566-570 Cinnabar Street	Industrial/ Commercial	Yes	Yes	Yes	Yes	Potential	Has Phase I & II assessments

TABLE 3.7-1
SUMMARY OF PER-PARCEL HAZARDOUS MATERIALS ASSESSMENT STATUS

Parcel(s)	Address	Current Land Use	Exceed Screening Levels?[a]				ACM and/or LBP?	Comments
			Construction Worker	Commercial/ Industrial	Residential	Leaching to Groundwater		
SAP Center Parking Lots A, B, C: 259-28-031, 259-28-041, 259-28-043, 259-28-044	525 West Santa Clara Street	Commercial	Yes	Yes	Yes	Yes	No	Has Phase I & II assessments; has land use covenant and cap on part of site
259-38-009	35 South Autumn Street	Residential	Unlikely	Unlikely	Unlikely	Unlikely	Potential	Has Phase I assessment
259-38-010, 259-38-011, 259-38-028, 259-38-029	40 South Montgomery Street & 55 South Autumn Street	Industrial	Yes	No	No	No	Potential	Has Phase I & II assessments
259-38-015	75 South Autumn Street	Residential	Unlikely	Unlikely	Unlikely	Unlikely	Potential	Has Phase I assessment
259-38-018	93 South Autumn Street	Parking Lot	Unlikely	Unlikely	Unlikely	Unlikely	Potential	Has Phase I assessment
259-38-019	92 South Montgomery Street	Undeveloped	Unlikely	Unlikely	Unlikely	Unlikely	Potential	Has Phase I assessment
259-38-027	50 South Montgomery Street	Commercial	Potential	Potential	Potential	Potential	Potential	Has Phase I assessment

TABLE 3.7-1
SUMMARY OF PER-PARCEL HAZARDOUS MATERIALS ASSESSMENT STATUS

Parcel(s)	Address	Current Land Use	Exceed Screening Levels?[a]				ACM and/or LBP?	Comments
			Construction Worker	Commercial/ Industrial	Residential	Leaching to Groundwater		
259-38-036, 259-38-039, 259-38-040, 259-38-041, 259-38-042, 259-38-109, 259-38-110, 259-38-128, 259-38-129, 259-38-142, 259-38-145, 259-38-146, 259-38-147, 259-38-148	374 West Santa Clara Street at Delmas Avenue	Industrial	Yes	Yes	Yes	Yes	Yes	Has Phase I assessment that documents previous Phase II testing
259-38-085	56 South Montgomery Street	Church	Unlikely	Unlikely	Unlikely	Unlikely	Potential	Has Phase I assessment
259-38-087	87 South Autumn Street	Commercial	Unlikely	Unlikely	Unlikely	Unlikely	Potential	Has Phase I assessment
259-38-088	91 South Autumn Street	Commercial	Unlikely	Unlikely	Unlikely	Unlikely	Potential	Has Phase I assessment
259-38-089, 259-38-090	82 South Montgomery Street	Commercial	Unlikely	Unlikely	Unlikely	Unlikely	Potential	Has Phase I assessment
259-38-113	74 South Autumn Street	Industrial	Yes	Yes	Yes	Yes	Potential	Has Phase I & II assessments
259-38-116, 259-38-117	58 & 56 South Autumn Street	Commercial	Potential	Potential	Potential	Potential	Potential	Has Phase I assessment
259-38-119	50 & 52 South Autumn Street	Commercial	Potential	Potential	Potential	Potential	Potential	Has Phase I assessment

TABLE 3.7-1
SUMMARY OF PER-PARCEL HAZARDOUS MATERIALS ASSESSMENT STATUS

Parcel(s)	Address	Current Land Use	Exceed Screening Levels?[a]				ACM and/or LBP?	Comments
			Construction Worker	Commercial/ Industrial	Residential	Leaching to Groundwater		
259-38-121	20 South Autumn Street	Industrial	Potential	Potential	Potential	Potential	Potential	Has Phase I assessment
259-38-122, 259-38-123 259-38-124	34 & 24 South Autumn Street	Industrial	Potential	Potential	Potential	Potential	No	Has Phase I assessment
259-38-130; also known as Lot D or Block 5A	8 South Montgomery Street; 532 West Santa Clara Street	Parking Lot	Yes	Yes	Yes	Yes	No	Has Phase I & II assessments Has land use covenant
259-38-132	450 West Santa Clara Street	Commercial	Potential	Potential	Potential	Potential	No	Has Phase I assessment
259-38-141	59 South Autumn Street	Industrial	Yes	Yes	Yes	Yes	Potential	Has Phase I & II assessments
259-47-038, 259-47-040, 259-47-077, 259-47-079	597 West Carlos Street, 580 Lorraine Avenue	Industrial	Yes	Yes	Yes	Yes	Potential	Has Phase I & II assessments
259-47-080	282 South Montgomery Street	Industrial	Yes	Yes	Yes	Yes	Potential	Has Phase I & II assessments
259-48-011, 259-48-013	510 West San Fernando Street	Parking Lot	Yes	Yes	Yes	Yes	Potential	Has Phase I & II assessments
259-48-012	102 South Montgomery Street	Commercial	Unlikely	Unlikely	Unlikely	Unlikely	Potential	Has Phase I Assessment

TABLE 3.7-1
SUMMARY OF PER-PARCEL HAZARDOUS MATERIALS ASSESSMENT STATUS

Parcel(s)	Address	Current Land Use	Exceed Screening Levels?[a]				ACM and/or LBP?	Comments
			Construction Worker	Commercial/ Industrial	Residential	Leaching to Groundwater		
259-48-052	140 South Montgomery Street	Industrial	Potential	Potential	Potential	Potential	Potential	Has Phase I assessment
259-48-053	150 South Montgomery Street	Commercial	Yes	Yes	Yes	Yes	Potential	Has Phase I and II assessments
261-34-002 to -006; 261-34-011; 261-34-023 (Diridon Rail Station Parking Lots)	552 to 578 West Santa Clara Street; 33 to 91 South Montgomery Street	Parking Lots	Yes	Yes	Yes	Yes	No	Has Phase I Assessment that documents previous Phase II testing
261-35-002	630 West San Fernando Street	Utility	Yes	Yes	Yes	Yes	Unknown	Has Phase I assessment that documents previous Phase II testing
261-35-003, 261-35-006, 261-35-010	105 South Montgomery Street	Parking Lot	No	No	No	No	Unlikely	Have Phase I Assessment that documents previous Phase II testing
261-35-007	327 Otterson Street	Parking Lot & Industrial	Potential	Potential	Potential	Potential	Potential	Has Phase I assessment
261-35-014	645 Park Avenue	Industrial	Yes	Yes	Yes	Potential	Potential	Has Phase I assessment with form of LUC based on Phase II results
261-35-027	145 South Montgomery Street	Industrial	Yes	Yes	Yes	Yes	Yes	Has Phase I & II assessments
261-37-016, 261-37-029	655 West San Carlos Street	Commercial	Yes	Yes	Yes	No	Potential	Has Phase I & II assessments
261-37-020, 261-37-021	691 West San Carlos Street	Residential	Unlikely	Unlikely	Unlikely	Unlikely	Unlikely	Has Phase I assessment

TABLE 3.7-1
SUMMARY OF PER-PARCEL HAZARDOUS MATERIALS ASSESSMENT STATUS

Parcel(s)	Address	Current Land Use	Exceed Screening Levels?[a]				ACM and/or LBP?	Comments
			Construction Worker	Commercial/ Industrial	Residential	Leaching to Groundwater		
261-37-023	695 West San Carlos Street	Residential	Unlikely	Unlikely	Unlikely	Unlikely	Potential	Has Phase I assessment
261-37-030	Southwest & adjacent to 695 West San Carlos Street	Vacant	Unlikely	Unlikely	Unlikely	Unlikely	Potential	Has Phase I assessment
261-37-031	255 South Montgomery Street	Fire Dept. Training Center	Yes	Yes	Yes	Yes	Yes	Has Phase I & II assessments
264-15-015 to -019; 264-15-063 to -065	365 & 379 Royal Avenue; 655-667 Auzerais Avenue; 720 West San Carlos Street	Commercial	Potential	Potential	Potential	Potential	Potential	Has Phase I assessment that includes previous Phase II results

NOTES:

ACM = asbestos-containing material; LBP = lead-based paint; LUC = land use covenant

[a] These rankings are predominantly driven by soil results, where available. The Phase I assessments do not state whether any screening levels have been exceeded. Most Phase II investigations did not collect soil gas or groundwater samples. The few soil gas and/or groundwater samples that exceeded screening levels are largely a subset of soil screening level exceedances, and do not change the overall soil-based rankings. To maintain readability, individual soil gas, indoor air, and groundwater have not been listed. Details of environmental screening levels are available at: https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/esl.html

[b] The 573 West Julian Street address is on the two listed parcels.

SOURCES: The sources of the information in this table are referenced in the parcel discussions below.

It is important to note that the project site has a long history of industrial use that extends back to the 1800s. Documentation of historical site use and spills has been investigated for most but not all parcels. Information may be incomplete to non-existent, particularly for parcels and land use activities that pre-date the advent of more stringent environmental regulations in the 1970s. Consequently, although the information available for some parcels may indicate no known hazardous materials issues, undiscovered hazardous materials may be present.

Figures 3.7-1 through 3.7-5 show the location of each parcel within the project footprint. Each parcel is color-coded to identify the most conservative screening level exceedance. Parcels colored red have at least one medium (soil, soil gas, groundwater, or ACM/LBP in a structure) that exceeds a screening level. In addition, the parcels coded in red are listed on the State Hazardous Waste and Substances List ("Cortese List"), discussed in Impact HA-3 in Section 3.7.3, *Impacts and Mitigation Measures*, because the site appears on one or more regulatory records lists. Parcels that are color-coded yellow have information that suggests that at least one medium may have contamination that exceeds a screening level. Parcels that are color-coded green have information that indicates that screening levels are not anticipated to be exceeded. The existing conditions for parcels within the project site are described below.

APN 259-26-017 (587 Cinnabar Street)

The Phase I assessment observed that this parcel is currently developed and operated as a warehouse and shipping center for food and market goods to commercial customers with two buildings, a shipping/receiving area, and a paved parking lot.[2] The Phase I assessment stated the following:

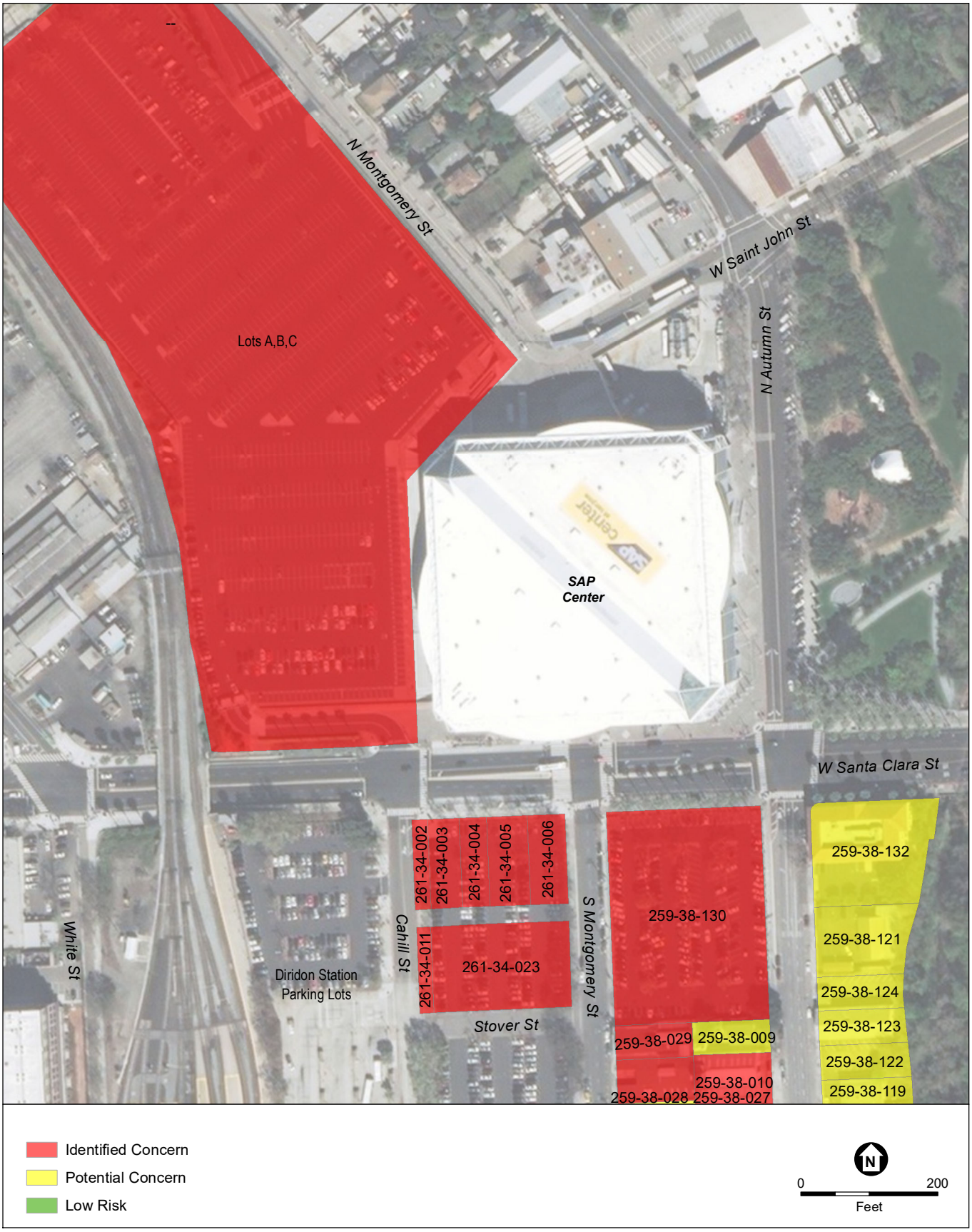
- Industrial operations have been conducted at the subject site since at least 1884. Up to three oil underground storage tanks (USTs), two boilers, and one oil house were present in the eastern half of the parcel from as early as 1915 through at least 1966. No further information regarding the USTs was located, and it is unknown whether the USTs were removed or left in place. The oil house was located where the current southern building is located and therefore was likely removed. The boilers were aboveground structures and are not present at their former locations in the parking lot. A Phase II investigation was reportedly conducted on the site in 2003, but that report was not provided to the Phase I assessment consultant and its availability is unknown.
- A storm drain on the northwest corner of the site is located in the loading area for large delivery trucks. During the Phase I assessment site walk, oil staining from the trucks was observed on the concrete pad that flows to the storm drain, and a small amount of a petroleum substance was observed in the drain. Subsurface soil surrounding this storm drain may have been impacted by petroleum products.
- Because of the age of the structures on the subject site, ACM and LBP have the potential to be present in both buildings, along with lead in soil from flaking LBP; a survey should be performed before demolition of these structures to determine whether pre-demolition abatement is required.

[2] Haley & Aldrich Inc., *Phase I Environmental Site Assessment, 587 Cinnabar Street, San José, California,* April 6, 2017.

SOURCES: Esri, 2019, Santa Clara County, 2019; ESA, 2020

Downtown West Mixed-Use Plan

Figure 3.7-1
Hazardous Materials Areas of Concern - Far North



SOURCES: Esri, 2019, Santa Clara County, 2019; ESA, 2020

Downtown West Mixed-Use Plan

Figure 3.7-2
Hazardous Materials Areas of Concern - North

SOURCES: Esri, 2019, Santa Clara County, 2019; ESA, 2020

Downtown West Mixed-Use Plan

Figure 3.7-3
Hazardous Materials Areas of Concern - South

SOURCES: Esri, 2019, Santa Clara County, 2019; ESA, 2020

Downtown West Mixed-Use Plan

Figure 3.7-4
Hazardous Materials Areas of Concern - Far South

SOURCES: Esri, 2019, Santa Clara County, 2019; ESA, 2020

Downtown West Mixed-Use Plan

Figure 3.7-5
Hazardous Materials Areas of Concern - East

The current land use at this parcel is industrial. The previous industrial uses have the potential to have resulted in contamination of soil and/or groundwater. Therefore, residential, commercial/industrial, construction worker, and/or leaching to groundwater screening levels may be exceeded for the parcel in its current condition. In addition, this parcel is bounded on the east and southwest by railroad tracks likely used for the delivery of materials. It is not uncommon to find arsenic, lead, and other contaminants at elevated levels present in the soil along a right-of-way associated with railroad lines/spurs. Typical sources of contamination along railroad rights-of-way include old railroad ties dipped in an arsenic solution, arsenic weed-control sprays, organochlorine pesticides, and arsenic-laced slag used as railroad bed fill. Lubrication oil and diesel that dripped from trains are also common sources of petroleum products found along such lines. Other sources of contaminants may include coal ash from engines, creosote from ties, and polynuclear aromatic hydrocarbons (PAHs) from the diesel exhaust. This potential condition would apply to any parcel next to older railroad lines, especially if those rail lines had several decades of use. Finally, ACM and/or LBP may be present in site buildings, along with lead in soil from flaking LBP.

APN 259-27-003 (357 North Montgomery Street)

The Phase I assessment observed that this parcel is developed with one building and operated as a machining and welding business.[3,4] The Phase I assessment stated the following:

- Given the use of this parcel as a machine and welding shop since the 1940s, volatile organic compounds (VOCs), including the cleaning solvents trichloroethene (TCE) and/or perchloroethene (PCE; also called tetrachloroethene), could have been used as cleaners/ degreasers. The Phase I consultant recommended soil gas testing to assess for VOCs.
- The 1950 and 1956 fire insurance maps depicted a second oil UST within the footprint of the present-day 570 Cinnabar Street building. The UST was not shown on the 1966 fire insurance map. No documentation pertaining to the removal of the oil UST was identified in the agency records review.
- Because of the age of the structures on the site, ACM and LBP may be present in both buildings, along with lead in soil from flaking LBP; a survey should be performed before demolition of these structures to determine whether pre-demolition abatement is required.

A limited Phase II investigation was conducted to test for potential contaminants associated with the previously discussed land use.[5] The limited Phase II investigation drilled four borings, three of which were inside the buildings. The soil gas samples were analyzed for VOCs. Several VOCs were detected in the soil gas samples recovered from the parcel: trichlorofluoromethane, carbon disulfide, toluene, PCE, chloroform, benzene, acetone, 2-butanone (also known as methyl ethyl ketone or MEK), benzene, ethyl benzene, 1,2,4-trimethylbenzene, 2-propanol, and xylene(s). The reported soil gas concentrations of chloroform in the three sub-slab soil gas samples exceed the residential screening levels, but not the commercial/industrial screening levels. Note that chloroform is sometimes detected as a byproduct of the treatment of drinking water, which is usually treated with

[3] ENGEO, *Phase I Environmental Site Assessment, 357 N. Montgomery Street, San José, California*, October 1, 2018.
[4] ENGEO, *Phase I Environmental Site Assessment Update, 357 N. Montgomery St, San José, California*, March 18, 2019.
[5] ENGEO, *Limited Phase II Environmental Site Assessment, 357 N. Montgomery Street, San José, California*, October 30, 2018.

chlorine compounds. All other soil gas concentrations were below residential and commercial/industrial soil gas screening levels.

The current land use at this parcel is industrial. The Phase II investigation indicated that, with the exception of chloroform, residual levels of VOCs were present at the time of the investigation, but at concentrations below all screening levels. Chloroform was present at concentrations above residential but not commercial/industrial screening levels. In addition, and as noted previously, parcels next to older railroad lines with several decades of use may have metals, pesticides, or PAH contamination. ACM and/or LBP may be present in the site building, along with lead in soil from flaking LBP; a survey should be performed before demolition to determine whether pre-demolition abatement is required.

APN 259-27-007 (311 and 313 North Montgomery Street)

According to the Phase I assessment, this parcel is developed with a two-story residential duplex, constructed circa 1895.[6] The Phase I assessment stated the following:

- This parcel has no history of industrial or commercial use.
- Given the age of the residence, a residential heating oil UST may have been present. No records pertaining to the presence or removal of a UST from the site were located.
- Given the age of the residence, ACM and LBP may be present on the structure; lead may also be present in shallow soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

The current and previous land uses at this parcel are residential. There are no records or observations of soil or groundwater contamination from this parcel. The exceedance of residential and commercial/industrial screening levels is considered unlikely. Given the age of the residence, ACM and LBP have the potential to be present on the structure, along with lead in soil from flaking LBP; a survey should be performed before demolition to determine whether pre-demolition abatement is required.

APN 259-27-008 (551 West Julian Street)

The Phase I assessment observed that this parcel is currently undeveloped and is used as a gravel parking lot.[7] The Phase I assessment stated the following:

- At various times from 1891 through at least 1998, the parcel previously had a residence, a brick building, a shed, and two stores, one of which was a tavern. As of 2000, all structures had been removed. No specific industrial use was identified.
- Given the age of the site's previously existing structures, residential heating oil USTs may have been historically operated. No records were located pertaining to the presence or removal of UST(s) from the site.

The current land use at this parcel is a parking lot. There are no records or observations of soil or groundwater contamination from this parcel. The exceedance of residential and

[6] Elevate Environmental Consultants, *Phase I Environmental Site Assessment, 311 North Montgomery Street, San José, California*, February 10, 2020.
[7] Haley & Aldrich Inc., *Phase I Environmental Site Assessment, 551 West Julian Street, San José, California,* July 14, 2017.

commercial/industrial screening levels is considered unlikely. There would be no ACM or LBP on structures because all structures have been removed.

APN 259-27-009 (559, 563, and 567 West Julian Street)

The Phase I assessment observed that this parcel is currently developed with three multi-unit residences.[8] The Phase I assessment stated:

- The northern portion of the parcel—situated behind both the 573 West Julian Street property (discussed below) and the 559 West Julian Street property—appears to have been used to store construction equipment and associated supplies in the past, which may have leaked oils or other chemicals. Therefore, the shallow soil present in this northern area should be sampled and assessed for potential impacts associated with these stored features.
- Given the age of the site's structures, residential heating oil USTs may have been historically operated. No records were located pertaining to the presence or removal of USTs from the site.
- Given the age of the site's structures that date back to as early as 1915, ACM and LBP may be present in buildings, along with lead in soil from flaking LBP. A survey should be performed before demolition of these structures to determine whether pre-demolition abatement is required.

The current land use at this parcel is residential, but the parcel has had prior industrial use. The current and previous uses have the potential to have resulted in contamination of soil and/or groundwater. Therefore, residential, commercial/industrial, construction worker, or leaching to groundwater screening levels may be exceeded for the parcel in its current condition. Given the age of the building, ACM and LBP may be present in the building, along with lead in soil from flaking LBP. A survey should be performed before demolition of these structures to determine whether pre-demolition abatement is required.

APN 259-27-010 (573 West Julian Street)

The Phase I assessment observed that this parcel currently includes a warehouse split into two units.[9] The northern unit is used for storage of general contractor and construction-related equipment and materials, including small containers of oil and other chemical products. The southern unit is empty and unoccupied. The Phase I assessment stated the following:

- The northern portion of the parcel—situated behind both the 573 and 559 West Julian Street properties—appears to have been used to store construction equipment and associated supplies, which may have leaked oils or other chemicals. Therefore, the shallow soil present in this northern area should be sampled and assessed for potential impacts associated with these stored features.
- Historically, the 573 West Julian Street property was occupied by an auto repair and body shop from at least 1985 to 2000, as well as other various industrial operations. Because of the nature of these operations, hazardous materials were stored on-site, including oils and solvents. Given the site's previous operations, hazardous materials and/or wastes may

[8] Haley & Aldrich Inc., *Phase I Environmental Site Assessment, 559 and 573 West Julian Street, San José, California*, May 10, 2017.
[9] Haley & Aldrich Inc., *Phase I Environmental Site Assessment, 559 and 573 West Julian Street, San José, California*, May 10, 2017.

have been released through cracks in the building's foundation and/or previously existing floor drains/sumps. Because no soil or groundwater samples have been collected from beneath the site's existing building, this sampling should be performed to assess the subsurface environment for these potential releases.

- Given the age of the site's structures, residential heating oil USTs may have been historically operated. No records were located pertaining to the presence or removal of USTs from the site.
- Given the age of the site's structures (circa 1915), ACM and LBP may be present in buildings, along with lead in soil from flaking LBP. A survey should be performed before demolition of these structures to determine whether pre-demolition abatement is required.

The current land use at this parcel is commercial/industrial. The current and previous uses have the potential to have resulted in contamination of soil and/or groundwater. Therefore, residential, commercial/industrial, construction worker, or leaching to groundwater screening levels may be exceeded on the parcel. Given the age of the building, ACM and LBP may be present. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

APN 259-27-011 (No Street Address)
APN 259-27-014 (341, 343, and 345 North Montgomery Street)
APN 259-27-015 (347 North Montgomery Street)

A Phase I investigation observed that these parcels are currently occupied by a wholesale supply shop for ice cream hand carts (345 North Montgomery Street), a metalworking service (343 North Montgomery Street; note that this is no longer a valid address), and commercial and fleet truck body repair shop (341 and 347 North Montgomery Street).[10] The Phase I investigation report stated:

- Land uses include residential (from at least 1884 until after 1915) and industrial (from 1945 to the present). Industrial uses have included machine shops, a boiler shop, railroad hand car storage, fire brick storage, truck body repair shop, and metal reinforcing rod manufacturing.
- America Drums is listed at 345 North Montgomery Street as an open but inactive spill site case that reported a "heavy metal" spill in 1985 containing metals, benzidines, polychlorinated biphenyls (PCBs), and phenols. The quantity and location of the spill were not reported. Soil samples indicated levels of lead and arsenic at concentrations above screening levels. No data were available for the organic compounds listed in the initial spill report.
- One 6,000-gallon gasoline UST (347 North Montgomery Street) and one 15,000-gallon heating oil UST (southern portion of APN 259-27-011) were removed in 1993. Total petroleum hydrocarbons (TPH) as gasoline and diesel were detected under the USTs. Both USTs were over-excavated. Residual levels of TPH as gasoline and diesel were left beneath the USTs and in soil and groundwater.[11,12] The case was closed by the Santa Clara Valley Water District (Valley Water) in 2001, noting that localized residual

[10] Haley & Aldrich, *Draft Phase I Environmental Site Assessment, 345–347 North Montgomery Street, San José, California*, August 15, 2017.
[11] Life Springs Environmental, *A Report Documenting the Advancement of Eleven Exploratory Boring Probes*, August 2000.
[12] Environmental Technical Services, Addendum to the Report dated April 2000, *Documenting the Advancement of Eleven Exploratory Boring Probes at 341 N. Montgomery Street, San Jose, California*, November 20, 2000.

contamination existed at the site below levels of regulatory concern at that time (i.e., 2001 screening levels). As discussed further below, subsequent soil, soil gas, and groundwater sampling has been conducted to investigate current conditions.

- One underground sediment clarifier was located in the former machine shop at 345 North Montgomery Street. The clarifier accepted steam cleaning condensate and sludge. One boring was advanced adjacent to the former clarifier during a 1995 investigation, but no information was available regarding the condition of soil directly beneath the clarifier when it was removed. As discussed further below, subsequent soil, soil gas, and groundwater sampling has been conducted to investigate current conditions.
- A limited ACM survey was conducted in 1995 for the 341/347 North Montgomery property, with no ACM detected. However, the 2017 Phase I assessment consultant considered the 1995 survey to be limited and recommended conducting a more inclusive ACM survey before demolition of the structure. Given the age of the site's structures, ACM and LBP may be present, along with lead in soil from flaking LBP. A survey should be performed before demolition of the structure to determine whether pre-demolition abatement is required.

Two Phase II investigations were conducted in 2017 to evaluate soil, soil gas, and groundwater conditions at these three parcels.[13,14] The Phase II investigations focused on the former USTs, drum storage area, former waste storage area, and former clarifier and sump. The September 2017 Phase II investigation drilled nine borings that included soil and groundwater sampling and analysis. All soil samples were analyzed for TPH as gasoline, diesel, and motor oil, and for metals. In addition, 14 near-surface soil samples were analyzed for semivolatile organic compounds and PCBs. Three groundwater samples were analyzed for TPH as gasoline, diesel, and motor oil; metals; and semivolatile organic compounds. The reported results are summarized as follows:

- Copper, chromium, and lead concentrations in soil exceed hazardous waste levels, which would exceed all screening levels.[15]
- The following chemicals were detected in soil, with maximum concentrations that exceed the screening levels listed in parentheses: cobalt, benzo(a)pyrene, and dibenz(a,h)anthracene (residential); lead and thallium (residential, commercial/industrial, and construction worker); and naphthalene (leaching to groundwater).
- The maximum concentration of 1,1-dichloroethane in groundwater exceeds the drinking water screening level, which is the primary drinking water standard or MCL. The detected concentrations in groundwater also exceed the residential and commercial/industrial vapor intrusion screening levels.
- Selenium was detected in groundwater at concentrations above the MCL, but not the next lowest screening level of gross contamination.

The December 2017 Phase II investigation drilled 12 borings that included soil, soil gas, and groundwater sampling and analysis. Selected soil samples were analyzed for TPH as gasoline,

13 Haley & Aldrich, *Draft Report on Limited Phase II Investigation, 345–347 North Montgomery Street, San José, California*, September 14, 2017.

14 RPS Iris Environmental, *Sampling and Analysis Report for Limited Phase II Subsurface Site Investigation, 345 North Montgomery Street, San José, California*, December 14, 2017.

15 Hazardous waste acceptance levels are the concentrations that define a hazardous waste that must be disposed of at a Class I hazardous waste landfill or treated at a treatment facility permitted to treat the hazardous waste.

diesel, and motor oil; metals; VOCs; semivolatile organic compounds; and PCBs. All soil gas samples were analyzed for VOCs and all groundwater samples were analyzed for TPH as gasoline, diesel, and motor oil; VOCs; and metals. The reported results that exceed one or more screening levels are summarized as follows:

- **Soil:** Arsenic was detected at concentrations that exceed residential, commercial/industrial, and construction worker screening levels. Lead was detected in soil at concentrations that exceed hazardous waste disposal levels, which would be above all screening levels. Cobalt was detected at concentrations that exceed the residential screening level. Nickel was detected at concentrations that exceed the residential and construction worker screening levels.
- **Soil gas:** PCE was detected in soil gas at concentrations that exceed the residential but not commercial/industrial screening levels. Benzene was detected at concentrations that exceed the residential and commercial/industrial screening levels.
- **Groundwater:** Near the former 15,000-gallon heating oil UST, TPH as gasoline and diesel were detected at concentrations that exceed the MCL and the odor/nuisance screening level. Arsenic, lead, and selenium were detected in groundwater at concentrations that exceed MCLs.

In summary, the reported soil, soil gas, and groundwater results exceeded residential screening levels, and in the case of lead in soil, above hazardous waste disposal levels.

The current land use at this parcel is industrial. Current and previous uses have resulted in contamination of soil, soil gas, and groundwater with concentrations that exceeded screening levels. Because of the site's history and the Phase II investigation results, remediation of these parcels may be required to enable future uses. In addition, and as noted previously, parcels next to old railroad lines may have metals, pesticides, or PAH contamination. In addition, ACM and/or LBP may be present because of the age of the structures and the incomplete nature of the limited ACM survey; lead may also be present in soil from flaking LBP. A survey should be performed before demolition of the structure to determine whether pre-demolition abatement is required.

APN 259-27-016 (333 North Montgomery Street)

The Phase I assessment observed that this parcel is currently a concrete business.[16,17] The Phase I assessment stated the following:

- The concrete business building includes offices, workshops, and equipment and materials storage. The southeastern portion of the parcel is a paved parking lot with lumber and equipment storage. A fuel aboveground storage tank (AST) is on the southwest portion of the parking lot. The business was observed to have good housekeeping with minor oil staining in places.
- Previous land uses include residential from at least 1884 until 1960, when the current building was constructed. The parcel was used as an automotive shop until the 1990s and a

[16] ENGEO, *Phase I Environmental Site Assessment, 333 North Montgomery Street, San José, California*, February 25, 2019.
[17] ENGEO, *Phase I Environmental Site Assessment Update, 333 North Montgomery Street, San José, California*, October 30, 2019.

concrete business since then. The automotive shop business had a documented history of approximately 30 years of use with consistent violations for hazardous waste housekeeping, storage, and in one instance dumping down the storm drain. The Phase I referenced a previous Phase II investigation conducted in 1995 that analyzed soil and groundwater for, but did not detect petroleum hydrocarbons.[18] The Phase II investigation did not analyze for metals or solvents. The Phase I consultant recommended further testing because of the documented use of solvents and improper storage/dumping of waste oil.

- Given the age of the site's structure, ACM and LBP may be present and lead may also be present in shallow soil from flaking LBP. A survey should be performed before demolition of the structure to determine whether pre-demolition abatement is required.

The current land use at this parcel is industrial. The current and previous uses have the potential to have resulted in contamination of soil and/or groundwater. Therefore, residential, commercial/industrial, construction worker, or leaching to groundwater screening levels may be exceeded for the parcel in its current condition. Because of the site history, further Phase II sampling was recommended to evaluate whether remediation of this parcel is needed to enable future uses. Given the age of the building, ACM and LBP may be present on the structure, along with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

APN 259-27-017 (501 and 566-570 Cinnabar Street)

The Phase I assessment observed that this parcel is currently developed and operated as a commercial/light industrial warehouse that includes a vacant warehouse and a self-storage facility.[19] The Phase I assessment stated:

- This parcel was occupied by residences as early as 1884 through at least 1939. As early as 1915, the parcel had a small food packing facility. From 1939 to 1956, additional food packing structures were added and residential use ended during this time period. The current structure was constructed in 1966 after removal of all other structures. The current building was divided into two separate tenant spaces in 1984.
- The 1915 fire insurance map identified one oil UST within the footprint of the structure currently identified at 570 Cinnabar Street. This UST was no longer depicted on the 1950 fire insurance map; no documentation pertaining to the removal of the oil UST was identified in the agency records review.
- The 1950 and 1956 fire insurance maps depicted a second oil UST within the footprint of the present-day 570 Cinnabar Street building. The UST was not shown on the 1966 fire insurance map. No documentation pertaining to the removal of the oil UST was identified in the agency records review.
- The Phase I assessment concluded that because of the age of the structures on the site, ACM and LBP may be present in both buildings, along with lead in soil from flaking LBP. A survey should be performed before demolition of these structures to determine whether pre-demolition abatement is required.

[18] Phases Environmental, *Phase II Environmental Site Assessment, 333 Montgomery Street, San José, California,* March 27, 1995.
[19] ENGEO, *Phase I Environmental Site Assessment, 501 Cinnabar Street, San José, California,* March 25, 2019.

A Phase II investigation was conducted before the Phase I assessment discussed above to test for potential contaminants associated with the previously discussed USTs.[20] The Phase II investigation drilled six borings, and analyzed soil and groundwater for TPH as gasoline, diesel, and motor oil; metals; and VOCs. The reported results are summarized as follows:

- **Soil:** For soil samples, TPH as diesel was detected at concentrations that exceed residential, commercial/industrial, construction worker, and leaching to groundwater screening levels. TPH as motor oil was detected in one boring at concentrations that exceed residential but not the commercial/industrial, construction worker, and leaching to groundwater screening levels. TPH as gasoline and VOCs were not detected in any of the borings. Metals were detected in most of the borings with cobalt and lead concentrations that exceed residential but not commercial/industrial, construction worker, and leaching to groundwater screening levels.
- **Groundwater:** Groundwater samples detected concentrations of TPH as gasoline that exceed the odor/nuisance screening level but not the MCL (residential or commercial/industrial screening levels have not been established for gasoline); naphthalene was detected at concentrations that exceed the MCL and residential vapor intrusion screening level; and the metals antimony, arsenic, barium, beryllium, cadmium, chromium, cobalt, copper, lead, nickel, and vanadium were reported at concentrations above MCLs but below the other groundwater screening levels.

The current land use at this parcel is industrial. The Phase II investigation indicates that residential, commercial/industrial, construction worker, and groundwater screening levels have been exceeded in soil and groundwater for this parcel in its current condition. Because of the site's history and the Phase II investigation results, remediation of this parcel may be required to enable future uses. Given the age of the structure, ACM and/or LBP may be present on the structure, along with lead in soil from flaking LBP. A survey should be performed before demolition of the structure to determine whether pre-demolition abatement is required.

SAP Center Parking Lots A, B, and C (APNs 259-28-031, 259-28-041, 259-28-043, and 259-28-044) (525 West Santa Clara Street)

SAP Center Parking Lots A, B, and C have been evaluated under a Phase I assessment and a Phase II investigation.[21,22] The Phase II investigation was conducted before, and to inform, the Phase I assessment. Lots A, B, and C are currently used as parking lots for the SAP Center (refer to Figure 3.7-1). Industrial uses date back to 1877, when the site was the location of a coal gasification plant. Initially, the plant was a water-gas plant that used coal and crude petroleum to produce natural gas. In 1917, the plant was converted to an oil-gas process. The process resulted in storage of lampblack and tar-like residues. The lampblack storage was reduced in 1922 by burning residue in boilers to produce steam for plant operations. The coal gasification plant ceased operations in 1929, although the site continued to be used to store natural gas until 1951. Among the historic site uses were the coal gasification plant, followed by various automotive

[20] ENGEO, *Phase II Environmental Site Assessment, 501 Cinnabar Street, San José, California*, January 26, 2018.
[21] ENGEO, *Phase I Environmental Site Assessment, Google Diridon Station–Lots A, B, and C, San José, California*, September 21, 2018.
[22] ENGEO, *Phase II Environmental Site Assessment, Diridon Station–Project Spartan, Lots A, B, and C, San José, California*, May 15, 2018.

repair and service businesses, gas stations, and miscellaneous light industries. Several USTs and oil/water clarifiers were formerly located on the property.

The City of San José Redevelopment Agency began constructing the multipurpose arena now known as SAP Center in July 1990, beginning with site clearing, building demolition, and site preparation. This work included the construction of a slurry wall to a depth of 35 feet below the ground surface around the proposed arena building site to prevent groundwater contamination from migrating into or out of the arena. The arena floor was excavated to a depth of 17 feet below the ground surface.

During development of the arena, the existence of PAHs was discovered, reflecting the former coal gasification plant operations. PAHs were detected in the soil at concentrations that exceeded the construction worker, commercial/industrial, and residential screening levels. In addition, during investigation of the industrial properties, petroleum contamination from gasoline, diesel, oil and grease, was discovered in the soil and groundwater, with compounds identified including benzene, toluene, ethylbenzene, and xylenes.

All PAH-affected soil was screened for on-site reuse. Approximately 20,000 cubic yards of soil containing greater than 100 parts per million PAH was encapsulated beneath the southeast portion of Lots A, B, and C. Soil below 100 parts per million was used as fill for either the bottom liner for the encapsulated area or as 2 feet of fill over the encapsulated area. These areas were then paved as part of the parking lot for the arena.

The SAP Center is situated over a shallow perched groundwater zone referred to as the A-zone. Consequently, a dewatering system was designed into the construction of the arena to capture any accumulation of groundwater under and around the arena into a centralized sump. Accumulated groundwater is treated and discharged into the municipal storm drain system. Upon completion of the arena in February 1995, the City resumed groundwater monitoring to track the contaminants remaining beneath the property. Semiannual groundwater monitoring events were performed through 2004; since 2005, groundwater sampling has been performed on an annual basis.

Samples collected from an influent sample port and an effluent sample port have detected no contaminants. The dewatering system remains active and operating, when groundwater is present.

A Covenant to Restrict Use of Property, Environmental Restriction, between the City of San José and DTSC was finalized for the site on May 23, 2003. (Note: This is a LUC, as described previously in the *Limitations on Land Use* section.) The covenant limits site uses to commercial, industrial, parks, and/or open space use. Restricted (prohibited) uses include residences, hospitals, schools for persons under the age of 21, and daycare centers. Raising of food, such as cattle and food crops, is also prohibited. DTSC requires notification before any disturbances of the cap. The following soil management restrictions are in place:

- No activities that will disturb the soil (e.g., excavation, grading, removal, trenching, filling, earth movement, mining) shall be allowed on the site without a Soil Management Plan and a Health and Safety Plan approved by DTSC before the beginning of the activities. Any contaminated soils brought to the surface by grading, excavation,

trenching, or backfilling shall be managed in accordance with all applicable provisions of federal and state law.

- The owner shall provide DTSC written notice at least 14 days before any building, filling, grading, mining, or excavation on the site.
- Activities that may disturb the cap, including but not limited to excavation, grading, removal, trenching, filling, earth movement, or mining, shall not be permitted on the site without prior review and written approval by DTSC. All uses and development of the site shall preserve the integrity of the cap. The cap shall not be altered without prior written approval by DTSC.

In summary, the current land use at these parcels is commercial (parking lot). As discussed above, contaminated soil has been encapsulated and any change to the land use that disturbs the contaminated soil would require agency approval.

APN 259-38-009 (35 South Autumn Street)

The Phase I assessment observed that this parcel is currently developed with a one-story single-family residence with a basement constructed before 1922.[23] The Phase I assessment stated the following:

- This parcel has no history of industrial or commercial use.
- Given the age of the residence, a residential heating oil UST may have been historically operated. No records were located pertaining to the presence or removal of a UST from the site.
- Given the age of the residence, ACM and LBP may be present, along with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

The current land use at this parcel is and was historically residential. There are no records or observations of soil or groundwater contamination from this parcel. Residential land use would have a negligible potential for contamination of soil and groundwater. The exceedance of screening levels is considered unlikely. Given the age of the residence, ACM and LBP may be present, along with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

APN 259-38-010 (40 South Montgomery Street)
APN 259-38-011 (55 South Autumn Street)
APN 259-38-028 (40 South Montgomery Street)
APN 259-38-029 (40 South Montgomery Street)

The Phase I assessment observed that this parcel was developed and operated as a foundry and pattern shop, with four connected structures housing manufacturing activities.[24] The buildings are designated, from west to east as Pattern Shop, Grinding, Foundry, and Shipping. There is one building located at 40 South Montgomery Street, which held the pattern shop, grinding area,

[23] Haley & Aldrich Inc., *Confidential Information: Phase I Environmental Site Assessment, 35 South Autumn Street, San José, California*, January 30, 2017.

[24] Haley & Aldrich Inc., *Phase I Environmental Site Assessment, 40 South Montgomery Street and 55 South Autumn Street, San José, California*, February 17, 2017.

spray booth, and offices. This building occupies the majority of APNs 259-38-029 and 259-38-028, except for a 500-square-foot paved driveway area facing South Montgomery Street. There are three buildings located at 55 South Autumn Street, which occupy APNs 259-38-010 and 259-38-011. The north and middle buildings contained the main foundry, and the south building was the product finishing and shipping area. The kilns in the main factory were operated with natural gas or electricity, not oil. Along the east side of the buildings, there is an approximately 20-foot-wide outdoor paved parking/loading area spanning the length of the property along South Autumn Street. The Phase I assessment stated the following:

- Industrial operations have been conducted at the site since 1919. These historical operations included the use of organic hazardous materials such as lubricants, solvents, fuels, and oils, and they are currently used today. Given the site's previous operations, hazardous materials and/or wastes may have been released through cracks in the building's foundation or the basement/crawl space.

A limited Phase II investigation included one boring on APN 259-38-028 and two borings on APN 259-38-010.[25] The reported results are summarized below.

- Soil was tested for metals, PCBs, organochlorine pesticides, PAHs, VOCs, and TPH as gasoline, diesel, and motor oil. Lead and benzo(a)pyrene were detected at concentrations that exceed residential screening levels but are below commercial/industrial, construction worker, and leaching to groundwater screening levels.
- Groundwater was tested for metals, PAHs, VOCs, and TPH as gasoline, diesel, and motor oil in one groundwater sample. The reported concentrations of 1,2-dichloroethane, lead, and selenium exceed residential and commercial/industrial groundwater screening levels.

In summary, the land use at this parcel has included industrial and commercial uses. Soil and groundwater exceeded several screening levels. Because of the site's history and limited Phase II investigation results, remediation of this parcel may be required, depending on the redevelopment plans and anticipated future uses. Given the age of the building, ACM and LBP may be present along with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

APN 259-38-015 (75 South Autumn Street)

The Phase I assessment observed that this parcel is currently developed with two structures: a one-story single-family residence and a two-story in-law apartment. The single-family residence was constructed circa 1915 and the in-law apartment was constructed before 1950.[26] The land use at this parcel has only been residential, with no known commercial or industrial use.

Residential land use would have a negligible potential for contamination of soil and groundwater. The exceedance of residential, commercial/industrial, or construction worker screening levels is considered unlikely. Given the age of the residence, a residential heating oil UST may have been historically operated. No records were located pertaining to the presence or removal of a UST

[25] Haley & Aldrich Inc., *Limited Phase II Environmental Site Assessment, 40 South Montgomery and 55 South Autumn Street, San José, California*, February 21, 2017.
[26] Haley & Aldrich Inc., *Confidential Information: Phase I Environmental Site Assessment, 75 South Autumn Street, San José, California*, November 23, 2016.

from the site. Given the age of the residence, ACM and LBP may be present, along with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required. There are no records or observations of soil or groundwater contamination from this parcel.

APN 259-38-018 (93 South Autumn Street)

The Phase I assessment observed that this parcel is currently a paved parking lot.[27] The Phase I assessment stated the parcel was in residential use from at least 1884 to 1986. The parcel is listed as a paved parking lot from 1994 to the present. No industrial or commercial uses are listed for this parcel. The previous residential and current parking lot land use would have a negligible potential for contamination of soil and groundwater, and exceedance of residential, commercial/industrial, or construction worker screening levels is considered unlikely. Given the age of the previous residential use, a residential heating oil UST may have been historically operated. No records were located pertaining to the presence or removal of a UST from the site.

Although not listed as a reported spill incident site, the property at 496 West San Fernando Street (located about 90 feet to the southeast) was operated as a laundry and dry cleaning business from 1930 to at least 1966. Impacts on soil and groundwater are often identified at dry cleaning sites. Given the proximity of the property to the creek, the direction of groundwater flow may be variable with flow away from the creek in the rainy season and toward the creek in the dry season. Although it has been more than 50 years since this dry cleaner was present, it is possible that dry cleaning solvents were spilled and migrated in groundwater to beneath the 93 South Autumn Street parcel.

Given the age of the previous structures, the potential exists that LBP from the previous structures flaked off over the years and deposited into the shallow soil around the perimeter of the former structures. Soil sampling along the perimeter of the former structure should be performed before development to determine whether elevated levels of lead are present in the shallow soil that need to be mitigated.

APN 259-38-019 (92 South Montgomery Street)

The Phase I assessment observed that this parcel is currently an undeveloped grass lot.[28] The parcel had one residence from as early as 1915 to sometime between 1948 and 1956, when the residence was removed and replaced with a four-story apartment building. The apartment building was demolished in 2009. The parcel has been vacant since then. This parcel has had no known commercial or industrial use. Given the age of the previous structure, a heating oil UST may have been historically operated. No records were located pertaining to the presence or removal of a UST from the site.

Residential land use would have a negligible potential for contamination of soil and groundwater. The exceedance of residential, commercial/industrial, or construction worker screening levels is

[27] Cornerstone Earth Group, *Phase I Environmental Site Assessment, 93 South Autumn Street, San José, California*, December 31, 2019.
[28] Haley & Aldrich Inc., *Phase I Environmental Site Assessment, 92 South Montgomery Street, San José, California*, June 12, 2019.

considered unlikely. Given the age of the previous structures, lead may be present in soil from flaking LBP. A survey should be performed before demolition to determine whether lead is present in soil at concentrations above screening levels.

APN 259-38-027 (50 South Montgomery Street)

The Phase I assessment observed that this parcel is currently developed with a one-story lofted building that operates as a pet day care.[29] The building consists of an office area, numerous storage rooms, and an open space for pets. This parcel was in residential use from at least 1891 to before 1950. The parcel use was listed as West Coast Carburetor Service in 1950, Vending Machine Storage in 1956, Morgan Bill Amusement Company from 1960 to 2000, and Pawing Around in 2014. This indicates both industrial and commercial land uses.

The land use at this parcel has included industrial and commercial uses. It is unknown whether previous industrial uses resulted in contamination that exceeds residential, commercial/industrial, or construction worker screening levels. However, the listed carburetor service indicates the potential for contamination from materials, such as fuels, oils, and metals. Because of the site's history, Phase II investigation of this parcel may be required, depending on the redevelopment plans and anticipated future uses. Given the age of the building, ACM and LBP may be present in building materials, along with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

Former San José Water Company Site (also referred to as the Diridon Station JV Site) (APNs 259-38-036, 259-38-039, 259-38-040, 259-38-041, 259-38-042, 259-38-109, 259-38-110, 259-38-128, 259-38-129, 259-38-142, 259-38-145, 259-38-146, 259-38-147, and 259-38-148) (35 Delmas Avenue and 374 West Santa Clara Street at Delmas Avenue)

The Phase I assessment observed that these parcels are currently undeveloped and used as a gravel parking lot.[30] The Phase I assessment observed that this set of parcels has three interconnected currently vacant buildings previously used by the San Jose Water Company located on APN 259-38-128 in the far northeast corner of this group of parcels, with the remainder of the property consisting of paved areas. Previous historical uses of the parcels include auto repair facilities, boiler rooms for laundry facilities (this laundry used water; it was not a dry cleaner that used PCE), a gas station, a lumber yard, sheet metal works, and a pipe dipping facility. Various USTs were previously on the parcels but have since been removed.

The Phase I assessment report included the results of previous Phase II investigation results. Soil on these parcels has levels of gasoline and lead at concentrations above residential, commercial/industrial, and construction worker screening levels. ACM are present in the asphalt, base rock, and soil beneath the majority of the parcels to depths of up to 4 feet, derived from the demolition of previous structures and as a component of the asphalt paving. The ACM would need to be managed as a hazardous waste, which would be above all screening levels. A previous

[29] ENGEO, *Phase I Environmental Site Assessment, 50 South Montgomery Street, San José, California,* January 24, 2018.
[30] EKI Environment & Water, *Phase I Environmental Site Assessment, West Santa Clara Street and Delmas Avenue, San José, California*, January 23, 2018.

investigation detected gasoline, VOCs, nickel, and selenium in concentrations in groundwater above residential and commercial/industrial screening levels.

Because of the site's history and the Phase II investigation results, remediation of this parcel may be required enable future uses. The groundwater flow direction is assumed to be to the east, away from the rest of the project footprint, but could be variable as noted for other parcels. A survey of the buildings indicated that the structures have ACM and LBP. Should the buildings be removed, the ACM and LBP, along with lead in soil from flaking LBP, would require pre-demolition abatement.

Based on the concentrations of lead, the Diridon Station JV (the owners of the parcel) entered into the SCCDEH Voluntary Cleanup Program under Case No. 2016-33s.[31] A Site Management Plan, dated August 10, 2016, was prepared by Haley & Aldrich and subsequently approved by the SCCDEH on October 17, 2016.[32] (Note: A voluntary cleanup program agreement is similar to a LUC, as described previously in the Limitations on Land Use section, in that it may have requirements that in effect, restrict land uses.)

APN 259-38-085 (56 South Montgomery Street)

The Phase I assessment observed that this parcel is currently developed with a single-story vaulted-roof church with an attached two-story structure used as a community center, along with associated paved parking.[33] This parcel was in residential use from at least 1884 through to at least 1950. The church is listed from as early as 1955 to the present. No industrial or commercial land use is recorded.

The land use at this parcel has been residential or a church. The current and previous uses have negligible potential for contamination of soil and groundwater. The exceedance of residential, commercial/industrial, or construction worker screening levels is considered unlikely. Given the age of the building, ACM and LBP may be present, along with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

APN 259-38-087 (87 South Autumn Street)

The Phase I assessment observed that this parcel is currently developed with one building currently used as an event space (Poor House Studio) built between 1974 and 1982.[34,35] This parcel was in residential use from at least 1884 through to at least 1956. From 1985 to the present, the parcel is listed with various commercial uses. No industrial land use is recorded.

The land use has been residential and commercial but with no known industrial uses. The current and previous uses have negligible potential for contamination of soil and groundwater. The exceedance of residential, commercial/industrial, or construction worker screening levels is considered unlikely. Given the age of the building, ACM and LBP may be present, along with

31 Trammell Crow Company, *Submittal of Site History Information, 35 Delmas Avenue, San Jose, Santa Clara County, California*, April 17, 2017.
32 Haley & Aldrich, *Site Management Plan, Delmas Avenue Redevelopment Project, San Jose, California*, August 10, 2016.
33 ENGEO, *Phase I Environmental Site Assessment, 56 South Montgomery Street, San José, California*, April 19, 2018.
34 ENGEO, *Phase I Environmental Site Assessment, 87 S. Autumn Street, San José, California*, September 27, 2018.
35 ENGEO, *Phase I Environmental Site Assessment Update, 87 S. Autumn Street, San José, California*, March 28, 2019.

lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

APN 259-38-088 (91 South Autumn Street)

The Phase I assessment stated this parcel was in residential use from 1884 to 2005, and then as a restaurant to the present.[36,37] The current structure was formerly a residence, built between 1950 and 1956, that was converted to the Poor House Bistro restaurant in 2005.

The land uses have been residential and a restaurant, but with no known industrial uses. The current and previous uses have negligible potential for contamination of soil and groundwater. The exceedance of residential, commercial/industrial, or construction worker screening levels is considered unlikely. Given the age of the building, ACM and LBP may be present, along with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

APNs 259-38-089 and 259-38-090 (82 South Montgomery Street)

The Phase I assessment observed that these parcels are currently developed with a custom framing sports memorabilia business in the southern portion of the property (APN 259-38-089), and a paved parking lot is present in the northern portion of the property (APN 259-38-090).[38,39] This parcel was in residential use from at least 1884 through to at least 1950. The parcel was listed as a music stage in 1956, a meat wholesaler in 1960, a florist warehouse from 1966 to 2014, a hat shop in 2010, and the sports memorabilia business from 2014 to the present. No industrial land use is recorded.

The land uses have been residential and commercial but with no known industrial uses. The current and previous uses have negligible potential for contamination of soil and groundwater. The exceedance of residential, commercial/industrial, or construction worker screening levels is considered unlikely. Given the age of the building, ACM and LBP may be present, along with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

APN 259-38-113 (74 South Autumn Street)

The Phase I assessment observed that this parcel is currently developed and operated as an auto detailing service including car washes, leather cleaning, upholstery, carpet cleaning, and conditioning.[40] The property consists of a front office area, rear warehouse/garage, and covered driveway and carport. Industrial and automotive operations have been historically conducted at the subject site since the late 1940s. These operations included a drywall and taping company, t-shirt printing, aircraft radome[41] repair, tire servicing, and automobile detailing. Potential

36 ENGEO, *Phase I Environmental Site Assessment, 91 S. Autumn Street, San José, California*, September 27, 2018.
37 ENGEO, *Phase I Environmental Site Assessment Update, 91 S. Autumn Street, San José, California*, March 26, 2019.
38 ENGEO, *Phase I Environmental Site Assessment, 82 S. Montgomery Street, San José, California*, September 28, 2018.
39 ENGEO, *Phase I Environmental Site Assessment, 82 S. Montgomery Street, San José, California*, September 28, 2018.
40 Haley & Aldrich Inc., *Phase I Environmental Site Assessment, 74 South Autumn Street, San José, California*, March 14, 2017.
41 A radome (which is a portmanteau of "radar" and "dome") is a structural, weatherproof enclosure that protects a radar antenna.

evidence of an UST, including a vent pipe and inlet feature, was observed in the rear of the property during the site reconnaissance. If there is or was a UST at the subject parcel, a release of hazardous materials and/or wastes may have occurred. The Phase I assessment recommended a Phase II investigation for the potential UST. In addition, given the age of the building, ACM and LBP may be present, along with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

The Phase II investigation included one boring.[42] The reported results are summarized below.

- Soil was tested for metals, PAHs, PCBs, VOCs, and TPH as gasoline, diesel, and motor oil. Benzo(a)pyrene was detected at concentrations that exceed residential, commercial/industrial, and construction worker screening levels. Indeno(1,2,3-cd)pyrene was detected at concentrations that exceed residential and commercial/industrial screening levels but not construction worker screening levels. Benzo(a)anthracene and dibenz(a,h)anthracene were detected at concentrations that exceed residential screening levels but not commercial/industrial, or construction worker screening levels.
- Groundwater was tested for metals, VOCs, and TPH as gasoline, diesel, and motor oil. The reported concentrations of lead and nickel exceed MCLs but not gross contamination groundwater screening levels.

In summary, the land use at this parcel has included industrial and commercial uses. Concentrations of chemicals in soil exceed residential screening levels for three PAHs, commercial/industrial screening levels for two PAHs, and construction worker screening levels for one PAH, as listed above. Concentrations of lead and nickel in groundwater exceed MCLs, but not gross contamination groundwater screening levels. Because of the site's history and the Phase II investigation results, remediation of this parcel may be required to enable future uses. Given the age of the building, ACM and LBP may be present, along with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

APN 259-38-116 (58 South Autumn Street)
APN 259-38-117 (56 South Autumn Street)

The Phase I assessment observed a glass and mirror shop on APN 259-38-117 and undeveloped area on APN 259-38-116.[43] A welding shop and industrial operations were at the property starting in the 1930s. From 1968 through 1998, a variety of businesses occupied the on-site building, including an auto shop, fire equipment warehouse, caulking compound warehouse, and silk screen printing. Because of the nature of these operations, hazardous materials were housed on-site, as noted in San José Fire Department (SJFD) inspection records from the 1980s. It is unknown whether releases of hazardous materials and/or wastes may have occurred through cracks in the building's foundation and/or previously existing floor drains/sumps, and/or to soil outside the building.

[42] Haley & Aldrich Inc., *Limited Phase II Environmental Site Assessment, 74 South Autumn Street, San José, California*, March 21, 2017.
[43] Haley & Aldrich Inc., *Phase I Environmental Site Assessment, 56 & 58 South Autumn Street, San José, California*, May 1, 2017.

The current land use is commercial but previously industrial. No soil or groundwater samples have been collected from beneath the existing and former buildings, and it is unknown whether soil has been affected by previous business operations or whether residential, commercial/industrial, construction worker, or groundwater screening levels have been exceeded. Because of the site's history, a Phase II investigation is recommended to investigate the past industrial uses. Given the age of the building, ACM and LBP may be present, along with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

APN 259-38-119 (50 and 52 South Autumn Street)

The Phase I assessment observed that the parcel is currently developed with one building, which is bisected into two addresses.[44] The northern half of the building is identified as 50 South Autumn Street and is used as a gym. The backyard area of this half of the property is unused, consisting of overgrown vegetation. The southern half of the building (52 South Autumn Street) is occupied by a furniture upholstery warehouse with a front office area. The backyard area of this half of the property consists of a storage trailer, upholstery materials, wooden pallets, and work benches. The Phase I assessment stated the following:

- One 1,000-gallon steel gasoline UST was removed from the southeast corner of the 52 South Autumn Street portion of the parcel on April 17, 1990. The UST was removed because it was no longer in use, and the tank inspection following excavation revealed that the UST was intact. Soil samples were collected from each end of the UST excavation and tested for TPH as gasoline, and the gasoline components benzene, toluene, ethylbenzene, and xylenes. No TPH as gasoline or ethylbenzene were detected and the reported concentrations of benzene, toluene, and xylenes are below residential, commercial/industrial, construction worker, and leaching to groundwater screening levels. This area is currently covered by asphalt. Based on results of laboratory analyses conducted on the soil samples, the Regional Water Quality Control Board issued a No Further Action letter and closed the case. Automotive repair operations were conducted at the parcel starting in the early 1960s. These historical operations typically included the use of chlorinated solvents as cleaning solutions and the previous automotive entities occupying the parcel were listed as generators of hazardous waste. It is unknown whether releases of hazardous materials and/or wastes may have occurred through cracks in the building's foundation, and/or previously existing floor drains/sumps, and/or to soil outside of the building. No soil or groundwater samples have been collected from beneath the parcel's existing building or in outside areas other than the former UST.

The current land use is commercial with previous auto repair use. Soil samples were below all screening levels. However, no soil or groundwater samples have been collected from beneath the existing buildings and some outside areas, and it is unknown whether soil has been affected by previous business operations. Because of the site's history, a Phase II investigation is recommended to investigate the past industrial uses. Given the age of the building, ACM and LBP in building materials, along with lead in shallow soil from flaking LBP, may be present. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

[44] Haley & Aldrich Inc., *Phase I Environmental Site Assessment, 50 and 52 South Autumn Street, San José, California*, January 12, 2017.

APN 259-38-121 (20 South Autumn Street)

The Phase I assessment observed a single warehouse unit occupying the eastern half of the parcel; an office trailer, conex storage box, and bathroom on the southern border of the parcel; and a storage shed at the northeastern corner of the parcel. The area to the west of the warehouse is a paved, open parking area.[45] The current business is a welding shop.

Historically, the site was occupied by an auto repair and body shop dating back to at least the 1950s, which operated until the 1970s. Welding operations began at the site in 1975 and continue to the present. Because of the nature of these operations, hazardous materials were and are stored and used on-site, including various oils, paints, and cleaning solvents. Given the site's previous and current operations, releases of hazardous materials and/or wastes may have occurred through cracks in the building's foundation and/or previously existing floor drains/sumps, and/or to soil outside of the building. No soil or groundwater samples have been collected from beneath the parcel's existing building or in outside areas.

The current land use is industrial. No soil or groundwater samples have been collected from beneath the existing building and outside areas. It is unknown whether soil has been affected by previous or current business operations or whether soil is above residential, commercial/industrial, construction worker, or groundwater screening levels. Because of the site's history, a Phase II investigation may be required, depending on the redevelopment plans and anticipated future uses. Given the age of the building, ACM and LBP may be present in building materials, along with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

APN 259-38-122 (34 South Autumn Street)
APN 259-38-123 (24 South Autumn Street)
APN 259-38-124 (24 South Autumn Street)

The Phase I assessment observed a single empty warehouse unit spanning from west to east in the center of the property. The areas north and south of the warehouse are paved, open parking areas.[46]

Machine shop and industrial operations were previously conducted at the parcels starting in the 1930s. These historical operations customarily included the use of hazardous materials, such as cleaning solvents; the previous industrial entities occupying the site are listed as generators of hazardous waste—including ACM and organic wastes. Given the site's previous operations and associated waste generation, releases of hazardous materials and/or wastes may have occurred through cracks in the building's foundation, and/or previously existing floor drains/sumps, and/or to soil outside of the building. No soil or groundwater samples have been collected from beneath the parcel's existing building or in outside areas.

The current land use is industrial, although the building is vacant at this time. It is unknown whether soil has been affected by previous or current business operations or whether soil is above residential, commercial/industrial, construction worker, or groundwater screening levels. Because

[45] Haley & Aldrich Inc., *Phase I Environmental Site Assessment, 20 South Autumn Street, San José, California*, April 25, 2017.
[46] Haley & Aldrich Inc., *Phase I Environmental Site Assessment, 24 and 34 South Autumn Street, San José, California*, January 30, 2017.

of the site's history, a Phase II investigation may be required, depending on the redevelopment plans and anticipated future uses. A survey for ACM and LBP was conducted in 2017 and did not detect ACM or LBP.

APN 259-38-130 (8 South Montgomery Street, 532 West Santa Clara Street; also referred to as Lot D or Block 5A)

A Phase I assessment and a Phase II investigation have been completed for this parcel.[47,48] This parcel is currently an asphalt-paved parking lot. This site was previously occupied by manufacturing and auto repair operations, retail and office space, and warehouse storage. All buildings on the site were demolished, and three USTs were removed in 1993. Impacted soil was excavated and removed, and groundwater was subsequently monitored. Remediation consisted of soil excavation and soil vapor extraction/air sparging, an in situ remedial technology that reduces concentrations of volatile components in soil and groundwater. A long-term residual contamination risk management plan was implemented that includes monitoring and maintaining the integrity of the asphalt cap. Residual petroleum hydrocarbons and benzo(a)pyrene were detected in soil at concentrations above residential, commercial/industrial, and construction worker screening levels. Residual TPH as gasoline, ethylbenzene, xylenes, naphthalene, and 2-methylnaphthalene were detected in groundwater at concentrations above residential, commercial/industrial, and construction worker screening levels.

A Notice of Restriction of Use was recorded on August 1, 2001—similar to the LUC for Lots A, B, and C discussed above. Santa Clara County (County) and the appropriate building and planning departments require notification in case of change in land use, grading activities, excavation, and installation of new wells. The notification would be required to list all mitigation activities necessary to ensure compliance with this site management requirement. Post-closure requirements include the following:

- Asphalt cover not to be disturbed without approval and resealed after disturbance.
- No groundwater extraction at any depth without approval.
- The County to be notified before change in land use, development, and before subsurface work. The process for modifying or removing an LUC is summarized above, in the *Limitations on Land Use* discussion.

In summary, the current land use at these parcels is commercial (parking lot). As discussed above, contaminated soil has been encapsulated and any change to the land use that disturbs the contaminated soil would require treatment and/or removal of the contaminated soil.

APN 259-38-132 (450 West Santa Clara Street)

The Phase I assessment observed a two-story building on the north side of the parcel used for commercial offices.[49] The southern half of the parcel is a paved parking area. The eastern portion

[47] ENGEO, *Phase I Environmental Site Assessment, Google Diridon Station–Lot D, 8 South Montgomery, San José, California*, September 25, 2018.
[48] ENGEO, *Phase II Environmental Site Assessment, Diridon Station Lot D, 8 South Montgomery, San José, California*, May 14, 2018.
[49] Haley & Aldrich Inc., *Phase I Environmental Site Assessment, 450 West Santa Clara Street, San José, California*, January 30, 2017.

of the parcel consists of landscaping and trees that integrate with a 20-foot-wide riparian easement along Los Gatos Creek, defining the eastern boundary.

On October 13, 1998, a 1,000-gallon steel gasoline UST and a 200-gallon steel heating oil UST were removed from the center of the parcel. The USTs were removed because the buildings previously located on the site were planned to be demolished. The UST inspection after the excavation revealed several small holes and one large hole in the 200-gallon UST. The tank was noted to contain approximately 30 gallons of water, potentially from groundwater infiltration. The 1,000-gallon UST was in good condition, with no holes.

Soil samples collected from the native soil encountered directly beneath the 1,000-gallon tank were tested for TPH as gasoline, benzene, toluene, ethylbenzene, xylene, and methyl tertiary butyl ether (MTBE); none of these chemicals were detected.

During the 200-gallon UST removal, discolored soil was observed beneath the tank and all discolored soil was excavated and removed. Soil samples collected from the deeper native soil encountered beneath the 200-gallon tank were tested for TPH as gasoline, benzene, toluene, ethylbenzene, xylene, and MTBE; none of these chemicals were detected. Based on results of laboratory analyses conducted on the soil samples, Valley Water concluded in a letter dated April 9, 1999, that the site investigation and soil removal action were sufficient to close the UST site with no further action required.

The current land use is commercial. Automotive repair operations were previously conducted at the parcel starting in the 1930s. No fuel chemicals were detected from beneath the two removed USTs. However, it was customary that these historical operations included the use of chlorinated solvents as cleaning solutions. Given the site's previous automotive operations, hazardous materials and/or wastes may have been released through cracks in the building's foundation, and/or previously existing floor drains/sumps, and/or to soil outside of the building. No soil or groundwater samples have been collected from beneath the parcel's existing building or in outside areas other than from the former UST areas, and it is unknown whether soil and/or groundwater beneath the building has chemical concentrations that exceed screening levels. Because of the site's history, a Phase II investigation may be required, depending on the redevelopment plans and anticipated future uses. Given the relatively recent age of the building (2000), ACM and LBP are unlikely to be present.

APN 259-38-141 (59 South Autumn Street)

A Phase I assessment and a Phase II investigation have been completed for this parcel.[50,51] This parcel is currently developed with a single warehouse building consisting of a garage/repair area, an office area, and restrooms. The southern part of the property is an asphalt-paved parking lot.

[50] Haley & Aldrich Inc., *Phase I Environmental Site Assessment, 57 and 59 South Autumn Street, San José, California*, March 14, 2017.
[51] Haley & Aldrich Inc., *Limited Phase II Environmental Site Assessment, 59 South Autumn Street, San José, California*, March 21, 2017.

This parcel was historically operated as an electric company, petroleum repair company, a repackaging company, and a towing company. Truck repair operations are currently conducted at the parcel. These historical and current operations include the use of hazardous materials, such as fuels, cleaning solvents, and oils and lubricants. Given the site's current operations, hazardous materials and/or wastes may have been released through cracks in the building's foundation, and/or cracks in the asphalt-paved parking lot, and/or the unpaved breezeway along the north side of the property.

Three USTs were removed on March 27, 1995, under the supervision of SJFD. One of the three USTs had seven holes identified in it at the time of removal. Soil sampling beneath the USTs completed at the time of the removal detected TPH as diesel at concentrations above residential screening levels, but below commercial/industrial, construction worker and leaching to groundwater screening levels; all other chemicals were detected at concentrations below screening levels. A closure request letter was attached to the Phase II investigation report, addressed to SJFD. The letter was received by SJFD on April 17, 1995. No response from SJFD was found in their files.

Although the Phase I assessment for this parcel did not identify environmental issues, the assessment did note the prior presence of USTs and industrial use. The Phase II investigation sampled soil at five boring locations and groundwater at three locations to further investigate conditions at the parcel. Soil samples detected PAHs, and metals (cobalt, lead, and nickel) at concentrations above residential, commercial/industrial, and construction worker screening levels. TPH as diesel was detected in soil above residential screening levels, but below commercial/industrial, construction worker, and leaching to groundwater screening levels. Groundwater sampled detected 1.2-dichloroethene and lead at concentrations above groundwater screening levels.

The current land use is industrial. Soil and groundwater samples have concentrations of certain chemicals above all screening levels. Because of the site's history and Phase II investigation results, remediation of this parcel may be required to enable future uses. Given the age of the building, ACM and LBP may be present in building materials, along with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

APN 259-47-038 (597 West Carlos Street)
APN 259-47-040 (580 Lorraine Avenue)
APN 259-47-077 (597 West San Carlos Street)
APN 259-47-079 (580 Lorraine Avenue)

A Phase I assessment and a Phase II investigation have been completed for these parcels.[52,53] This site has one large irregularly shaped two-story building, several large storage containers, and paved parking. The building is used for storage of miscellaneous items, and as an office space with restrooms and a kitchen area. The building was constructed in the 1960s and was previously used as a church and a union hall. Given the age of the existing structure, ACM and LBP may be present

[52] ENGEO, *Phase I Environmental Site Assessment, 580 Lorraine Avenue, San José, California,* April 17, 2018.
[53] ENGEO, *Updated Phase II Environmental Site Assessment, 580 Lorraine Avenue, San José, California,* August 21, 2018.

within the structure, along with lead in soil from flaking LBP. The Phase II investigation reported the following environmental issues:

- Various chemicals were reported in the soil at concentrations below residential, commercial/industrial, construction worker, and leaching to groundwater screening levels, with the exception of PCE. One soil sample reported PCE at a concentration that exceeds residential and commercial/industrial screening levels, but below the construction worker screening level; one other soil sample reported a concentration that exceeds residential but not commercial/industrial and construction worker screening levels.
- The dry cleaning solvent PCE was reported at concentrations in groundwater that exceed residential and commercial/industrial screening levels.
- With the exception of PCE, various VOCs were detected in soil gas, but at concentrations below residential and commercial/industrial soil gas screening levels. PCE was reported at concentrations that exceed residential and commercial/industrial screening levels for soil gas.

The current land use is industrial. Certain soil gas, soil, and groundwater samples have concentrations of PCE above screening levels. The Phase II investigation concluded that the source of the PCE was most likely the former dry cleaning operations at the adjacent 282 South Montgomery Street parcel, discussed below. Further investigation and mitigation of PCE will need to be performed before redevelopment. Given the age of the building, ACM and LBP may be present, along with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

APN 259-47-080 (282 South Montgomery Street)

A Phase I assessment and a Phase II investigation have been completed for this parcel.[54,55] This parcel has one building occupied by a car rental facility and a packaging business. Past businesses included a gasoline service station and a dry cleaning facility. In addition, given the age of the existing structure, ACM and LBP may be present, along with lead in soil from flaking LBP. The Phase II investigation reported the following environmental issues:

- **Soil:** PCE was reported at concentrations that exceed the residential, commercial/industrial, construction worker, and leaching to groundwater screening levels. PCE is a common dry cleaning solvent. With the exception of lead detected in one location that exceeded residential and commercial/industrial screening levels but not leaching to groundwater, all metals and TPH results were detected at concentrations below their respective residential, commercial/industrial, construction worker, and leaching to soil screening levels.
- **Groundwater:** TPH as gasoline, the dry cleaning solvent PCE, and its degradation byproducts (trichloroethene, cis-1,2-dichloroethene, and 1,2-dichlorothane) were reported at concentrations that exceed MCLs. PCE was reported at concentrations that exceed residential, commercial/industrial, and odor/nuisance groundwater screening levels. TCE was reported at concentrations that exceed residential and commercial vapor intrusion but not odor/nuisance screening levels. Cis-1,2-dichloroethene and 1,1-dichloroethane were

[54] ENGEO, *Phase I Environmental Site Assessment, 282 South Montgomery Street, San José, California*, February 28, 2018.
[55] ENGEO, *Updated Phase II Environmental Site Assessment, 282 South Montgomery Street, San José, California*, April 12, 2018.

reported at concentrations that exceed residential but not commercial/industrial and odor/nuisance screening levels. TPH as gasoline was detected above its odor/nuisance screening level.

- **Soil gas:** TPH as gasoline, PCE, benzene, and other VOCs were reported at concentrations that exceed residential and commercial/industrial soil gas screening levels. Ethylbenzene was reported at concentrations that exceed residential but not commercial/industrial soil gas screening levels.
- **Indoor air:** PCE was reported at concentrations that exceed residential and commercial/industrial indoor air screening levels. TCE, cis-1,2-dichloroethene, and 1,2-dichloroethene were not reported at concentrations that exceed residential and commercial/industrial indoor air screening levels. Vinyl chloride was reported at concentrations that exceed residential but not commercial/industrial indoor air screening levels.

The current land use is commercial/industrial. Certain chemicals in soil, soil gas, and groundwater have been detected at concentrations above residential, commercial/industrial, construction worker, leaching to groundwater, soil gas, and indoor air screening levels, especially PCE and its degradation byproducts.

A Remedial Action Investigation Work Plan was submitted to and approved by the SCCDEH proposing to conduct further investigation of the nature and extent of contamination, and to develop a remediation system that would consist of soil vapor extraction and/or enhanced in situ bioremediation.[56] In addition, mitigation has been implemented for vapor intrusion for the current use, including sealing preferential pathways in the building slab; optimizing the heating, ventilation, and air conditioning (HVAC) system; and operating the HVAC system continuously.[57] Because of the site's history and the Phase II investigation results, continued remediation and/or mitigation of this parcel would be required to enable future uses. Given the age of the building, ACM and LBP may be present, along with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

APNs 259-48-011 and 259-48-013 (510 West San Fernando Street)

The Phase I assessment reported this site as a gravel parking lot.[58] These two parcels were in residential use from circa the late 1800s until the mid-1960s, when the residences were removed. Beginning as early as 1939 through 2009, the parcels were in commercial and industrial use, including by Pacific Telephone and Telegraph, artificial stone manufacturing, an electrical contractor, office space, supply storage, and electrical motor rewinding. All structures on the parcels were removed between July and September 2009. The parcels have remained vacant and undeveloped since then. The Phase I assessment stated the following:

- One 2,000-gallon gasoline UST was removed from the southwest corner of APN 259-48-011 in 1989. One 1,000-gallon gasoline tank was removed from beneath the sidewalk in South Autumn Street in 2009. Impacted soil was excavated and removed.

[56] RMD Environmental Solutions, *Remedial Investigation Work Plan, Former True Drive-In Cleaners, 282 South Montgomery Street, San José, California*, March 22, 2019.
[57] RMD Environmental Solutions, *Remedial Investigation Work Plan, Former True Drive-In Cleaners, 282 South Montgomery Street, San José, California*, March 22, 2019.
[58] Cornerstone Earth Group, *Phase I Environmental Site Assessment, 510 West Fernando Street and 102 South Montgomery Street, San José, California*, August 3, 2018.

Subsequently, groundwater was monitored and no impacts were identified and no screening levels were exceeded. The UST cases were closed by Valley Water on March 30, 1992.

- Chemical use and storage recorded during a 2002 site inspection included diesel fuel, oils, and grease. Wastes associated with site businesses recorded between 1993 and 2007 include waste oil, alkaline solutions with metals, organic solids, degreasing sludge, oxygenated solvents, detergent waste chemicals, contaminated soil, unspecified solvent mixtures, and latex. In 1952, the electrical business reportedly had two aboveground dip tanks with unknown contents.
- In 2006, soil, soil gas, and groundwater testing was conducted, as summarized below.
  - Soil samples reported PCE at concentrations that exceed the leaching to groundwater screening level, but not the residential, commercial/industrial, or construction worker screening levels. Lead was reported at concentrations that exceed the residential but not commercial/industrial screening levels.
  - Groundwater samples reported PCE at concentrations that exceed the MCL and residential vapor intrusion screening levels, but not the commercial/industrial vapor intrusion screening level. Naphthalene was reported at concentrations that exceed the MCL but not the residential and commercial/industrial vapor intrusion screening levels.
  - Soil gas samples reported PCE at concentrations that exceed residential and commercial/industrial soil gas screening levels.

The current land use is a parking lot. Because of the site's previous industrial operations and the detection of PCE, naphthalene, and lead that exceed certain screening levels, further investigation and remediation or mitigation of these parcels would likely be required to enable future uses. Given the age of the previous building, ACM and LBP may be present, along with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required. In addition, the Phase I assessment recommended testing soil around wood-based structures for potential pesticides that were historically used for termite control.

APN 259-48-012 (102 South Montgomery Street)

The Phase I assessment noted the parcel is currently occupied by Patty's Inn, with a sign that says the bar has been at that location since 1933, along with parking and outdoor seating.[59] Records indicate that the structure was constructed in the late 1800s and has been used as a store, and as a restaurant and tavern. The land use has been commercial since 1933. The commercial land use at this parcel is unlikely to have resulted in the use of hazardous materials; elevated concentrations in soil, groundwater, or soil gas above residential, commercial/industrial, construction worker, or leaching to groundwater screening levels are considered unlikely. Given the age of the structure, ACM and LBP may be present, along with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required. In addition, the Phase I assessment recommended testing soil around wood-based structures for potential pesticides that were historically used for termite control.

[59] Cornerstone Earth Group, *Phase I Environmental Site Assessment, 510 West Fernando Street and 102 South Montgomery Street, San José, California*, August 3, 2018.

APN 259-48-052 (140 South Montgomery Street)

The Phase I assessment observed a compressed gas distribution facility and welding supplier with a retail center in the front, a warehouse/workshop in the middle of the building, and a loading and storage area in the back.[60] The area east of the building is a loading and storage area that is also used for vehicle parking.

This type of facility and land use has occupied the site since 1976. Historical records have shown that the welding supplier had also distributed various hazardous materials such as liquid acids, chlorides, fluorides, fuels, oils and solvents. Before 1976, the site housed a pipe supplier and a lumber yard. Given the site's previous and current operations, hazardous materials and/or wastes may have been released through cracks in the building's foundation and/or floor drains/sumps, and/or to soil outside of the building. No soil or groundwater samples have been collected from beneath the parcel's existing building or in outside areas.

The current land use is industrial. It is unknown whether soil has been affected by previous or current business operations, or whether residential, commercial/industrial, construction worker, or groundwater screening levels have been exceeded. The Phase I assessment recommended a Phase II investigation to evaluate contamination that may have affected the parcel. Given the age of the building, ACM and LBP may be present, along with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

APN 259-48-053 (150 South Montgomery Street)

The Phase I assessment stated that the parcel is currently developed with one building and parking areas occupied by a commercial Japanese cultural drumming business.[61] The parcel was initially a residence in 1884, then a wood fuel storage yard as of 1915. The existing building was built in 1939 and used as a machine shop until the early 1960s, a plumbing materials warehouse in 1966, a flower shop from circa 1969 through the early 1990s, when office spaces were added. The structure has been in commercial and office space use since then.

The Phase I assessment included the results of previous Phase II investigations. Soil and groundwater were tested at the parcel in 2006 and 2009. Soil samples detected lead, arsenic, cadmium, cobalt, and copper at concentrations above residential, commercial/industrial, construction worker, and leaching to groundwater screening levels. TPH as diesel and motor oil were also detected, but at concentrations below all of the screening levels. Other metals were detected, but at concentrations below all screening levels; no VOCs or TPH were detected. No groundwater contamination was detected.

Historical records document industrial use from at least 1939 through 1966. These occupants would have used oils, lubricants, solvents, cleaning solutions, and metals. Because of the site's industrial use and the soil testing results, metals—primarily lead—are present in soil at concentrations above all screening levels. In addition, given the age of the building, ACM and LBP may be present, along

[60] Haley & Aldrich Inc., *Phase I Environmental Site Assessment, 140 South Montgomery Street, San José, California*, May 23, 2017.
[61] Cornerstone Earth Group, *Phase I Environmental Site Assessment, 150 South Montgomery Street, San José, California*, August 3, 2018.

with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required. In addition, the Phase I assessment recommended testing the shallow soil around wood-based structures for potential pesticides that were historically used for termite control.

Diridon Rail Station Parking Lots
APN 261-34-002 (no street address)
APN 261-34-003 (574 and 578 West Santa Clara Avenue)
APN 261-34-004 (576 West Santa Clara Avenue)
APN 261-34-005 (564 and 568 West Santa Clara Avenue)
APN 261-34-006 (552 and 556 West Santa Clara Avenue; 7 South Montgomery Street)
APN 261-34-011 (no street address)
APN 261-34-023 (no street address)

Some of the Diridon Station parking lots are owned by the Santa Clara Valley Transportation Authority (VTA) and some are owned by Caltrain. The Caltrain parcels are described in the *Off-Site Conditions* section, below. The VTA parcels are included within the proposed project. An assessment of environmental concerns that included reviewing regulatory records and environmental documents was conducted for these parcels.[62] The parcels are currently used as parking lots for the San José Diridon Rail Station. Historical aerial photographs show that the parcels have been used mostly for parking since at least 1948. A review of regulatory records and environmental documents indicated the following:[63]

- **APN 261-34-002:** This parcel was previously occupied by a saloon and lodging. No specific environmental concerns were identified.
- **APN 261-34-003:** This parcel was previously occupied by unmarked stores, a motorcycle repair shop, and an auto parts store. Automotive operations have historically involved the use and handling of hazardous materials including motor oils, paints, degreasers, brake fluids, coolants, and other solvents.
- **APN 261-34-004:** This parcel was previously occupied by a laundry facility, plating works shop, and machine shop. The laundry facility occupied this parcel in 1915; however, the start and end dates of this operation are unknown. PCE was used in laundry operations from the 1930s to the 1990s. If the laundry facility operated into the 1930s, it is possible that PCE was used at this operation. The plating shop and machine shop would have used metals (e.g., chromium, nickel, and zinc), plating baths (e.g., cyanide), acids (e.g., chromic acid), oils and greases, and solvents (e.g., TCE).
- **APN 261-34-005:** This parcel was previously occupied by the Albion Hotel, a saloon, unknown stores, a secondhand store, and a junkyard. The junkyard likely had fuels, oils and lubricants, metals, and possibly solvents.
- **APN 261-34-006:** This parcel was previously occupied by a residential dwelling, grocery store, saloon, brake service shop, and auto body shop. Automotive operations have historically involved the use and handling of hazardous materials including motor oils, paints, degreasers, brake fluids, coolants, and other solvents.

62 Elevate Environmental, *Consulting, Assessment of Environmental Concerns of Select Parcels within the Diridon Project*, February 11, 2020.
63 ENGEO, Information downloaded from ENGEO website, 2019.

- **APN 261-34-011:** This parcel was previously occupied by residential dwellings and unmarked buildings. No specific environmental concerns were identified.
- **APN 261-34-023:** This parcel was previously occupied by multiple residential dwellings, a machinery storage and plating facility, a pipe yard, and a parking lot. The machinery storage and plating facility operations would be expected to have used metals and acids common to plating operations, fuels, oils and lubricants, paints and thinners, and cleaning solvents.

The current land use for these parcels is commercial parking lots. Historical records indicate industrial use. USTs and contaminated soil were removed. However, the residual soil and groundwater have concentrations above various soil and groundwater screening levels. Further investigation and remediation may be required to enable future uses. Because all structures have been removed, there would be no ACM or LBP.

APN 261-35-002 (630 West San Fernando Street and 17 Otterson Street)

The Phase I assessment stated that this parcel is a Pacific Gas and Electric Company (PG&E) electrical substation located immediately east of and adjacent to the San José Diridon Rail Station.[64] Some of the railroad tracks for the Diridon Rail Station are on the west side of this parcel. Previous uses of this parcel include the San Jose Ice Works, grain building, paint shop, auto building, old iron manufacturer, Electric Improvement Co Facility (including ASTs, engine room, boiler room, and transformer room), and railroad tracks. One 5,000-gallon fuel oil UST was removed from this parcel in 1989. Groundwater was not sampled during that UST removal and it is unknown whether associated chemicals are present in on-site groundwater. The Regional Water Quality Control Board issued a case closure in 2001 stating that "residual contamination exists at the site; however, the concentration levels are below regulatory concern." The closure letter also stated that the residual contamination appears to be localized in the area adjacent to the former tank pit and is expected to naturally attenuate over time. However, the reported maximum concentration of TPH as diesel that was left in place is above the 2020 residential, commercial/industrial, construction worker, odor/nuisance, and leaching to groundwater screening levels.

Since at least 1884, multiple ASTs have been located on this parcel: a tank of unknown contents associated with the San Jose Ice Works in 1884; a 15,000-gallon tank in the southwestern portion of the property in 1891; a covered oil tank set in the ground in the northwestern portion of the property from around 1915 to 1956; and an additional larger, covered oil tank set in the ground partially on the property and partially on what is now 145 South Montgomery Street in 1915 (APN 261-35-027 discussed further below).

In 2016, soil, soil gas, and groundwater were sampled at the eastern portion of the larger covered oil tank. The Phase I assessment stated that TPH as gasoline, diesel, and motor oil; naphthalene; and metals were detected in groundwater at concentrations exceeding conservative environmental screening levels, which include the most conservative values of MCLs. (Note: Specific concentrations were not provided in the report.) Concentrations of chromium were detected

[64] Elevate Environmental, *Consulting, Assessment of Environmental Concerns of Select Parcels within the Diridon Project*, February 11, 2020.

exceeding hazardous waste land disposal acceptance levels, which would exceed all screening levels.[65]

In addition, free product was observed at the top of the saturated zone, indicating a potential nearby release. TPH as diesel and motor oil, as well as acetone, were detected in soil at levels exceeding the conservative screening levels. (Note: Specific concentrations were not provided in the report.) No soil gas results were detected above vapor intrusion screening levels developed by DTSC. However, detections of benzene and 1,3-butadiene exceeded the more conservative screening levels set by EPA. (Note: The report did not provide concentrations or the cited EPA levels.)

The current land use for this parcel is utilities (electrical substation). Historical records indicate industrial use, including a former UST and multiple ASTs. Soil, soil gas, and groundwater testing results indicated concentrations above various screening levels, and in some cases above all screening levels. It is unknown whether ACM and/or LBP is present.

APN 261-35-003, APN 261-35-006, and APN 261-35-010 (105 South Montgomery Street)

The Phase I assessment observed that these parcels are parking lots for the San José Diridon Rail Station.[66] The parcels were in residential use as of 1884, then supported a meat products facility by the early 1940s, with wholesale magazine distribution facility added on the parcel by 1950. The magazine facility was taken over by the meat products facility by the mid-1960s, and continued in that use until 2005. The building was then used for general office space until 2009, when the building was removed and the parcels converted to parking lots.

Historical chemical use and storage included minor truck maintenance and oil changing, fuel and oil storage, and soaps and other cleaning compounds. One three-stage, belowground, stormwater oil/water separator was located in the southern portion of the parking lot and removed in 2005, as discussed further below. The permit to convert the land use to a parking lot required that the separator be removed, but the records are unclear whether the removal occurred. One 500-gallon gasoline UST was located beneath the northwestern corner of the then-present building and was removed in 2007. One soil sample was recovered from the base of the UST excavation at the time of removal. Only toluene was detected and it was at a concentration below all screening levels.

In 2005–2006, the meat products facility was removed, and a soil and groundwater quality evaluation was performed to identify potential subsurface impacts associated with the former oil/water separator, the hazardous materials storage area, and the UST that was still present in 2006 and removed in 2007. Soil samples were analyzed for TPH as gasoline, benzene, toluene, ethylbenzene and xylene (BTEX), and methyl tert-butyl ether (MTBE). Soil samples from near the oil/water separator and former hazardous materials storage area were also analyzed for TPH as diesel and motor oil, and for metals; soil samples recovered in the former hazardous materials storage area were also analyzed for VOCs. With the exception of low-level concentrations of

[65] Hazardous waste acceptance levels are the concentrations that define a hazardous waste that must be disposed of at a Class I hazardous waste landfill or treated at a treatment facility permitted to treat the hazardous waste.

[66] Cornerstone Earth Group, *Phase I Environmental Site Assessment, 105 South Montgomery Street, San José, California*, August 3, 2018.

TPH as motor oil below residential screening levels, no chemicals were detected in the soil samples. One groundwater sample was recovered from within the vicinity of the UST. No detectable concentrations of TPH as gasoline, BTEX, MTBE, or VOCs were reported in the groundwater sample. Metals were reported within background levels.

The current land use for these parcels is parking lots. Historical records indicate industrial use from the 1940s through 2005. An UST, an oil/water separator, and a hazardous materials storage area were removed. Soil and groundwater testing results at these parcels indicated that soil and groundwater at these parcels are not known to have residual chemicals at concentrations above any screening levels. Because all structures have been removed from the parcels, ACM and LBP would not be present. The Phase I assessment recommended testing soil around wood-based structures for potential pesticides that were historically used for termite control, and for lead around all structures for potential deposits of LBP that may have flaked off the structures.

APN 261-35-007 (327 Otterson Street)

Phase I assessments conducted for this parcel identified a one-story building used by AT&T as a workshop and parking.[67,68] The parcel appears to have been used for industrial purposes since 1884. At various times, use listings included an oil depot, empty oil can storage, a laundry wash house, and residences.

The current land use for this parcel is industrial. No soil or groundwater samples have been collected from beneath the parcel's existing building or in the outside areas, and it is unknown whether soil or groundwater have chemicals at concentrations above residential, commercial/ industrial, construction worker, or leaching to groundwater screening levels. Given the age of the building, ACM and LBP may be present, along with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

APN 261-35-014 (645 Park Avenue)

The Phase I assessment identified construction staging and temporary office trailers at this parcel.[69] The parcel was in residential use from at least 1884 to the early 1950s. By 1955, the residences were replaced with a commercial building, which was used as a television studio until 2006. The building burned down in 2014 and was not rebuilt.

Elevated concentrations of lead and arsenic were detected in soil at the parcel; the affected soil was excavated and removed from two areas of the parcel. A site management plan was prepared to direct the future management of site soil, with attention to proper disposal of soil that contains levels of lead that, if removed from the site, would require special handling. (Note: A site management plan contains requirements that affect future land uses.)

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67 RPS Iris Environmental, *Phase I Environmental Site Assessment, 145 South Montgomery Street and 327 Otterson Street, San José, California*, October 25, 2016.

68 Elevate Environmental Consulting, *Phase I Environmental Site Assessment 145 South Montgomery Street and 327 Otterson Street, San Jose, California*, March 30, 2020.

69 Cornerstone Earth Group, *Phase I Environmental Site Assessment, 645 Park Avenue, San José, California*, July 27, 2018.

The site management plan also established procedures for handling impacted material during demolition activities. A 2008 document cited in the Phase I assessment noted that the tanks and generator have been removed from the site, no signs of contamination or spills were observed adjacent to the location of the tanks or generator, and aboveground and belowground diesel piping is still located on-site and would need to be disposed of as hazardous materials or tested to indicate that the materials are non-hazardous. A No Further Action status was granted for the site by the Regional Water Quality Control Board on June 11, 2009, based on the following assumptions:

> *Water Board staff understand that the site will likely be converted into high-density housing, commercial, industrial, office or a mixed-use development. Based upon the available information, considering the property will not be used for single family or two family housing subdivision with separate backyards and with the provision that the information provided to this agency was accurate and representative of site conditions, no further action related to pollutant releases at the subject site is required, other than compliance with the June 18, 2008, SMP [Site Management Plan].*[70]

There is no information indicating whether the piping was removed. Groundwater was tested for TPH as diesel and motor oil, VOCs, PCBs, perchlorate, and metals. All concentrations were below all screening levels.

The current land use for this parcel is industrial. The parcel has a LUC because of the presence of lead in soil at concentrations above all screening levels. Given the potential presence of fuel piping, contaminated soil may be present around the piping. Groundwater does not have any chemicals at concentrations above any screening levels. The Phase I assessment noted that ACM and/or LBP may be present in soil from the former, burned-down building.

APN 261-35-027 (145 South Montgomery Street)

Phase I and II assessments have been conducted for this parcel.[71,72,73] The parcel is developed with two one-story buildings used by AT&T for offices and training spaces, hazardous materials storage, and vehicle maintenance. The parcel has been used for industrial purposes since 1884. At various times, use listings included an oil depot, laundry wash house, lumber yard, cigar factory, an electric company that stored fuel, powerhouse, boiler house, workshops, and transformer rooms, bakery, as well as residences. The Phase I assessment stated:

- Two USTs and associated piping were removed in 1992 and 2003. Although the Regional Water Quality Control Board issued a No Further Action letter in 2004, the Phase I assessment observed that the 2003 investigation was not adequate to evaluate releases from the USTs because the sample locations were not located downgradient of the USTs and dispensers. During the 2003 investigation, free product (fuel and/or oil floating on

70 Regional Water Quality Control Board, *No Further Action, 645 Park Avenue, San Jose, Santa Clara County*, June 20, 2008.
71 RPS Iris Environmental, *Phase I Environmental Site Assessment, 145 South Montgomery Street and 327 Otterson Street, San José, California*, October 25, 2016.
72 RPS Iris Environmental, *Summary Report of Limited Phase II Subsurface Site Investigation, 145 South Montgomery Street, San José, California*, November 18, 2016.
73 Elevate Environmental Consulting, *Phase I Environmental Site Assessment 145 South Montgomery Street and 327 Otterson Street, San Jose, California*, March 30, 2020.

top of groundwater as a separate phase) was noted on groundwater encountered at approximately 30 feet below ground surface in three on-site borings. The detection of free product is indicative of a release of petroleum hydrocarbons and would exceed hazardous waste levels and all screening levels. The source of the free product is unknown, but is likely either an on-site release or an off-site source that is impacting the parcel.

- A former "covered oil tank set in ground" was identified but was not investigated (as part of the Phase I assessment) and is located upgradient of the free product detections.
- A possible off-site source for the free product detections noted above is the adjacent property to the west (APN 261-35-002, discussed above), which has residual TPH as diesel in soil from a leaking UST removed from the property in 1989. Groundwater was not sampled in 1989, and it is unknown whether groundwater impacts from this upgradient property are the source of free product in on-site groundwater.
- An annual Asbestos Notice to Employees stated that the floor tiles/mastic throughout the building contain asbestos. Degrading portions of the wall and ceiling located in the southwestern corner of the radio shop area of the building were quarantined off by caution tape labeled "Danger Asbestos."

To further investigate the site conditions, a Phase II assessment was conducted in 2018 and reported the following:

- **Northwest corner next to PG&E Substation (APN 261-35-002):** All soil and soil gas results were below all screening levels. Groundwater results exceeded screening levels for TPH as diesel (MCL and odor/nuisance), naphthalene (MCL, residential and commercial/industrial vapor intrusion, and odor/nuisance), and all metals except silver and thallium (MCLs).
- **Former covered oil tank along western border:** Soil results exceeded screening levels for TPH as diesel (all screening levels including residential, commercial/industrial, and construction worker screening levels) and TPH as motor oil (gross contamination). Groundwater results exceeded screening levels for TPH as gasoline (MCL and odor/nuisance), TPH as diesel (MCL, odor/nuisance, and gross contamination), naphthalene (MCL, residential and commercial vapor intrusion, and odor/nuisance), and all metals except silver and thallium (MCLs).
- **Next to former 6,000-gallon gasoline UST:** All soil and groundwater results were below screening levels. Soil gas results for PCE exceeded residential but not commercial/industrial vapor intrusion screening levels.

The current land use for this parcel is industrial. The former USTs have been removed, but petroleum hydrocarbons were detected at concentrations above all screening levels. No soil or groundwater samples have been collected from beneath the parcel's existing building. Further investigations would be needed to characterize the nature and extent of contamination on this parcel and remediation could be required before the proposed redevelopment. Because of the site's history and the Phase II investigation results, remediation of these parcels would be required to enable future uses. ACM is known to be present in the buildings. Given the age of the building, LBP may be present, along with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

APNs 261-37-016 and 261-37-029 (655 West San Carlos Street)

A Phase I assessment and a Phase II investigation have been completed for this parcel.[74,75] This parcel is currently occupied by a car wash and detailing business, which includes the main car wash facility, an attached office building, and a storage building. The site also contains a detail facility with a storage area and a small storage shed along the western site boundary. The area south of the office building is a waiting area with patio furniture and a canopy overhang. The entrance to the car wash is along West San Carlos Street, and the southern portion of the site is paved and serves as a holding area for the cars when they are finished. The parcels were previously occupied by an auto repair shop and a used auto sales business starting in the 1950s. Before the 1950s, the area was either unoccupied or had a boarding house on the premises. The site was an active car wash that also dispensed gasoline until September 1991.

In 1991, three leaded gasoline USTs, associated piping, three dispenser islands, and contaminated soil were removed from the center of the parcels. Soil samples collected from the bottom of the excavation reported TPH as gasoline, benzene, ethylbenzene, and xylenes at concentrations below all screening levels at that time.

Four groundwater monitoring wells were installed between 1992 and 1995, and quarterly groundwater monitoring was conducted to assess the downgradient extent of hydrocarbons in groundwater. On July 11, 1995, after 13 groundwater monitoring events, Valley Water issued a closure for this case as the groundwater concentrations indicated stable and decreasing trends. The Regional Water Quality Control Board approved this closure on July 21, 1995. The four groundwater monitoring wells may still be present on the parcels; no well destruction records were located.

A Phase II investigation was conducted in 2018 to evaluate soil and groundwater conditions. Seven borings were drilled to collect soil and groundwater samples. The samples were tested for TPH as gasoline, diesel, and motor oil, and for metals and VOCs. Six soil gas samples and four indoor air samples were collected to evaluate for vapor intrusion and tested for TPH as gasoline and VOCs. The Phase II investigation reported the following:

- **Soil:** TPH as gasoline, diesel and motor oil, and metals were reported at concentrations below all screening levels or background levels. VOCs were not detected.
- **Groundwater:** TPH as gasoline, diesel, and motor oil, and metals were not detected in groundwater. Some metals were detected, but at concentrations below MCLs and odor/nuisance screening levels.
- **Soil gas:** PCE was reported at concentrations that exceed residential and commercial/industrial vapor intrusion screening levels. Benzene was reported in soil gas at concentrations that exceed the residential but not the commercial/industrial vapor intrusion screening level. The soil gas results were also compared to the outdoor ambient air sample results. The benzene in soil gas exceeded the outdoor ambient air sample results. Note that only one of the PCE detections exceeds outdoor ambient air concentrations.

[74] Haley & Aldrich Inc., *Phase I Environmental Site Assessment, 655 West San Carlos Street, San José, California,* June 2, 2017.
[75] ENGEO, *Phase II Environmental Site Assessment, 655 W. San Carlos Street, San José, California,* August 29, 2018.

- **Indoor air:** Several VOCs were reported in indoor samples, but at concentrations below outdoor ambient air concentrations and below indoor residential and commercial/industrial screening levels.

The current land use is commercial. Excavation of soil at this parcel should anticipate encountering soil gas with benzene at concentrations that may require a soil management plan. Because of the site's history and the Phase II investigation results, remediation of these parcels may be required to enable future uses. Given the age of the building (i.e., constructed in the 1970s), ACM and LBP may be present, along with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

APNs 261-37-020 and 261-37-021 (691 West San Carlos Street)

The Phase I assessment stated that the parcel is currently occupied by a single-family residence with a gravel and grass vehicle parking and storage area.[76] A previous residential structure burned down in 2010 and was reconstructed in approximately 2011 on the original foundation. The ground surface around the residence is unpaved. The parcel has been in residential use since 1884.

The current and historical land uses are residential, with no known commercial or industrial uses. The current and previous uses have negligible potential for contamination of soil and groundwater. The exceedance of screening levels is considered unlikely. Given the age of the building (i.e., post-dates the 1970s when the use of ACM and LBP was banned), ACM and LBP are unlikely to be present.

APN 261-37-023 (695 West San Carlos Street)

The Phase I assessment stated that the parcel is currently occupied by a single-family residence constructed circa 1965 with a gravel area and a small storage shed.[77] Given the age of this former site structure, a heating oil UST may have been historically operated. No records were located pertaining to the presence or removal of a UST from the parcel. The current and historical land uses are residential, with no known industrial uses. The current and previous uses have negligible potential for contamination of soil and groundwater. The exceedance of screening levels is considered unlikely. Given the age of the building constructed around 1965, ACM and LBP may be present, along with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

APN 261-37-030 (West San Carlos Street)

The Phase I assessment observed that this parcel is currently vacant and undeveloped.[78] The Phase I assessment stated the following:

- This parcel has no history of industrial or commercial use. The parcel was vacant in 1884, had one residence in 1915, and has been vacant since 1950. Vehicles were parked

[76] Haley & Aldrich Inc., *Phase I Environmental Site Assessment, 691 West Carlos Street, San José, California*, July 7, 2017.
[77] Haley & Aldrich Inc., *Phase I Environmental Site Assessment, 695 West San Carlos Street, San José, California*, July 6, 2017.
[78] Elevate Environmental Consultants, *Phase I Environmental Site Assessment, West San Carlos Street, San José, California*, February 11, 2020.

on the parcel in 1963, and a possible soil stockpile was present in 1974. Evidence of transient use and waste was observed between the parcel and Los Gatos Creek during the 2020 site inspection.

- Given the age of the 1915 residence, a residential heating oil UST may have been historically operated. No records were located pertaining to the presence or removal of a UST from the site.
- Given the age of the 1915 residence, ACM and LBP may be present in soil; details regarding the structure's removal are unknown. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

The current land use at this parcel is residential and the parcel has been vacant since 1950. There are no records or observations of soil or groundwater contamination from this parcel. Residential land use would have a negligible potential for contamination of soil and groundwater. The exceedance of soil and groundwater screening levels is considered unlikely. Given the age of the former residence, ACM and LBP may be present, along with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

APN 261-37-031 (255 South Montgomery Street)

A Phase I assessment and Phase II investigation have been conducted for this parcel.[79,80] The Phase I assessment states that this parcel has been used by the SJFD Bureau of Operational Support as a training center since at least 1980. The City's Park Avenue pump station is also located on this parcel, which keeps the Park Avenue railroad underpass free of groundwater. This parcel was previously numbered 261-37-025 and the Phase I assessment uses that parcel number (261-37-025).

The parcel was in residential use from at least 1884 to at least 1939, and possibly to 1950. Documented commercial and industrial use has included a truck service company from as early as 1930 through at least 1966, a burner and oil company from at least 1945 through at least 1957, and a box distribution warehouse in 1955. The fire department has occupied the entire site as early as 1971.

Records indicate the use of fuels and oils, lubricants and grease, and solvents and cleaning solutions. Various USTs and ASTs were recorded on the parcel. The following UST removals are documented:

- One 5,000-gallon diesel UST and one 5,000-gallon gasoline UST were removed in 1995, along with associated piping. Impacted soil under the tanks was excavated and removed. The site was closed by Valley Water on June 6, 1997, indicating that residual chemical concentrations, if any, were below the screening levels at that time. The permit file indicated that a fuel UST was replaced in 1995. A review of parcel-related files kept with the fire department found the presence of both an UST/piping system and an AST/piping system.

[79] Cornerstone Earth Group, *Phase I Environmental Site Assessment, 255 South Montgomery Street, San José, California*, July 27, 2018.
[80] Cornerstone Earth Group, *Phase II Soil and Ground Water Quality Evaluation, 255 South Montgomery Street, San José, California*, December 11, 2018.

- One diesel UST along with associated piping was removed in 2009. Soil samples detected TPH as diesel, but at concentrations below the screening levels at that time. No case was opened with any regulatory agency.

The fire department has used firefighting foams during its training exercises. Firefighting foams commonly contain per- and polyfluoroalkyl substances (PFAs).[81] The uncontained suppressant foam was allowed to discharge to pavement surfaces and on-site stormwater drains. In recent years, EPA has identified PFAs as emerging contaminants of concern, because of their persistence in the environment, ready migration to and in water, and bioaccumulation in organisms.

In response to the results of the above-summarized Phase I assessment, a Phase II investigation was conducted in 2018 to test soil and groundwater for chemicals associated with the parcel's historic and current use. The Phase II investigation included drilling 24 borings that included soil and groundwater sampling and analysis. The areas sampled included near the fire training tower and low-lying asphalt pavement areas near storm drain inlets, site boundaries, the oil/water separator, the concrete vault structure referred to as a 400-gallon waste oil UST, the hydraulic lift, the former filling station and diesel ASTs, the reported location of the oil UST, the former steam cleaning/wash pad and nearby oil/water separator, and the outdoor storage/yard areas.

Soil samples were analyzed for VOCs, PFAs, metals, PAHs, PCBs, ACM, and TPH as gasoline, diesel, and motor oil, depending on the sample location. Groundwater samples were analyzed for VOCs, PFAs, and TPH as gasoline, diesel, and motor oil, depending on the sample location. The reported results are summarized as follows.

- Some of the shallow fill and soil samples were found to have detectable levels of the following chemicals above the screening levels in parentheses: lead, ACM, and TPH as diesel (residential, commercial/industrial, construction worker, and leaching to groundwater screening levels), benzo[a]pyrene (residential screening levels), and TPH as gasoline and nickel (residential and construction worker screening levels).
- Several PFAs were detected in groundwater samples at concentrations exceeding the interim final ESLs recently prepared by the RWQCB for PFAs (specifically, perfluorooctane sulfonate [PFOS] and perfluorooctanoate [PFOA]) and to be incorporated into the 2021 version of the ESLs.[82] Office of Environmental Health Hazard Assessment's Interim Notification Levels for drinking water. In addition, based on comparison of the data to screening criteria established by other state and international regulatory agencies, most of the detected PFAs exceed these other criteria. Note that screening levels for PFAs are still under development by regulatory agencies.
- Soil and groundwater samples were collected from near former and/or existing petroleum storage USTs and ASTs, hydraulic lift equipment, a steam cleaning wash pad connected to an oil/water separator, and near former off-site service stations. Based on visual observations during drilling, discolored soil and/or petroleum odors were noted in several borings. Soil samples reported TPH as diesel and lead at concentrations that exceed all screening levels, and TPH as gasoline at concentrations that exceed residential and

[81] The use of PFAs in fire suppressant foams began in the 1960s. Because of industry and regulatory concerns about environmental effects on public health, use was reduced beginning in the 2000s. Long-chain PFAs were eliminated from use in 2015.

[82] Regional Water Quality Control Board (RWQCB), *PFAs ESL Memorandum, Interim Final Environmental Screening Levels (ESLs) for Perfluorooctane Sulfonate (PFOS) and Perfluorooctanoate (PFOA)*, May 27, 2020.

construction worker screening levels. Groundwater samples reported TPH as gasoline and diesel at concentrations that exceed MCLs and residential vapor intrusion screening levels. VOCs generally were not detected in the soil and groundwater samples.

The current land use for this parcel is industrial. Given the results of the Phase II investigation, as well as the parcel's previous and current industrial operations, hazardous materials are known to be present in fill, soil, and groundwater at this parcel above the screening levels summarized above. In addition, the presence of existing buildings limited the extent of the Phase II investigation to accessible areas. Excavation at this parcel should expect to encounter hazardous materials. Because of the site's history and the Phase II investigation results, remediation of these parcels may be required to enable future uses. Finally, given the age of some of the structures, ACM and LBP may be present, along with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

APN 264-15-015 (365 Royal Avenue)
APN 264-15-016 (379 Royal Avenue)
APN 264-15-017 (655 Auzerais Avenue)
APN 264-15-018 (661 Auzerais Avenue)
APN 264-15-019 (667 Auzerais Avenue)
APN 264-15-063 (667 Auzerais Avenue)
APN 264-15-064 (720 West San Carlos Street)
APN 264-15-065 (720 West San Carlos Street)

A Phase I assessment has been completed for this parcel, which is occupied by two large buildings, and associated parking and landscaping.[83] The northern building is the former Orchard Supply Hardware (OSH) store and is currently vacant. The southern building is a more recent OSH store that has since closed. The current land use is commercial.

Historical records indicate that the neighborhood was predominantly occupied by canning and fruit processing facilities in the late 1800s. The parcels have contained various structures since at least 1884. In 1908, a portion of the parcels was converted into a baseball field. The now-vacant warehouse was constructed in 1946, and the eastern portion of the property was occupied by single-family residences from at least the 1930s through the 1960s. The currently operating OSH store was constructed in 2014. The Phase I assessment indicated the following:

- Between 1986 and 1990, four USTs containing diesel, petroleum-based solvents, and gasoline were removed from APN 264-15-064 from the southern portion of the new OSH retail store. The Regional Water Quality Control Board granted case closure in 1996. However, residual contamination, including gasoline and BTEX, remained in subsurface soil above screening levels in the location of the tank excavation. At the time of case closure, the soil remaining at the bottom of the excavation was found to have detectable levels of TPH as gasoline and benzene at concentrations above residential, commercial/industrial, and construction worker screening levels. Groundwater did not contain detectable levels of TPH as gasoline or benzene; only a low level of toluene below the groundwater screening level was present in groundwater.

[83] ENGEO, *Phase I Environmental Site Assessment, 720 W. San Carlos Street, San José, California*, April 1, 2019.

- Given the age of the vacant warehouse constructed in 1946, ACM and LBP may be present, along with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

The current land use is commercial with hazardous materials storage. The soil may still have gasoline at concentrations above residential, commercial/industrial, and construction worker screening levels; excavation in the area of the former USTs may encounter impacted soil. Groundwater did not have detectable levels of chemicals above groundwater screening levels. The Phase I assessment recommended that a Soil Management Plan be prepared and implemented to address the contaminated soil. Given the age of the building constructed in the 1970s, ACM and LBP may be present, along with lead in soil from flaking LBP. A survey should be performed before demolition to determine whether pre-demolition abatement is required.

Off-Site Conditions

Off-site properties with hazardous materials issues may have the potential to affect the project site if contamination from such properties extends to or beneath the project site. The off-site properties with soil contamination issues that could affect on-site parcels would be limited to properties immediately adjacent to the project site.

The off-site properties with groundwater contamination issues that could affect on-site parcels would be limited to properties located upgradient of the project site (i.e., where groundwater flow is from the off-site property toward the project site). Based on information from the review of the Phase I assessments and Phase II investigations discussed above, the reported directions of groundwater flow vary, with many of the reported flow directions identified as generally to the east or southeast. However, flow at some properties to the north of the project site have been reported as to the north, and some reported flow direction south of the project site have been reported to the west or southwest. The variations may be due to localized pumping, seasonal variations, and/or proximity to creeks. Based on the dynamic nature of groundwater flow in the area, the potential for off-site conditions to extend onto the project site should be considered on a case-by-case basis.

Properties with known hazardous materials issues adjacent to the project site are shown on **Figure 3.7-6** and summarized in **Table 3.7-2**. Of the 25 listed off-site properties, most are closed UST sites, where the USTs and contaminated soil have been removed and the results of verification sampling indicate that the residual concentrations of chemicals, if any, are not expected to be able to affect surrounding properties. These adjacent and nearby sites are therefore not considered to be able to affect the project site. Based on the residual chemical concentrations, if any, the overseeing regulatory agency has granted case closure and requires no further action. Four of the sites are open cases with ongoing investigation or remedial action is in progress (Sites 8, 14, 15, and 20). One site is closed but has land use restrictions (Site 2). Two sites are not listed as open cases with a regulatory agency, but sampling has revealed chemicals at concentrations above screening levels (Sites 9 and 23). The open cases, unlisted sites under investigation and/or remediation, and the land use restriction site are listed in bold in Table 3.7-2 and discussed below. Each is analyzed for the potential to affect the project site. The sites discussed below are generally from north to south.

SOURCE: Engeo, 2019

Downtown West Mixed-Use Plan

Figure 3.7-6
Nearby Offsite Hazardous Materials Sites

TABLE 3.7-2
SUMMARY OF OFF-SITE PROPERTIES WITH HAZARDOUS MATERIALS ISSUES

Site No.	Property and Address	Status and Issues
Southern Pacific Tracks	**Rail alignment**	**Older rail alignment that transported freight**
1	Gruthfield Property, 370 North Montgomery Street	Closed UST site
2	**AC Label/Berryman Products, 350 North Montgomery Street**	**Closed cleanup site with land use restrictions**
3	Montgomery Street Property, 341 North Montgomery Street	Closed UST site
4	Don Bocci Mobil Service, 395 Stockton Avenue	Closed UST site
5	Air Systems, 381 Stockton Avenue	Closed UST site
6 and 7	SJUSD, 250 Stockton Avenue	Closed UST site
8	**138 Stockton, 138 Stockton Avenue**	**Open cleanup program site; active remedial action**
9	**Landscaping business, 260 North Montgomery Street**	**Not listed on GeoTracker; soil above screening levels**
10	San José Foundry, 525 West St. John Street	Closed UST site
11	Manada Tile, 517 West St. John Street	Closed UST site
12	Custom Pad & Pattern La Fiesta, 555 West St. John Street	Closed UST site
13	Six closed UST sites, 443 to 589 West Santa Clara Street	Closed UST sites
14	**Del Monte Plant 51, 50 Bush Street**	**Open inactive cleanup program and closed UST site**
15	**Diridon Caltrain Station, 65 Cahill Street**	**Open cleanup program site pending closure by regulatory agency**
16	Vitale Auto Body, 52 South Autumn Street	Closed UST site
17	Rush Roofing, 777 Park Avenue	Closed UST site
18	Independent Scissor Lift, 236 McEvoy Street	Closed UST site
19	Three closed UST sites: 598 and 602 West San Carlos Street and 395 Bird Avenue	Closed UST sites
VTA Tracks	**Rail alignment**	**Recent (between 1998 and 2006) construction; previously residential**
20	**Dariano & Sons, 638 Auzerais Avenue**	**Open UST site; investigation ongoing**
21	Kralyevich Property, 696 Auzerais Avenue	Closed UST site
22	Roofguard, 740 West San Carlos Street	Closed UST site
23	**Auto Repair, 356 and 358 Royal Avenue**	**Not listed on GeoTracker; soil gas and groundwater above screening levels**

NOTES:
SJUSD = San José Unified School District; UST = underground storage tank; VTA = Santa Clara Valley Transportation Authority
Sites in bold text are discussed below.

SOURCE: Data compiled from ENGEO environmental report database in 2019 and Elevate Environmental, *Consulting, Assessment of Environmental Concerns of Select Parcels within the Diridon Project*, February 11, 2020.

Southern Pacific Rail Tracks (APNs 259-27-018 through 259-27-022)

The Phase I assessment stated that Southern Pacific Railroad tracks are located on APNs 259-27-018 through 259-27-022 and bisect the project footprint.[84] The parcels were in residential use

[84] Elevate Environmental Consultants, *Assessment of Environmental Concerns of Select Parcels within the Diridon Project*, February 11, 2020.

before the tracks were constructed sometime before 1939. Although Southern Pacific owns APNs 259-27-021 and 259-27-022, these parcels are currently used for car parking associated with the adjacent APN 259-27-011—discussed above in the *On-Site Parcel Conditions* section—and therefore, contamination on APN 259-27-011 is discussed above.

Although soil has generally not been tested on this railroad alignment (other than for APN 259-27-011 discussed above and APN 259-27-022 discussed below), it is not uncommon for arsenic, lead, and other contaminants to be present at elevated levels in the soil along rail alignments. Sources of contamination include old railroad ties dipped in an arsenic or creosote solution to prevent wood decay, arsenic or organochlorine herbicides for weed control, and arsenic-laced slag used as railroad bed fill. Lubrication oil and diesel that dripped from the trains are also likely sources of petroleum products found along lines. Other sources of contaminants may include coal ash from engines and PAHs from the diesel exhaust. Finally, spillage from materials transported in the rail cars may also be present. Given that this rail alignment dates to at least 1939, contamination may be present and may have spread to the adjacent on-site project area.

In addition, the Phase I assessment stated that a 15,000-gallon heating oil tank was formerly located on APN 259-27-022. The tank was removed on an unspecified date and soil was excavated from the former tank pit. Sampling was conducted in 2017 in conjunction with the on-site investigation of APNs 259-27-011, 259-27-014, and 259-27-015 (discussed above in the *On-Site Parcel Conditions* section). As discussed previously, soil, soil gas, and groundwater concentration results exceed various screening levels, and in the case of lead in soil, above hazardous waste disposal levels.

Site 2—AC Label/Berryman Products (350 North Montgomery Street)

This property is located east of the project site and has one building occupied by automotive repair and automotive body shops.[85] The property is listed as a closed cleanup program site with land use restrictions. Contaminants (i.e., TPH as gasoline and chlorinated solvents) remain in the soil, soil gas, and groundwater. At the time of case closure, the concentrations of certain chemicals in soil gas exceeded residential and, in some cases, commercial/industrial screening levels. A land use covenant was established restricting development of residential or sensitive receptor facilities, and extraction of groundwater. This site is located adjacent to the project site but across North Montgomery Street. Therefore, it is unlikely that contaminated soil or soil gas extends from this site to the project site. Assuming that the direction of groundwater flow is to the east or southeast, contaminated groundwater from this property is unlikely to have affected groundwater beneath the project site. Therefore, this site would not affect the project site.

Site 8—138 Stockton (138 Stockton Avenue)

This site is located west of the project site and has one recently constructed, multi-story, mixed-use commercial and residential building.[86] Shallow soils beneath the building are contaminated with copper, lead, and nickel at concentrations above all screening levels. These contaminated soils were

[85] ENGEO, *Phase I Environmental Site Assessment, 345–351 N. Autumn Street and 344-350 N. Montgomery Street, San José, California*, March 9, 2018.

[86] Santa Clara County Department of Environmental Health, *Site Cleanup Program—138 Stockton Development, SCP Case No. 2017-03s, 138 Stockton Ave., San José, California*, June 27, 2019.

excavated and placed in a consolidated layer between 6 and 9 feet below grade and capped by the concrete foundation of the new building. As of June 27, 2019, the County was requiring the submittal of technical documents to prepare a Deed Restriction/Environmental Covenant that would prohibit disturbing the buried contaminated soils without County approval. Groundwater did not contain TPH as diesel and motor oil or VOCs above any screening levels.[87] Although located next to the project site, railroad tracks separate this site from the project site, and the contaminated soil has been encapsulated. Therefore, this site would not affect the project site.

Site 9—Landscaping Business (260 North Montgomery Street)

This property is located east of the project site and is occupied by a landscaping business with one main building used as an office, maintenance and storage area, and hazardous materials storage; one shipping container converted to pesticide/herbicide/fertilizer storage; and an additional shipping container converted to a supply shed.[88] The Phase I assessment observed the presence of drums, some areas of minor spills, and "generally poor housekeeping practices." Phase II soil sampling reported metals (lead, chromium, and arsenic), pesticides (dieldrin), and semivolatile organic compounds (benz[a]anthracene, benzo[b]fluoranthene, benzo[a]pyrene, and ideno[1,2,3-cd]pyrene) at concentrations that exceed residential, commercial/industrial, and construction worker screening levels.[89,90] However, this site is separated from the project site by North Montgomery Street, making it unlikely that contaminants in soil at this site could affect the project site. Therefore, this site would not affect the project site.

Site 14—Del Monte Plant 51 (50 Bush Street)

This site, located west of the project site, has three connected buildings previously used by Del Monte for the processing and packaging of dried fruit product between 1916 and 1992.[91] Two fuel oil USTs were removed in 1988. Soil samples detected residual levels of diesel and motor oil, lead, and organochlorine pesticides at concentrations below all screening levels, with the exception of arsenic that was detected at concentrations above all screening levels. No further investigation has been reported since 2005 and the regulatory case remains open but inactive. The site has been redeveloped for residential use by renovating the existing buildings. As a metal, arsenic is not relatively mobile, and its presence on this site is not expected to affect the project's site. Review of the records did not indicate whether groundwater was tested. Because the results for soil tests were below all screening levels for all tested chemicals except arsenic, and arsenic is not relatively mobile, groundwater beneath this site is unlikely to affect groundwater beneath the project site. Therefore, this site would not affect the project site.

87 Bureau Veritas, *Limited Subsurface Investigation, Commercial Property at 106-138 Stockton Avenue, San José, Santa Clara County, California*, September 25, 2013.
88 ENGEO, *Phase I Environmental Site Assessment Update, 260 N. Montgomery and 255 N. Autumn Street, San José, California*, March 13, 2019.
89 ENGEO, *Phase II Environmental Site Assessment, 260 N. Montgomery Street and 255 N. Autumn Street, San José, California*, September 28, 2018.
90 ENGEO, *Estimated Quantity of Impacted Material and Remedial Cost, 260 N. Montgomery and 255 N. Autumn Street, San José, California*, October 31, 2018.
91 Lowney Associates, *Soil Management Plan, Cahill Block North, Del Monte Plant 51, San José, California*, February 28, 2005.

Site 15—Diridon Caltrain Station and Caltrain Parking Lots (65 Cahill Street)

The train station has served as a railway station since the 1880s and is located west of the project site.[92] A waste coolant tank, waste oil/water separator, and two 500-gallon and two 3,000-gallon used oil storage tanks were removed on an undocumented date. Previous investigations indicated elevated concentrations of TPH as diesel and motor oil, and arsenic in soil at concentrations above all screening levels. Groundwater samples indicated TPH as diesel and motor oil, and lead at concentrations above all screening levels. The reported direction of shallow groundwater flow is toward the southeast, toward the project site.

Remediation activities consisting of removal of impacted soil were conducted in 2009. An oxygen-releasing compound was applied to soil and groundwater to break down the petroleum hydrocarbons. Groundwater monitoring was subsequently conducted and new monitoring wells were installed in 2011. Impacts on groundwater are limited in extent and contaminated soil was excavated and removed. Impacts of TPH as diesel and motor oil on groundwater are residual and are expected to attenuate over time. The Regional Water Quality Control Board is currently processing closure for this site as a low-threat case, pending destruction of site monitoring wells.[93] The regulatory case files do not document the most recent soil and groundwater concentrations; however, to qualify for closure, sources of contamination were removed, contaminated soil was removed, groundwater was treated, and the residual chemical levels are considered by the Regional Water Quality Control Board to not pose a threat to the surrounding properties. Therefore, this site would not affect the project site.

Some of the Diridon Station parking lot parcels owned by Caltrain are not included in the proposed project and are therefore part of the off-site conditions. Information regarding environmental concerns on the Caltrain parking lot parcels is summarized where available.

- APN 261-34-012 (33 South Montgomery Street)
- APN 261-34-013 (51 South Montgomery Street)
- APN 261-34-014 (53 and 63 South Montgomery Street)
- APN 261-34-016 (77 South Montgomery Street)
- APN 261-34-017 (91 South Montgomery Street)
- APN 261-34-018 (no street address)
- APN 261-34-019 (no street address)

An assessment of environmental concerns that included reviewing regulatory records and environmental documents was conducted for these parcels.[94] The parcels are currently used as parking lots for the San José Diridon Rail Station. Historical aerial photographs show that the

92 State Water Resources Control Board, *Case Summary, Diridon Caltrain Station*, 2019.
93 San Francisco Bay Regional Water Quality Control Board, *Diridon Caltrain Station San Jose—Well Destructions*, September 27, 2017.
94 Elevate Environmental Consulting, *Assessment of Environmental Concerns of Select Parcels within the Diridon Project*, February 11, 2020.

parcels have been used mostly for parking since at least 1948. A review of regulatory records and environmental documents indicated the following:[95]

- **APN 261-34-012:** This parcel was previously occupied by a church and adjacent dwelling, and by an auto repair shop. Automotive operations have historically involved the use and handling of hazardous materials including motor oils, paints, degreasers, brake fluids, coolants, and other solvents.
- **APN 261-34-013:** This parcel was previously occupied by a residential dwelling, machinery shop, and miscellaneous storage. Machine shops have historically used metals, oils and grease, degreasers, and solvents.
- **APN 261-34-014:** This parcel was previously occupied by a portion of a fruit drying operation, residential dwellings, warehouse, a shed housing up to nine cars, truck repair shop, auto parts and service, a glass and industrial door business, a welding and body shop, an electrical repair business, and an auto shop with a large/empty AST in 1990.

  Before 1992, an oil/water separator and the associated pump were removed from the 53 South Montgomery Street site at an unknown time. Petroleum hydrocarbon–impacted soil was excavated from the pit containing the former oil/water separator in 1991 and 1992. Confirmation sample results detected chemicals in soil at concentrations below residential, commercial/industrial, construction worker, and leaching to groundwater screening levels. A 500-gallon coal, heating, or diesel oil UST was removed from the 53 South Montgomery Street site in 1992. Subsequent soil sampling at the base of the UST excavation did not detect diesel in soil. Groundwater samples collected from beneath the 53 South Montgomery Street site did not detect chemicals at concentrations above residential, commercial/industrial, construction worker, and leaching to groundwater screening levels. In January 2018, the 53 South Montgomery Street site received a No Further Action letter from the Regional Water Quality Control Board with a priority status of low threat.

  A 1990 site investigation noted several areas of discolored soil; piles of rubble and auto parts; and a 3-foot-wide, 4-foot-deep, 65-foot-long pit used to store tires and other equipment inside the former auto repair shop. One of several oil-stained areas on the property was sampled and found to contain oil and grease at a concentration exceeding residential and construction worker screening levels, but not the commercial/industrial screening level. A monitoring well installed on the property reported TPH as diesel at a concentration exceeding the odor/nuisance threshold, but not the residential, commercial/industrial, construction worker, and leaching to groundwater screening levels. The 1990 investigation recommended that the areas of discolored soil be investigated further; however, no additional investigations are known to have been completed.
- **APN 261-34-016:** This parcel was previously occupied by an automatic car wash from 1950 to 1989. Five gasoline USTs were removed from the site in 1989. Impacted soil from under the tanks was excavated and disposed. Subsequently, groundwater monitoring was conducted at two monitoring wells, and no chemicals were detected above 1989 screening levels. The site case was closed by Valley Water on November 2, 1995.

[95] ENGEO, Information downloaded from ENGEO website, 2019.

However, certain chemicals were reported at levels that exceed current (i.e., 2020) screening levels:

- TPH as gasoline in soil was reported at concentrations exceeding the odor/nuisance screening level, but not the residential, commercial/industrial, construction worker, and leaching to groundwater screening levels.
- Benzene was reported in soil at concentrations exceeding the residential and leaching to groundwater screening levels, but not the commercial/industrial, construction worker, and odor/nuisance screening levels.
- Toluene, ethylbenzene, and xylenes were reported in soil at concentrations exceeding the leaching to groundwater screening level, but not the residential, commercial/industrial, construction worker, and odor/nuisance screening levels.
- Naphthalene was reported in soil at concentrations exceeding the leaching to groundwater screening level, but not the residential, commercial/industrial, construction worker, and odor/nuisance screening levels.
- TPH as gasoline was reported in groundwater at concentrations exceeding the MCL and odor/nuisance screening level.
- Benzene was reported in groundwater at concentrations exceeding the MCL and residential and commercial/industrial vapor intrusion screening levels.
- Ethylbenzene was reported in groundwater at concentrations exceeding the MCL, the residential and commercial/industrial vapor intrusion, and the odor/nuisance screening levels.
- Xylenes were reported in groundwater at concentrations exceeding the MCL and odor/nuisance screening level, but not the residential or commercial/industrial vapor intrusion screening levels.

- **APN 261-34-017:** This parcel was previously occupied by a wine warehouse, a hardwood planing mill (veneer factory, oil tank), and a playground appliance manufacturing facility (with assembling and painting operations). The planing mill and appliance manufacturing operations would be expected to have used fuels, oils and lubricants, paints and thinners, and cleaning solvents.
- **APN 261-34-018:** This parcel was previously occupied by a residential dwelling with carriage house, equipment display, and vehicle parking for a neighboring truck shop.
- **APN 261-34-019:** This parcel was previously occupied by a portion of a fruit drying operation, and by warehouses.

The current land use for these parcels is commercial parking lots. Because all structures have been removed from the parking lots, there would be no ACM or LBP. Historical records indicate previous industrial use. The USTs and contaminated soil have been removed. However, the remaining soil and groundwater have concentrations above various soil and groundwater screening levels. It is unknown whether contamination from the prior uses has migrated east to the parcels of the proposed project. Therefore, these parcels have the potential to affect the project site parcels to the immediate east.

Santa Clara Valley Transportation Authority Rail Tracks
APN 259-38-014 (71 South Autumn Street)
APN 259-38-114 (70 South Autumn Street)
APN 259-38-133 (68 South Montgomery Street)
APN 259-38-134 (No Address)
APN 259-38-139 (No Address)

The Phase I assessment stated that the VTA railroad tracks are located on the above-listed parcels and bisect the project footprint.[96] The parcels were in residential use before the VTA tracks were constructed between 1998 and 2006. Similar to the formerly residential parcels discussed above in the *On-Site Parcel Conditions* section, residential land use would have a negligible potential for contamination of soil and groundwater, and the potential for exceedances of soil and groundwater screening levels is considered unlikely. Because the VTA tracks were recently constructed and the rail cars carry passengers, not chemicals or other materials, this use would have a negligible potential for contamination of soil and groundwater. The exceedance of soil and groundwater screening levels is considered unlikely. Therefore, this site would not affect the project site.

Site 20—Dariano & Sons (638 Auzerais Avenue)

This site, located southeast of the project site, is occupied by a smog shop and a hydroponics supply store.[97] Two 550-gallon gasoline USTs and contaminated soil were removed in 1989. Soil and groundwater have been contaminated with gasoline, and this site has been undergoing investigation and remediation since then. During the May 2019 monitoring event, 5.34 feet of gasoline was reported floating on groundwater beneath this site, which would exceed all screening levels. Remediation consists of soil vapor extraction. The direction of groundwater flow has been mostly to the southwest, parallel to the southern border of the project site; however, the flow direction has fluctuated, with some observed flow to the south. Given the location, contaminated groundwater may affect the southernmost portion of the project site, such as APNs 264-15-17, 264-15-18, and 264-15-019. No off-site wells have been constructed between this site and the project site, indicating that it is unknown whether the groundwater contamination extends beneath the project site.

Site 23—Auto Repair (356 and 358 Royal Avenue)

The 2019 Phase I assessment for these parcels included APNs 264-20-008 (356 and 358 Royal Avenue), 264-20-009 (354 Royal Avenue), 264-20-010 (348 Royal Avenue), and 264-20-021 (365 Bird Avenue).[98] The property consists of two buildings; one is used as a convenience store (365 Bird Avenue) and the second is used as an automotive repair shop (Royal Avenue addresses), along with associated parking and landscaping. Groundwater samples did not report chemicals above groundwater screening levels. As noted above for Site 20, the direction of groundwater flow in this local area is southwest to south, which would be toward the project site. However, because chemicals were not detected in groundwater at concentrations above groundwater screening levels, this condition would not affect the project site.

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96 Elevate Environmental Consultants, *Assessment of Environmental Concerns of Select Parcels within the Diridon Project*, February 11, 2020.
97 GeoRestoration, *Remediation Progress Report—Third Quarter 2019*, October 31, 2019.
98 ENGEO, *Phase II Environmental Site Assessment, 354–358 Royal Avenue & 365 Bird Avenue, San José, California*, December 20, 2018.

Summary of Off-Site Property Hazardous Materials Issues

As discussed above, of the nearby off-site hazardous materials cases, Site 20—Dariano & Sons at 638 Auzerais Avenue—is known to have the potential to affect the southernmost portion of the project site, such as APNs 264-15-17, 264-15-018, and 264-15-019. The extent of the contaminated groundwater from this site is under investigation. In this case, construction activities that include excavation to and below the depth to groundwater could encounter contaminated groundwater. In addition, water generated through dewatering of excavation in these areas could require treatment before discharge or disposal as a hazardous waste.

In addition, the extent of soil and groundwater contamination from historical uses at the Diridon Station Caltrain parking lots is uncertain. Although the proposed project is separated from the parking lots by Cahill Street, it is unknown whether contaminated soil and groundwater from historical sources on the parking lots extends east onto or under parcels of the proposed project.

Finally, and as described in Section 2.7.6, *Off-Site Transportation Improvements*, the project applicant would undertake a series of improvements to the off-site transportation network intended to enhance transit ridership and pedestrian and bicycle circulation in the project vicinity. These improvements would include various surface improvements, such as restriping, grading, and adding or altering pork-chop islands or bulb-outs (e.g., bus stops, bike lanes). However, these surface improvements would not require excavation below the roadway surfaces, and would therefore not encounter contaminated soil—the only actual hazard risk associated with such actions—and are not discussed further.

Proximity to Schools

The following two schools are within 0.25 miles of the project site:

- Gardner Elementary School, 502 Illinois Avenue, about 0.22 miles southeast of the project site
- Santa Clara County Community School, 258 Sunol Street, about 0.15 miles west of the project site

Proximity to Airports

Norman Y. Mineta San José International Airport (Airport) is located about one mile northwest of the project site. The flight paths to and from the Airport pass directly over the project site.[99]

3.7.2 Regulatory Framework

Federal and State

The primary federal agencies with responsibility for hazards and hazardous materials management are EPA, the Occupational Safety and Health Administration of the U.S. Department of Labor, the

[99] Santa Clara County Airport Land Use Commission, *Comprehensive Land Use Plan, Norman Y. Mineta San José International Airport*, amended November 16, 2016.

U.S. Department of Transportation (DOT), and the Federal Aviation Administration (FAA). **Table 3.7-3** summarizes federal laws, regulations, and responsible agencies.

TABLE 3.7-3
FEDERAL LAWS AND REGULATIONS RELATED TO HAZARDOUS MATERIALS MANAGEMENT

Classification	Law or Responsible Federal Agency	Description
Hazardous Materials Management	Community Right-to-Know Act of 1986 (also known as Title III of the Superfund Amendments and Reauthorization Act)	Imposes requirements to ensure that hazardous materials are properly handled, used, stored, and disposed of and to prevent or mitigate injury to human health or the environment in the event that such materials are accidentally released.
Hazardous Waste Handling	Resource Conservation and Recovery Act of 1976	Under RCRA, EPA regulates the generation, transportation, treatment, storage, and disposal of hazardous waste from "cradle to grave."
	Hazardous and Solid Waste Act	Amended RCRA in 1984, affirming and extending the "cradle to grave" system of regulating hazardous wastes. The amendments specifically prohibit the use of certain techniques for the disposal of some hazardous wastes.
Hazardous Materials Transportation	U.S. Department of Transportation	DOT has the regulatory responsibility for the safe transportation of hazardous materials. DOT regulations govern all means of transportation except packages shipped by mail (49 CFR).
	U.S. Postal Service	USPS regulations govern the transportation of hazardous materials shipped by mail.
Occupational Safety	Occupational Safety and Health Act of 1970	OSHA sets standards for safe workplaces and work practices, including the reporting of accidents and occupational injuries (29 CFR 1910).
Structural and Building Components (LBP, PCBs, and ACM)	Toxic Substances Control Act	Regulates the use and management of PCBs in electrical equipment, and sets forth detailed safeguards to be followed during the disposal of such items.
	U.S. Environmental Protection Agency	EPA monitors and regulates hazardous materials used in structural and building components and their effects on human health. See *Summary of Hazardous Building Materials Regulations* below for relevant specific regulations.
Federal Regulation 49 CFR Part 77, Objects Affecting Navigable Airspace	Federal Aviation Administration	Proximity to San José International Airport triggers the application of Federal Aviation Regulation Part 77, Objects Affecting Navigable Airspace, referred to as FAR Part 77, which sets forth criteria and requirements for proposed structures to be filed with the FAA for airspace safety review. The FAA review determines whether the proposed structure would constitute an obstruction or hazard to aircraft.

NOTES:

ACM = asbestos-containing materials; CFR = Code of Federal Regulations; DOT = U.S. Department of Transportation; EPA = U.S. Environmental Protection Agency; FAA = Federal Aviation Administration; FAR = Federal Aviation Regulations; LBP = lead-based paint; OSHA = Occupational Safety and Health Administration; PCB = polychlorinated biphenyl; RCRA = Resource Conservation and Recovery Act; USPS = U.S. Postal Service

SOURCE: Data compiled by Environmental Science Associates in 2019.

State and local agencies often have either parallel or more stringent rules than federal agencies. In most cases, state law mirrors or overlaps federal law, and enforcement of these laws is the responsibility of the state or a local agency to which enforcement powers are delegated. The primary state agencies with responsibility for hazardous materials management in the region are

DTSC and the Regional Water Quality Control Board, California Occupational Safety and Health Administration, California Department of Public Health, California Highway Patrol (CHP), and the California Department of Transportation (Caltrans). **Table 3.7-4** summarizes state laws, regulations, and responsible agencies.

TABLE 3.7-4
STATE LAWS AND REGULATIONS RELATED TO HAZARDOUS MATERIALS MANAGEMENT

Classification	Law or Responsible State Agency	Description
Hazardous Materials Management	Unified Program; CUPA	In January 1996, the California Environmental Protection Agency adopted regulations, which implemented a Unified Hazardous Waste and Hazardous Materials Management Regulatory Program, also known as the "Unified Program." The plan is implemented at the local level and the agency responsible for implementation of the Unified Program is called the Certified Unified Program Agency or CUPA, which for San José, is the SCCDEH.
	State Hazardous Waste and Substances List ("Cortese List"); DTSC, San Francisco Bay Regional Water Quality Control Board, Santa Clara County Department of Environmental Health	The project site includes multiple hazardous materials sites on the Cortese List compiled pursuant to Government Code Section 65962.5 and referenced in Public Resources Code Section 21092.6. The oversight of hazardous materials sites often involves several different agencies that may have overlapping authority and jurisdiction. For the on-site hazardous materials cases and issues, the San Francisco Bay Regional Water Quality Control Board is the lead agency. Other cases may be overseen by DTSC, the San Francisco Bay Regional Water Quality Control Board, the SCCDEH, or other agencies. The San Francisco Bay Regional Water Quality Control Board derives its authority to require cleanups under Health and Safety Code Section 25296.10 and 23 CCR Sections 2720–2727.
Hazardous Waste Handling	California Hazardous Materials Release Response Plan and Inventory Law of 1985; CUPA	The California Hazardous Materials Release Response Plan and Inventory Law of 1985, or Business Plan Act, requires that businesses that store hazardous materials on-site prepare a Hazardous Materials Business Plan and submit it to the local CUPA, which in this case is the SCCDEH.
	California Hazardous Waste Control Act; DTSC	Under the California Hazardous Waste Control Act (California Health and Safety Code Section 25100 et seq.), DTSC regulates the generation, transportation, treatment, storage, and disposal of hazardous waste in California. The hazardous waste regulations establish criteria for identifying, packaging, and labeling hazardous wastes; dictate the management of hazardous waste; establish permit requirements for hazardous waste treatment, storage, disposal, and transportation; and identify hazardous wastes that cannot be disposed of in landfills. DTSC is also the administering agency for the California Hazardous Substance Account Act. California Health and Safety Code Section 25300 et seq., also known as the State Superfund law, provides for the investigation and remediation of hazardous substances pursuant to state law.
	CCR Title 24, Part 9, California Fire Code	The California Fire Code contains regulations consistent with nationally recognized and accepted practices for safeguarding life and property from the hazards of fire and explosion, and dangerous conditions arising from the storage, handling, and use of hazardous materials and devices.
Hazardous Materials Transportation	CCR Title 26	Regulates the transportation of hazardous waste originating in the state and passing through the state through Caltrans (26 CCR).
	CHP and Caltrans	These two state agencies have primary responsibility for enforcing federal and state regulations and responding to hazardous materials transportation emergencies.

TABLE 3.7-4
STATE LAWS AND REGULATIONS RELATED TO HAZARDOUS MATERIALS MANAGEMENT

Classification	Law or Responsible State Agency	Description
Occupational Safety	Cal/OSHA	Cal/OSHA has primary responsibility for developing and enforcing workplace safety regulations in California. Because California has a federally approved OSHA program, it is required to adopt regulations that are at least as stringent as those found in CFR Title 29. Cal/OSHA standards are generally more stringent than federal regulations.
	Cal/OSHA regulations (8 CCR)	The use of hazardous materials in the workplace requires employee safety training, safety equipment, accident and illness prevention programs, warnings about exposure to hazardous substances, and preparation of emergency action and fire prevention plans.
	California Office of Statewide Health Planning and Development	The Office of Statewide Health Planning and Development serves as the regulatory building agency for all hospitals and nursing homes in California. Its primary goal in this regard is to ensure that patients in these facilities are safe in the event of an earthquake or other disaster, and that the facilities remain functional after such an event to meet the needs of the community affected by the disaster.
Construction General Permit (Order 2009-0009-DWQ, NPDES No. CAS000002; as amended by Orders 2010-0014-DWQ and 2012-006-DWQ)	San Francisco Bay Regional Water Quality Control Board	Dischargers whose project disturbs one or more acres of soil, or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the *NPDES General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities*, or Construction General Permit (Order 2009-0009-DWQ, NPDES No. CAS000002; as amended by Orders 2010-0014-DWQ and 2012-006-DWQ). Construction activities subject to this permit include clearing, grading, grubbing, and other disturbances to the ground such as excavation and stockpiling, but do not include regular maintenance activities performed to restore the original line, grade, or capacity of a facility. The Construction General Permit requires the development and implementation of an SWPPP that includes specific BMPs designed to prevent sediment and pollutants from contacting stormwater from moving off site into receiving waters. The BMPs fall into several categories, including erosion control, sediment control, waste management, and good housekeeping, and are intended to protect surface water quality by preventing the off-site migration of eroded soil and construction-related pollutants from the construction area. Additional details are provided in Section 3.8, *Hydrology and Water Quality*.
MS4 Permit, NPDES No. CAS612008 and Order No. R2-2015-0049	San Francisco Bay Regional Water Quality Control Board	The MS4 permit requires permittees to reduce pollutants and runoff flows from new development and redevelopment using BMPs to the maximum extent practical. The MS4 permittee also has its own development standards, also known as Low Impact Development/post-construction standards, that include a hydromodification element. The MS4 permit requires specific design concepts for Low Impact Development/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process. Additional details are provided in Section 3.8, *Hydrology and Water Quality*.

TABLE 3.7-4
STATE LAWS AND REGULATIONS RELATED TO HAZARDOUS MATERIALS MANAGEMENT

Classification	Law or Responsible State Agency	Description
Industrial Storm Water General Permit Order No. 2014-0057-DWQ	San Francisco Bay Regional Water Quality Control Board	Stormwater discharges associated with industrial sites must comply with the regulations contained in Industrial Storm Water General Permit Order No. 2014-0057-DWQ. The IGP regulates discharges associated with certain defined categories of industrial activities including manufacturing facilities; hazardous waste treatment, storage, or disposal facilities; landfills, land application sites, and open dumps; cement manufacturing; fertilizer manufacturing; petroleum refining; phosphate manufacturing; recycling facilities; steam electric power generating facilities; transportation facilities; and sewage or wastewater treatment works. The IGP requires the implementation of BMPs, a site-specific SWPPP, and monitoring plan. The IGP also includes criteria for demonstrating no exposure of industrial activities or materials to stormwater, and no discharges to waters of the United States.
Underground Infrastructure	California Government Code Sections 4216 through 4216.9	Sections 4216 through 4216.9, "Protection of Underground Infrastructure," require an excavator to contact a regional notification center (e.g., Underground Services Alert or Dig Alert) at least two days before excavation of any subsurface installations. Any utility provider seeking to begin a project that could damage underground infrastructure can call Underground Service Alert, the regional notification center for Northern California. Underground Service Alert will notify the utilities that may have buried lines within 1,000 feet of the project. Representatives of the utilities are then notified and are required to mark the specific location of their facilities within the work area before the start of project activities in the area.
Emergency Response	California Governor's Office of Emergency Services and local government partners	The State of California and local governments throughout the Bay Area, including the City of San José, have made investments in the planning and resources necessary to respond to natural and human-caused emergencies and disasters. Cal OES and its local government partners developed the Bay Area Regional Emergency Coordination Plan with support from the U.S. Department of Homeland Security to provide a framework for collaboration and coordination during regional events. The Regional Emergency Coordination Plan has been prepared in accordance with national and state emergency management systems and plans. The RECP provides an all-hazards framework for collaboration among responsible entities and coordination during emergencies in the San Francisco Bay Area. The RECP defines procedures for regional coordination, collaboration, decision-making, and resource sharing among emergency response agencies in the Bay Area. The RECP does not replace existing emergency response systems. Rather, it builds on the Standardized Emergency Management System and the California State Emergency Plan to provide methods for cooperation among Operational Areas and Cal OES, Coastal Region. The RECP provides linkages to ensure that existing Bay Area emergency response systems work together during the response to an event. In addition, the RECP complies with the requirements of the National Incident Management System, and is consistent with the National Preparedness Goal.

NOTES:

BMP = best management practice; Business Plan Act = California Hazardous Materials Release Response Plan and Inventory Law of 1985; Cal OES = California Governor's Office of Emergency Services; Cal/OSHA = California Occupational Safety and Health Administration; CCR = California Code of Regulations; CEQA = California Environmental Quality Act; CFR = Code of Federal Regulations; CHP = California Highway Patrol; Construction General Permit = *NPDES General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities*; CUPA = Certified Unified Program Agency; DTSC = California Department of Toxic Substances Control; IGP = Industrial Storm Water General Permit; MS4 = Municipal Separate Storm Sewer System; NPDES = National Pollutant Discharge Elimination System; OSHA = Occupational Safety and Health Administration; RECP = Regional Emergency Coordination Plan; SCCDEH = Santa Clara County Department of Environmental Health; SWPPP = Stormwater Pollution Prevention Plan; Unified Program = Unified Hazardous Waste and Hazardous Materials Management Regulatory Program

SOURCE: Data compiled by Environmental Science Associates in 2019.

Summary of Hazardous Building Materials Regulations

From the above-listed regulations, the use of hazardous building materials is subject to the following regulations specific to the demolition and renovation of structures:

- **Asbestos-containing materials:** Code of Federal Regulations (CFR) Title 40, Part 61, Subpart M (Asbestos National Emission Standards for Hazardous Air Pollutants [NESHAP]); California Code of Regulations (CCR) Title 8, Sections 1529 and 5208; and Bay Area Air Quality Management District (BAAQMD) Regulation 11, Rule 2
- **Lead-based paint:** Title IV, Toxic Substances Control Act, Sections 402, 403, and 404; 8 CCR Section 1532.1; and BAAQMD Regulation 11, Rule 1
- **PCBs:** Resource Conservation and Recovery Act: 4 CFR 761; Toxic Substances Control Act: U.S. Code Title 15, Section 2695; 22 CCR Section 66261.24; Municipal Separate Storm Sewer System Permit Provision C.12.f
- **Mercury and/or PCBs in light tubes and switches:** 22 CCR Sections 66262.11, 66273 et seq., and 67426.1 through 67428.1
- **Freon (chlorofluorocarbon and hydrochlorofluorocarbon refrigerants):** California Health and Safety Code, Sections 25143.2 and 25143.9

Regional and Local

Certified Unified Program Agency Program

The Certified Unified Program Agency (CUPA) program was created by Senate Bill 1082 (1993) to consolidate, coordinate, and make consistent the administrative requirements, permits, inspections, and enforcement activities for several environmental and emergency management programs. The Unified Program is intended to provide relief to businesses complying with the overlapping and sometimes conflicting requirements of formerly independently managed programs. The following six programs are administered locally under the state's Unified Program:

- Hazardous Waste Generator Program and Hazardous Waste On-Site Treatment activities authorized under the permit-by-rule, conditionally authorized, and conditionally exempt tiers—Health and Safety Code Division 20, Chapter 6.5, and 22 CCR Division 4.5.
- Aboveground Storage Tank Program Spill Prevention Control and Countermeasure Plan requirements—Health and Safety Code Section 25270.5(c).
- UST Program—Health and Safety Code Division 20, Chapter 6.7, and 23 CCR Chapters 16 and 17.
- Hazardous Materials Release Response Plans and Inventory Program—Health and Safety Code Division 20, Chapter 6.95, Article 1, and 19 CCR Sections 2620–2734.
- California Accidental Release Prevention (CalARP) program—Health and Safety Code Division 20, Chapter 6.95, Article 2, and 19 CCR Sections 2735.1 through 2785.1.
- Hazardous Materials Management Plans and Hazardous Materials Inventory Statement requirements—California Fire Code, Sections 2701.5.1 and 2701.5.2.

The SCCDEH is the CUPA for the City of San José. Although not included in the CUPA program, SJFD also administers a local Hazardous Materials Storage Ordinance (San José Municipal Code Chapter 17.68), which is discussed below under *Regional and Local*.

San José International Airport Comprehensive Land Use Plan

The project site is located approximately one mile southeast of Norman Y. Mineta San José International Airport and is partially located within the Airport Influence Area for the Airport as delineated in the Airport Comprehensive Land Use Plan (CLUP), last amended in 2016.[100] As required by the California State Aeronautics Act (Public Utilities Code Section 21670 et seq.), the CLUP was prepared by the Santa Clara County Airport Land Use Commission (ALUC) to provide for the orderly growth of the areas surrounding the Airport and to ensure that new land uses do not affect the Airport's continued operation. To further this goal, the CLUP provides land use compatibility policies addressing aircraft noise exposure, the control of objects in navigable airspace, and the safety of persons on the ground and in aircraft. These policies are applicable in specific areas identified using Community Noise Equivalent Level (CNEL) contours (noise restriction area), safety zones (safety restriction area), and imaginary airspace surfaces as defined in 14 CFR Part 77 (Federal Aviation Regulations [FAR] Part 77) (height restriction area).

The project site is located in areas covered by the FAR Part 77 imaginary airspace surfaces for the Airport and portions of the project site are located within the CNEL contour. The height restrictions specific to the project site are discussed in the *City of San José Downtown Airspace Development Capacity Study* section below. The project site is located outside the safety restriction area identified in the CLUP. Local agencies are required to ensure that their land use plans are consistent with the CLUP. In addition, any proposed plan, project, or land use change within the Airport Influence Area must be submitted to the ALUC for review to determine whether it is consistent or inconsistent with the CLUP. Applicable CLUP noise policies are discussed further in Section 3.10, *Noise and Vibration*. Relevant CLUP height restriction policies include:

> **Policy H-1.** Any structure or object that penetrates the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace (FAR Part 77) surfaces, as illustrated in Figure 6, is presumed to be a hazard to air navigation and will be considered an incompatible land use, except in the following circumstance. If the structure or object is above the FAR Part 77 surface, the proponent may submit the project data to the FAA for evaluation and air navigation hazard determination, in which case the FAA's determination shall prevail.
>
> **Policy H-2.** Any project that may exceed a FAR Part 77 surface must notify the Federal Aviation Administration (FAA) as required by FAR Part 77, Subpart B on FAA Form 7460-1, Notice of Proposed Construction or Alteration. (Notification to the FAA under FAR Part 77, Subpart B, is required even for certain proposed construction that does not exceed the height limits allowed by Subpart C of the FARs.)
>
> **Policy T-1.** The applicant for any proposed project anywhere in the County for construction or alteration of a structure (including antennas) higher than 200 feet above ground level shall submit to the FAA a completed copy of FAA Form 7460-1, Notice of Proposed Construction

[100] Santa Clara County Airport Land Use Commission, *Comprehensive Land Use Plan, Norman Y. Mineta San José International Airport*, amended November 16, 2016.

or Alteration. A copy of the submitted form shall be submitted to the Santa Clara County ALUC as well as a copy of the FAA's response to this form.

Policy T-2. Any proposed project anywhere in the County for construction or alteration of a structure (including antennas) higher than 200 feet above ground level shall comply with FAR 77.13(a)(1) and shall be determined inconsistent if deemed to be a hazard by the FAA or if the ALUC determines that the project has any impact on normal aircraft operations or would increase the risk to aircraft operations.

CLUP policies allow local agencies to overrule an ALUC's finding of inconsistency with a CLUP; however, the agency must hold a public hearing, make specific findings that the action proposed is consistent with the purposes of the ALUC statute, and approve the proposed action through a two-thirds vote of the local agency's governing body. The City of San José conducted updated airspace protection mapping in 2019 and updated the One-Engine Inoperative height restrictions, as discussed below.

City of San José Downtown Airspace Development Capacity Study

The existing height limits on the project site range from 65 to 130 feet above grade in the southern portion of the site; 130 feet in the site's central area; and from 80 to 100 feet on the site's northern parcels. In 2007, the City undertook new airspace protection mapping that placed height limitations on allowable development surrounding Norman Y. Mineta San José International Airport to minimize impacts on airline service. The airspace protection mapping consisted of a combination of the lowest critical One-Engine Inoperative and United States Terminal Instrument Procedures airspace protection surfaces. However, because of the changing environment in aviation operations, and the need and desire for future building development in San José, a new study was undertaken to assess the existing conditions and future needs of the Airport and the development community. The study evaluated various scenarios of flight weights, flight directions, and height restrictions.

On March 12, 2019, the San José City Council approved a new policy on airspace surface protection heights for the Downtown Core and Diridon Station areas that also provides for additional height opportunities for development. The final report describing the scenarios evaluated was published in August 2019.[101] Scenario 4 was selected, which uses the FAA's lowest United States Terminal Instrument Procedures obstacle clearance surface to determine maximum building heights for the Diridon Station area. Upon final approval, the height restrictions for Scenario 4 range from 235 feet in elevation above mean sea level (amsl, using the North American Vertical Datum of 1988) at the north edge of the project site (APN 259-26-017) to 390 feet amsl from the southern border of APN 261-37-031 to farther south.

City of San José Emergency Operations Plan (Municipal Code Section 8.08.030)

The Office of Emergency Management is the lead agency for the City of San José under the Standardized Emergency Management System (refer to *Emergency Response* in Table 3.7-4), the purpose of which is to prepare the City to respond efficiently and effectively to emergencies that threaten life, property, or the environment. The Office of Emergency Management administers

[101] Landrum & Brown, *Downtown Airspace Development Capacity Study (DADCS)*. August 2019.

and operates the Emergency Operations Center (EOC), from which centralized emergency management can be conducted. The EOC is activated by an on-call City OES coordinator in the event of an emergency. Under such conditions, the EOC supports and coordinates emergency response and recovery operations; coordinates and works with other appropriate federal, state, and other local government agencies; and prepares and disseminates emergency public information, among other responsibilities.

The City of San José adopted the current Emergency Operations Plan in 2019.[102] The plan is an extension of the state's California Emergency Plan, and provides tasks, policies, and procedures for managing multi-agency and multi-jurisdictional emergency operations, public information functions, and resource management. The Emergency Operations Plan identifies a number of potential threats based on a hazard analysis, including earthquakes, wildland urban/interface fire, extreme weather, public health emergency, technological and resource emergency, hazardous material incident, terrorism, floods, and landslides.

The SJFD Hazardous Incident Team's emergency response unit responds to emergency calls related to hazardous materials in the city. The San José Police Department and San José Public Works Department also provide support. Along with the City's response capabilities, other responders or responsible agencies may include the CHP, Caltrans, the San Francisco Bay Regional Water Quality Control Board, Valley Water, BAAQMD, DTSC, and the California Department of Fish and Wildlife. The California Governor's Office of Emergency Services' California State Warning Center also must be notified of all significant releases or threatened releases of a hazardous material, including oil and radioactive materials.

Envision San José 2040 General Plan Policies

The City has adopted various policies in the *Envision San José 2040 General Plan* to reduce or avoid impacts related to hazards and hazardous materials. The following goals, policies, and actions are relevant to the proposed project:

Hazardous Materials

Goal EC-6—Hazardous Materials. Protect the community from the risks inherent in the transport, distribution, use, storage, and disposal of hazardous materials.

Policy EC-6.1: Require all users and producers of hazardous materials and wastes to clearly identify and inventory the hazardous materials that they store, use or transport in conformance with local, state and federal laws, regulations and guidelines.

Policy EC-6.2: Require proper storage and use of hazardous materials and wastes to prevent leakage, potential explosions, fires, or the escape of harmful gases, and to prevent individually innocuous materials from combining to form hazardous substances, especially at the time of disposal by businesses and residences. Require proper disposal of hazardous materials and wastes at licensed facilities.

[102] City of San José, *Emergency Operations Plan, Base Plan*, January 24, 2019.

Policy EC-6.4: Require all proposals for new or expanded facilities that handle hazardous materials that could impact sensitive uses off site to include adequate mitigation to reduce identified hazardous materials impacts to less than significant levels.

Policy EC-6.5: The City shall designate transportation routes to and from hazardous waste facilities as part of the permitting process in order to minimize adverse impacts on surrounding land uses and to minimize travel distances along residential and other non-industrial frontages.

Policy EC-6.6: Address through environmental review 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-6.7: Do not approve land uses and development that use hazardous materials that could impact existing residences, schools, day care facilities, community or recreation centers, senior residences, or other sensitive receptors if accidentally released shall not be approved without the incorporation of adequate mitigation or separation buffers between uses.

Action EC-6.8: The City will use information on file with the SCCDEH under the California Accidental Release Prevention (CalARP) Program as part of accepted Risk Management Plans to determine whether new residential, recreational, school, day care, church, hospital, seniors or medical facility developments could be exposed to substantial hazards from accidental release of airborne toxic materials from CalARP facilities.

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

Action EC-6.12: Regulate new development on or in proximity to high pressure natural gas pipelines to promote public safety and reduce risks from land use incompatibility.

Environmental Contamination

Goal EC-7—Environmental Contamination. Protect the community and environment from exposure to hazardous soil, soil vapor, groundwater, and indoor air contamination and hazardous building materials in existing and proposed structures and developments and on public properties, such as parks and trails.

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-7.3: Where a property is located in proximity to known groundwater contamination with volatile organic compounds or within 1,000 feet of an active or inactive landfill, evaluate and mitigate the potential for indoor air intrusion of hazardous compounds to the satisfaction of the City's Environmental Compliance Officer and appropriate regional, state and federal agencies prior to approval of a development or redevelopment project.

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.

Action EC-7.8: Where an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce 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.

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

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

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

Safe Airport

Goal TR-14—Safe Airport. Ensure that airport facilities in San José are safe by removing potential conflicts between land use and airport operations.

Policy TR-14.1: Foster compatible land uses within the identified Airport Influence Area overlays for Mineta San José International and Reid-Hillview airports.

Policy TR-14.2: Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.

Policy TR-14.3: For development in the Airport Influence Area overlays, ensure that land uses and development are consistent with the height, safety, and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid Hillview airports, or find, by a two-thirds vote of the governing body, that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4 of the State Aeronautics Act, Public Utilities Code Section 21670 et seq.

Policy TR-14.4: Require aviation and "no build" easement dedications, setting forth maximum elevation limits as well as for acceptance of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.

Community Health, Safety, and Wellness

Goal CD-5—Community Health, Safety, and Wellness. Create great public places where the built environment creates attractive and vibrant spaces, provides a safe and healthful setting, fosters interaction among community members, and improves quality of life.

Policy CD-5.8: Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

City of San José Municipal Code

Chapter 17.68: Hazardous Materials Storage Permit

This code describes the requirements for the storage of hazardous materials, which include acquiring a storage permit, developing and submitting a Hazardous Materials Management Plan, and complying with requirements for storage, transportation, monitoring and inspection, and secondary containment. The plan must contain information on responsible parties, a facility description, a facility storage map, a description of the name and quantity of all hazardous materials, and a description of separation and protection methods for stored hazardous materials, monitoring methods, and recordkeeping procedures. The Hazardous Materials Management Plan must include an emergency response plan that describes emergency equipment availability, testing, and maintenance.

City of San José Building Codes

The California Building Standards Commission updates the state building codes (CCR Title 24) every three years. The 2019 codes were published on July 1, 2019, and become applicable to all

building permit applications made on or after January 1, 2020. The City of San José has adopted the 2019 California Building Codes. The updated codes adopted by the City are:

- 2019 California Building Code—CCR Title 24, Part 2
- 2019 California Residential Code—CCR Title 24, Part 2.5
- 2019 California Electrical Code—CCR Title 24, Part 3
- 2019 California Mechanical Code—CCR Title 24, Part 4
- 2019 California Plumbing Code—CCR Title 24, Part 5
- 2019 California Historical Building Code—CCR Title 24, Part 8
- 2019 California Existing Building Code—CCR Title 24, Part 10

City of San José Fire Code

The San José Fire Code adopted the 2019 California Fire Code, subject to certain deletions, amendments, exceptions, and additions that are specified in the City code. The revisions focus mostly on adding details to building and fire access requirements, and to the storage, handling, and use of regulated materials. Possible hazards involving toxic air contaminants are discussed in Section 3.1, *Air Quality*, of this EIR.

San José Standard Conditions of Approval

The City's Standard Conditions of Approval (SCAs) relevant to the proposed project's hazards and hazardous materials impacts are presented below. If the proposed project is approved by the City, all applicable SCAs would be adopted as conditions of approval; the project applicant would be required, as applicable, to implement the SCAs during project construction and operation to address impacts related to hazards and hazardous materials. The SCAs are incorporated and required as part of the project, so they are not listed as mitigation measures.

Asbestos and Lead-based Paint. If asbestos-containing materials (ACM) or lead-based paint (LBP) are present and need to be removed during the demolition of structures, the project applicant shall implement the following conditions:

- Conduct a visual inspection/pre-demolition survey, and possible sampling in conformance with state and local laws, to determine the presence of ACMs and/or LBP prior to the demolition of on-site building(s).
- Remove all building materials containing LBP during demolition activities, in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code of Regulations (CCR) Section 1532.1, including employee training, employee air monitoring, and dust control. Dispose any debris or soil containing LBP or coatings at landfills that meet acceptance criteria for the type of lead being disposed.
- Remove all potentially friable ACMs in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines before demolition or renovation activities that may disturb ACMs. Undertake all demolition activities in accordance with Cal/OSHA standards contained in Title 8, CCR Section 1529, to protect workers from asbestos exposure.
- Retain a registered asbestos abatement contractor 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 1 percent asbestos are also subject to BAAQMD regulations. Remove materials containing more than 1 percent asbestos in accordance with BAAQMD requirements and notifications.
- Implement the following conditions in accordance with Cal/OSHA rules and regulations, to limit impacts to construction workers.
  - Before commencement of demolition activities, complete a building survey, including sampling and testing, to identify and quantify building materials containing LBP.
  - During demolition activities, remove all building materials containing LBP in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR Section 1532.1, including employee training, employee air monitoring, and dust control.
  - Dispose of any debris or soil containing LBP or coatings at landfills that meet acceptance criteria for the type of waste being disposed.

3.7.3 Impacts and Mitigation Measures

Significance Criteria

For the purposes of this EIR, a hazardous and hazardous materials impact would be significant if implementing the proposed project would:

- Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials;
- 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;
- Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school;
- 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 create a significant hazard to the public or the environment;
- 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 result in a safety hazard or excessive noise for people residing or working in the project area; or
- Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.

Approach to Analysis

The analysis of hazards and hazardous materials impacts is based on the proposed project as described in Chapter 2, *Project Description*. Information about hazards and hazardous materials affecting the project site was derived from various sources and compiled in this section to develop a comprehensive understanding of the potential constraints and hazards of construction (including demolition of existing on-site structures) and long-term operation of the proposed project. Information sources include the cited assessment, investigation, and cleanup reports provided by the project applicant and the results of regulatory agency database searches.

The project would be extensively regulated with respect to hazards and hazardous materials by the various laws, regulations, and policies summarized in Section 3.7.2, *Regulatory Framework*. This analysis assumes that the proposed project would comply with applicable federal, state, and local laws and regulations. State and local agencies would be expected to continue to enforce applicable requirements to the extent that they do so now. Note that compliance with many of the regulations is a standard condition of permit approval.

A significant impact would be determined to occur if, based on the features described in Chapter 2, *Project Description*, and after compliance with regulatory requirements, the project would still meet any of the criteria for a significant impact. For impacts considered to be significant, mitigation measures are proposed to reduce the identified impacts.

As described in Section 2.13.1, *Construction Phases*, the project would be constructed in three primary phases. The regulations summarized in Section 3.7.2, *Regulatory Framework*, would apply to all phases. In addition, if any current regulations are updated between the present time and the initial implementation of a work phase, the updated regulations would apply.

Possible hazards involving toxic air contaminants are discussed in Section 3.1, *Air Quality*, of this EIR. Possible hazards relative to water quality are also discussed in Section 3.8, *Hydrology and Water Quality*.

Impact Analysis

Hazardous and Hazardous Materials

Impact HA-1: The proposed project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal, or through reasonably foreseeable upset and accidental release of hazardous materials. *(Less than Significant)*

Construction

The proposed project's construction equipment and materials would include fuels, oils and lubricants, solvents and cleaners, glues and adhesives, paints and thinners, degreasers, cement and concrete, and asphalt mixtures, which are all commonly used in construction. The routine use, or an accidental spill of, a hazardous material used during construction could result in exposure or an inadvertent release, which could adversely affect construction workers, the public, and the environment. For an analysis of the potential impacts of encountering hazardous materials contamination from prior uses (e.g., contaminated soil, soil gas, or groundwater) during construction, refer to Impact HA-3.

Project construction activities would be required to comply with the numerous federal, state, and local hazardous materials regulations summarized in Section 3.7.2, *Regulatory Framework*. Those regulations are enforced to ensure that hazardous materials are transported, used, stored, and disposed of in a safe and legal manner to protect construction workers' safety and the environment. They are also intended to reduce the potential for construction-related fuels or other hazardous materials to be released into the environment, including stormwater and downstream receiving water bodies.

Project contractors would be required to prepare and implement Hazardous Materials Business Plans (Business Plans). Those plans would require that hazardous materials used during construction be used and stored properly in appropriate containers, with secondary containment as needed to contain a potential release. In addition, all hazardous materials must be used, stored, transported, and disposed of in compliance with the code requirements of the City of San José Fire Department, the San José–Santa Clara Wastewater Treatment Facility, the SCCDEH, and Caltrans, which require measures for the safe storage and handling of hazardous materials.

Numerous regulations require that work sites be inspected and/or tested for the presence of hazardous materials when demolition and renovation activities may disturb or require the removal of building materials that consist of, contain, or are coated with asbestos-containing materials and/or lead-based paint and/or other hazardous building materials. If present, the hazardous materials must be managed and disposed of in accordance with applicable laws and regulations. The treatment or removal of hazardous building materials is a standard condition of construction or occupation permits, as required by the City's Standard Conditions of Approval for ACM and LBP.

The identification, removal, and disposal of both ACM and LBP are regulated under the California Code of Regulations: 8 CCR Sections 1529 and 5208 (for ACM) and 8 CCR Section 1532.1 (for LBP). Both ACM and LBP are also regulated under the City's SCAs. All work must be conducted by a state-certified professional, which would ensure compliance with all applicable regulations. If ACM and/or LBP are identified on-site and the building is planned for demolition, a site-specific hazard control plan must be prepared, detailing removal methods and instructions for providing protective clothing and equipment to abatement personnel. A state-certified ACM and/or LBP removal contractor would be retained to conduct the plan's required abatement measures. Wastes from abatement and demolition activities would be transported and disposed of at a landfill permitted to accept such waste and in compliance with applicable federal, state, and local laws and regulations.

Once all abatement measures have been implemented, the contractor would conduct a clearance examination and provide written documentation to BAAQMD, as required. The documentation would specify that testing for ACM and LBP—and, if required, abatement—have been completed in accordance with all federal, state, and local laws and regulations.

As discussed in Section 3.5, *Geology, Soils, and Paleontological Resources*, and Section 3.8, *Hydrology and Water Quality*, construction contractors would be required to prepare a stormwater pollution prevention plan (SWPPP) for construction activities in compliance with the requirements of the National Pollutant Discharge Elimination System (NPDES) General Construction Permit. The SWPPP would list the hazardous materials (including petroleum products) proposed for use during construction and would describe spill prevention measures, equipment inspections, and equipment and fuel storage; protocols for responding immediately to spills; and best management practices (BMPs) for controlling site run-on and runoff. This would include preventing site runoff into Los Gatos Creek and the Guadalupe River.

In addition, DOT, Caltrans, and the CHP would regulate the transportation of hazardous materials. Together, federal and state agencies determine driver-training requirements, load-labeling procedures, and container specifications designed to minimize the risk of an accidental release.

Finally, in the event of a spill that releases hazardous materials, a coordinated response would occur at the federal, state, and local levels, including the City of San José. SJFD is the local hazardous materials response team. In the event of a hazardous materials spill, the San José Police and Fire Departments would be notified simultaneously and sent to the scene to assess and respond to the situation.

The required compliance with the numerous laws and regulations discussed above that govern the transportation, use, handling, and disposal of hazardous materials would limit the potential for the proposed project to create hazardous conditions from the transport, use, disposal, or accidental release of hazardous materials. This impact would be **less than significant**.

Operations

The proposed residential and commercial land uses described in Section 2.3, *Development Program*, would use and store chemicals (fuels, oils and lubricants, solvents and cleaners, and paints and thinners) commonly used for operation and maintenance. Routine use or an accidental spill of a hazardous material could result in an inadvertent release, which could adversely affect workers, the public, and the environment.

As required by the state's Hazardous Materials Management Program, the commercial, industrial, and residential property management companies would prepare and submit Hazardous Materials Business Plans to the Santa Clara County Hazardous Materials Compliance Division, the local CUPA for Santa Clara County, before beginning to operate any facility that would manage hazardous materials subject to the requirement. Business Plans include information about the handling and storage of hazardous materials, including site layout, storage in appropriate containers with secondary containment to contain a potential release, and emergency response and notification procedures in the event of a spill or release. In addition, the Business Plans require annual employee health and safety training.

The Business Plans must be approved by the CUPA before the start of operations, and the various facilities would be subject to periodic compliance inspections. The Business Plans would also provide local agencies with the information needed to plan appropriately for a chemical release, fire, or other incident, reducing the potential for an accidental release to harm the health of workers or the public or substantially degrade the environment. All hazardous materials must be stored and handled according to manufacturers' directions and federal, state, and local regulations.

The California Fire Code would also require measures for the safe storage and handling of hazardous materials. As a part of the CUPA program, all hazardous materials must be used, stored, transported, and disposed of in compliance with the code requirements of the City of San José Fire Department, the San José–Santa Clara Wastewater Treatment Facility, the SCCDEH, and Caltrans. Transportation and disposal of wastes, such as spent cleaning solutions, would also be subject to regulations for safe handling, transportation, and disposal. These regulations would include appropriate containerization and labeling, transportation by licensed hazardous materials haulers, and disposal at licensed facilities permitted to accept the waste.

The proposed project would include one or two on-site, electricity-powered central utility plants to supply heated and chilled water to on-site buildings for building heating and cooling, instead of using individual boilers and chillers with cooling towers in each building. The distribution system would require periodic cleaning to prevent scale buildup inside the pipes. The periodic cleaning would likely use cleaning and/or mildly acidic solutions. The project could include a centralized solid waste collection facility (essentially, a mini-transfer station), which could employ a pneumatic collection system. The pneumatic pistons would require the use of hydraulic oil. The chemicals used in these processes would be regulated under the Hazardous Materials Business Plans prepared and implemented by the property owners/managers.

The proposed project includes an option to construct and operate an on-site wastewater treatment plant that would employ a membrane bioreactor, which is a hybrid of a conventional biological wastewater treatment system with a physical liquid/solid separation process that uses microfiltration. The wastewater would be treated to levels acceptable for reuse as irrigation and toilet flushing (non-potable water). The water would not be treated to drinking water standards and would therefore not be disinfected using drinking water disinfection chemicals, such as sodium hypochlorite. However, it is assumed that some cleaning solutions would be stored and used on-site to clean the system's filters and pipes. In addition, the treatment process would create waste solids (e.g., concentrated solids, salt, and other pollutants). As a water treatment facility, the on-site wastewater treatment plant would be required to acquire an operating permit from the Regional Water Quality Control Board. The permit would include routine testing to ensure that the treated water meets non-potable reuse standards. The on-site wastewater treatment plant and its operating regulations are discussed further in Section 3.8, *Hydrology and Water Quality*.

Finally, the facilities proposed by the project would be required to comply with the development standards of the municipal stormwater permit for municipal separate storm sewer systems, as discussed in Section 3.8, *Hydrology and Water Quality*, Section 3.8.2, *Regulatory Framework*, which would reduce pollutants and runoff flows from new development and redevelopment using BMPs and Low Impact Development/post-construction standards.

The required compliance with the numerous laws and regulations discussed above that govern the transportation, use, storage, handling, and disposal of hazardous materials—such as the code requirements of the City of San José Fire Department, San José–Santa Clara Wastewater Treatment Facility, SCCDEH, and Caltrans—would limit the potential for the project to create hazardous conditions from the use or accidental release of hazardous materials. Therefore, this impact would be **less than significant**.

Mitigation: None required.

Impact HA-2: The proposed project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. ***(Less than Significant with Mitigation)***

As discussed in Section 3.7.1, *Environmental Setting*, there are two schools within 0.25 miles of the project site: Gardner Elementary, 502 Illinois Avenue, about 0.22 miles southeast of the

project site; and Santa Clara County Community School, 258 Sunol Street, about 0.15 miles west of the project site. The use, transportation, or accidental spill of hazardous materials could result in exposures or inadvertent releases, which could adversely affect schools.

Construction

As discussed in Impact HA-1, construction would be expected to use fuels, oils and lubricants, solvents and cleaners, glues and adhesives, paints and thinners, degreasers, cement and concrete, asphalt mixtures, and other typical construction materials. However, construction contractors would be required to implement their respective Hazardous Materials Business Plans, which would include BMPs to properly transport, use, store, and dispose of hazardous materials. In addition, the transportation of hazardous materials would be required to comply with DOT, Caltrans, and CHP regulations for the containerization, labeling, and transportation of hazardous materials.

As discussed in Section 3.7.1, *Environmental Setting*, some parcels on the project site have chemicals at concentrations above screening levels in soil, soil gas, groundwater, and/or building materials. As part of the proposed project, hazardous materials would be removed, treated, and/or encapsulated to prevent exposure to construction workers, the public, and the environment. The removal of hazardous materials would include transporting the hazardous materials on city streets to off-site treatment or disposal facilities. The routes would be from streets within the project site to major roadway arteries, including Interstate 280 south of the project site and State Route 87 east of the project site.

Gardner Elementary School is southeast of the project site, is not on a major roadway, and is located on the south side of Interstate 280. Santa Clara County Community School is west of the project site in the middle of a north-south block; the east-west streets from the project site do not pass by this school and the local streets close to this school are not access routes to Interstate 280 or State Route 87, which would be the access routes to the project site. Vehicles accessing and leaving the project site during construction and operations would not be expected to pass by or near these schools; therefore, hazardous materials would not be transported past them. In addition, as discussed in Impact HA-1, DOT, Caltrans, and the CHP would regulate the containerization and transportation of hazardous materials. Together, federal and state agencies determine driver-training requirements, load-labeling procedures, and container specifications designed to minimize the risk of an accidental release.

As discussed above, the materials transportation routes would not pass by area schools, and numerous regulations are enforced to ensure the safe containerization, handling, and transportation of hazardous materials. Nonetheless, the two schools are located within one-quarter mile of the project site, and remediation of the various hazardous materials sites on the project footprint could involve transporting hazardous waste. To mitigate the handling of hazardous materials during the project site cleanup, the proposed project would implement **Mitigation Measure HA-3b, Health and Safety Plan**, and **Mitigation Measure HA-3c, Site Management Plan** (discussed below under Impact HA-3). Implementing these mitigation measures would ensure that the hazardous waste is containerized, handled, and transported safely and in accordance with all applicable federal, state, and local regulations. Because the project would comply with existing regulations and would implement Mitigation Measures HA-3b and HA-3c

regarding the containerization, labeling, and transportation of hazardous materials, and because the routes of traffic from the project site would not pass by area schools, the impact would be **less than significant with mitigation incorporated**.

Mitigation Measures

Mitigation Measure HA-3b: Health and Safety Plan (refer to Impact HA-3)

Mitigation Measure HA-3c: Site Management Plan (refer to Impact HA-3)

Significance after Mitigation: Less than significant.

Operations

Once construction is complete, the residential and commercial uses on the project site would be expected to use common maintenance products, such as cleaning products, paints, and thinners, and potentially small quantities of hazardous substances associated with their respective uses. The on-site wastewater treatment facility and the heated/chilled water would periodically use cleaning and/or mildly acidic solutions to clean system filters and pipes. The solid waste facility would use hydraulic oil in the pneumatic pistons. None of these activities would require transporting large amounts of hazardous materials. In addition, as discussed above under *Construction*, transportation routes from the project site would not pass by area schools. During operations, **no impact** would occur.

Mitigation: None required.

Impact HA-3: The proposed project is 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 create a significant hazard to the public or the environment. *(Less than Significant with Mitigation)*

Construction

As discussed above in Section 3.7.1, *Environmental Setting*, under *On-Site Conditions*, at least 51 of the parcels on the project site are known to have soil, soil gas, and/or groundwater with chemical concentrations above screening levels. As a result, some of the parcels are listed on the Government Code Section 65962.5 (Cortese) list of hazardous materials sites.

In addition, certain parcels on the project site have land use covenants or similar land use restrictions because of the presence of on-site hazardous materials: Lots A, B, and C (APNs 259-28-031, 259-28-041, 259-28-043, and 259-28-044); Lot D (APN 259-38-130); and APN 261-35-014. These covenants or similar restrictions enforce land use restrictions, require regulatory agency approvals before the parcels are disturbed, and require that soil and groundwater management plans be implemented if contaminated materials are to be disturbed. Given the long history of industrial use throughout the project site and surrounding area, undiscovered contaminated areas may be encountered during redevelopment of the parcels. Finally, development of the project may encounter fuel or oil USTs, for either home heating or industrial use, that were not documented and left in place.

Therefore, construction activities are expected to encounter hazardous materials, which would be a **significant** impact. To address encountering contaminated materials during construction and site cleanups, the proposed project would implement the following mitigation measures:

- For parcels with land use restrictions:
  - **Mitigation Measure HA-3a: Land Use Limitations**
  - Mitigation Measure HA-3b: Health and Safety Plan
  - Mitigation Measure HA-3c: Site Management Plan
  - **Mitigation Measure HA-3d: Vapor Mitigation** (for sites impacted with VOCs at concentrations above applicable screening levels for the intended land use)
- For all parcels with known or suspected contamination:
  - Mitigation Measure HA-3b: Health and Safety Plan
  - Mitigation Measure HA-3c: Site Management Plan
  - Mitigation Measure HA-3d: Vapor Mitigation (for sites impacted with VOCs at concentrations above applicable screening levels for the intended land use)
- For all other parcels:
  - Mitigation Measure HA-3b: Health and Safety Plan

Further, as discussed in Section 3.7.1, *Environmental Setting*, certain parcels are known to have soil gas concentrations above soil gas screening levels. In addition, the completion of Phase II investigations discussed in Mitigation Measure HA-3c may result in identification of additional parcels where soil gas concentrations exceed soil gas screening levels. Parcels with soil gas with concentrations that exceed screening levels may pose a risk to residential, commercial, and industrial occupants by seeping into structures and increasing the concentrations in indoor air to above indoor air action levels—specifically the screening levels listed in Table 3, *Screening Levels for Ambient Air*, in Department of Toxic Substances Control's (DTSC's) *Human Health Risk Assessment (HHRA) Note Number: 3, DTSC-Modified Screening Levels (DTSC-SLs)*, released in April 2019. These are recently promulgated screening levels specific to indoor air.

Implementing Mitigation Measures HA-3a through HA-3d, as applicable, would reduce this impact to **less than significant with mitigation incorporated**.

Mitigation Measures

Mitigation Measure HA-3a: Land Use Limitations

Before construction activities on parcels with land use covenants, other regulatory land use restrictions, open remediation cases, or contamination identified as part of a Phase II investigation above regulatory environmental screening levels, the project applicant for the specific work proposed shall obtain regulatory oversight from the appropriate agency. The project applicant shall perform further environmental investigation or remediation as needed to ensure full protection of construction workers, the environment, and the public.

For properties with land use limitations, the limitations and restrictions may be reduced or removed entirely if the underlying contamination is removed or treated to below the regulatory screening levels for the proposed land use (residential, commercial, or industrial). The project applicant shall be required to prepare a remedial action plan describing the

proposed cleanup actions, the target cleanup levels, and the proposed land use after cleanup. The remedial action plan shall be submitted to the regulatory agency enforcing the land use limitations for its review and approval. Upon regulatory agency approval, the project applicant shall implement the remedial action to clean up the site, followed by confirmation sampling and testing of soil, soil gas, and/or groundwater to verify that the cleanup achieved the target cleanup levels. The project applicant shall prepare a report documenting the cleanup activities, comparing the sample results to the target cleanup levels, and request that the land use limitations be modified or removed. The regulatory agency shall review the report and, if satisfied that the cleanup is sufficient, modify or remove the land use limitations. The report shall also be submitted to the Environmental Services Department's Municipal Environmental Compliance Officer.

For properties with land use covenants (LUCs) that have incomplete Phase II investigations or that need further investigation to inform changes or removals of LUCs, Phase II investigations shall be performed before the start of any construction activities. If the Phase II investigations show soil, soil gas, and/or groundwater concentrations that exceed regulatory screening levels, the project applicant shall obtain regulatory oversight from the appropriate regulatory agency. The project applicant shall perform further environmental investigation and remediation if needed to ensure full protection of construction workers, the environment, and the public. Mitigation Measures HA-3b and HA-3c, described below, would be required and would describe the remediation measures to be implemented. Mitigation Measure HA-3d, described below, may also be implemented if appropriate to the particular site.

Mitigation Measure HA-3b: Health and Safety Plan

Before the start of ground-disturbing activities, including grading, trenching, or excavation, or structure demolition on parcels within the project site, the project applicant for the specific work proposed shall require that the construction contractor(s) retain a qualified professional to prepare a site-specific health and safety plan (HSP) in accordance with federal Occupational Safety and Health Administration regulations (29 CFR 1910.120) and California Occupational Safety and Health Administration regulations (8 CCR Section 5192).

The HSP shall be implemented by the construction contractor to protect construction workers, the public, and the environment during all ground-disturbing and structure demolition activities. HSPs shall be submitted to the Director of Planning, Building, and Code Enforcement, or the Director's designee, the Environmental Services Department Municipal Environmental Compliance Officer, and any applicable oversight regulatory agency (if regulatory oversight is required) for review before the start of demolition and construction activities and as a condition of the grading, construction, and/or demolition permit(s). The HSP shall include, but not be limited to, the following elements:

- Designation of a trained, experienced site safety and health supervisor who has the responsibility and authority to develop and implement the site HSP.
- A summary of all potential risks to demolition and construction workers and maximum exposure limits for all known and reasonably foreseeable site chemicals.
- Specified personal protective equipment and decontamination procedures, if needed.

- The requirement to prepare documentation showing that HSP measures have been implemented during construction (e.g., tailgate safety meeting notes with signup sheet for attendees).
- A requirement specifying that any site worker who identifies hazardous materials has the authority to stop work and notify the site safety and health supervisor.
- Emergency procedures, including the route to the nearest hospital.
- Procedures to follow if evidence of potential soil or groundwater contamination is encountered (such as soil staining, noxious odors, debris or buried storage containers). These procedures shall be followed in accordance with hazardous waste operations regulations and specifically include, but not be limited to, immediately stopping work in the vicinity of the unknown hazardous materials release; notifying the PBCE and the regulatory agency overseeing site cleanup, if any; and retaining a qualified environmental firm to perform sampling and remediation.

Mitigation Measure HA-3c: Site Management Plan

In support of the health and safety plans described in Mitigation Measure HA-3b, the project applicant for the specific work proposed shall develop and require that its contractor(s) develop and implement site management plans (SMPs) for the management of soil, soil gas, and groundwater before any ground-disturbing activity for all parcels with land use limitations and all parcels with known or suspected contamination. SMPs may be prepared for the entire project site, for groups of parcels, or for individual parcels. In any case, all such parcels shall be covered by an SMP. Each SMP shall include the following, at a minimum:

- Site description, including the hazardous materials that may be encountered.
- Roles and responsibilities of on-site workers, supervisors, and the regulatory agency.
- Training for site workers focused on the recognition of and response to encountering hazardous materials.
- Protocols for the materials (soil and/or dewatering effluent) testing, handling, removing, transporting, and disposing of all excavated materials and dewatering effluent in a safe, appropriate, and lawful manner.
- Reporting requirement to the overseeing regulatory agency and the Planning, Building, and Code Enforcement (PBCE), documenting that site activities were conducted in accordance with the SMP.

SMPs for parcels with soil, soil gas, and/or groundwater above environmental screening levels for the proposed land use shall be submitted to the regulatory agency with jurisdiction (i.e., Department of Toxic Substances Control, the Regional Water Quality Control Board, or the SCCDEH), for review, and to the Director of Planning, Building, and Coded Enforcement or the Director's designee, and the Environmental Services Municipal Environmental Compliance Officer to inform their permit approval process before the start of demolition and construction activities and as a condition of the grading, construction, and/or demolition permit(s). The overseeing regulatory agency, if it accepts oversight, will require enrolment in its cleanup program and payment for oversight. The Contract specifications shall mandate full compliance with all applicable federal, state, and local regulations related to the identification, transportation, and disposal of hazardous materials.

For work at parcels that would encounter groundwater, as part of the SMPs, contractors shall include a groundwater dewatering control and disposal plan specifying how groundwater (dewatering effluent), if encountered, will be handled and disposed of in a safe, appropriate, and lawful manner. The groundwater portion of the SMPs shall include the following, at a minimum:

- The locations at which groundwater dewatering is likely to be required.
- Test methods to analyze groundwater for hazardous materials.
- Appropriate treatment and/or disposal methods.
- Discussion of discharge to a publicly owned treatment works or the stormwater system, in accordance with any regulatory requirements the treatment works may have, if this effluent disposal option is to be used.

Mitigation Measure HA-3d: Vapor Mitigation

To mitigate exceedances of indoor air standards, the project applicant shall incorporate at least one or more of the vapor mitigation methods listed below on each parcel known to have soil gas concentrations above soil gas screening levels or identified to have concentrations above screening levels as a result of Phase II investigations included in Mitigation Measure HA-3c. The proposed work-specific vapor mitigation, if not in compliance with then-current guidance, must be pre-approved by the applicable regulatory oversight agency (e.g., DTSC, the Regional Water Quality Control Board, or the Santa Clara County Department of Environmental Health [SCCDEH]):

- Excavate and remove contaminated materials (soil and, if needed, groundwater), to levels where subsequent testing verifies that soil gas levels are below screening levels. This approach would remove the source of soil gas and would not require a physical barrier such as a high-density polyethylene vapor barrier to prevent vapor intrusion.
- Install a physical vapor barrier (e.g., liner) beneath the structure foundation that prevents soil gas from seeping into breathing spaces inside the structure.
- Install a passive or powered vapor mitigation system layer that draws soil gas out of the under-foundation base rock and directs that soil gas to a treatment system to prevent people from being exposed outdoors.

Upon completion, the project applicant shall prepare a report documenting the testing results and installed vapor mitigation method and submit the report to the regulatory agency with jurisdiction (i.e., DTSC, SCCDEH, or the Regional Water Quality Control Board). A copy of the report shall be provided to Director of Planning, Building and Code Enforcement, or the Director's designee, and the Environmental Services Department Municipal Environmental Compliance Officer to inform them of compliance with this requirement. The implemented mitigation measure shall result in indoor air concentrations that do not exceed the screening levels provided in the above-referenced DTSC HHRA Note 3.

Significance after Mitigation: Less than significant.

Operation

As discussed above under *Construction*, Mitigation Measures HA-3a through HA-3d would require the proposed project to conduct site investigations and cleanups, as needed; address land use limitations imposed by regulatory agencies, where existing and if needed; implement HSPs (and SMPs as appropriate) for each parcel or group of parcels on the project site, depending on parcel conditions; and install vapor mitigation, where needed. With implementation of the mitigation measures during construction, hazardous materials, if present, would be removed, treated, or encapsulated before operations. In addition, certain parcels (previously identified above) have land use covenants that include requirements to periodically inspect and maintain the site remedies (e.g., caps that isolate buried contaminated materials, and/or restrictions on specific types of land uses). After the completion of construction activities, contamination would be reduced to below all applicable screening levels, regulatory cleanup levels, or isolated under caps that may not be disturbed as enforced by an LUC. Although parcels may remain on the Cortese List and be identified as closed sites, the parcels would no longer pose a threat to the public, construction workers, or the environment because they would have been treated, mitigated, cleaned up, or capped. With compliance with existing regulations and implementation of the mitigation measures during the construction phase discussed above, hazardous materials issues, where present, would have been addressed. This impact would be **less than significant**.

Mitigation: None required.

Impact HA-4: The proposed project is 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, but would not result in a safety hazard or excessive noise for people residing or working in the project area. ***(Less than Significant with Mitigation)***

As discussed above in Section 3.7.1, *Environmental Setting, Proximity to Airports*, Norman Y. Mineta San José International Airport is about one mile northwest of the project site. Part of the project site is located within the Airport Influence Area for the Airport as delineated in the Airport's CLUP. Accordingly, the CLUP's noise compatibility and height compatibility policies would be applicable to the project. The applicability of CLUP noise policies to the project is discussed in Section 3.10, *Noise and Vibration*, which identifies **Mitigation Measure NO-3, Exposure to Airport Noise**. This measure would require that residential structures located within the Airport's 2037 65 CNEL noise contour for operation of the 2020 *SJC Airport Master Plan Update* include noise reduction measures (e.g., sound-rated window, wall, and door assemblies) to achieve an acceptable interior noise level in accordance with the land use compatibility guidelines of the Noise Element of the General Plan Despite this measure, Impact NO-3 was determined to be significant an unavoidable because of a conflict with CLUP Policy N-4. (This policy prohibits residential or transient lodging within the 65 dBA CNEL contour boundary unless it can be demonstrated that the resulting interior sound levels would be less than 45 dBA CNEL and there are no outdoor patios or outdoor activity areas associated with the residential portion of a mixed-use residential project or a multi-unit residential project.) Notwithstanding the significant impact resulting from the inconsistency with CLUP Policy N-4, exposure to aircraft noise at the levels that currently exist, and that would exist in the future, on the project site would not result in adverse health or safety impacts, with implementation

of Mitigation Measure NO-3 to ensure acceptable indoor noise levels. This is because, as explained in the noise analysis, indoor noise levels would be acceptable and projected exposure to outdoor noise would not exceed 77 CNEL. A noise exposure of 77 CNEL is equivalent to a 24 hour exposure of 70 dBA Leq, a level under which EPA[103] has determined is protective for the purposes of hearing conservation. Furthermore—if outdoor exposure is determined to be a nuisance (which would not be considered a hazardous condition), this could be easily avoided by moving indoors from outdoor open space such as a balcony or patio. Accordingly, with implementation of Mitigation Measure NO-3, the hazards-related effect would be rendered less than significant, and the remainder of this discussion focuses on compatibility of the proposed project with the CLUP safety-related policies that are not analyzed elsewhere in the EIR.

As discussed above in Section 3.7.2, *Regulatory Framework*, the currently approved Maximum Structure Heights (defined by the elevation of the Airport's FAR Part 77 imaginary surfaces) that extend south from the Airport on the project range from 65 to 130 feet above grade in the southern portion of the site, 130 feet in the site's central area, and from 80 to 100 feet at the site's northern parcels. As discussed in Chapter 2, Section 2.5, *Building Heights*, in March 2019, the San José City Council directed Planning Department staff to develop new height limits for portions of the downtown area based on FAA regulations for aircraft operations at the Airport. Once approved, the future height restrictions will range from 235 feet elevation amsl at the north edge of the project site (APN 259-26-017) to 390 feet amsl from the southern border of APN 261-37-031 to farther south (to the highest point of the structure).

Because the Maximum Structure Heights applicable to the proposed project would not exceed the FAR Part 77 imaginary airspace surfaces, the project would be consistent with Height Restriction Policies H-1 and H-2. However, according to Policy T-1 in the CLUP, the proponent for any project in Santa Clara County that would construct or alter a structure higher than 200 feet above ground level must submit a completed copy of FAA Form 7460-1, *Notice of Proposed Construction or Alteration*, to the FAA. Submitting this form prompts the FAA to prepare an aeronautical study to determine whether the structure would be a hazard to air navigation. This requirement applies to both permanent buildings and temporary structures (e.g., construction cranes). Upon completing the aeronautical study, the FAA would either issue a "Determination of Hazard," meaning that the project would cause airspace impacts that would have a substantial adverse effect on air navigation, or a "Determination of No Hazard," meaning that the project would not be a hazard to air navigation. In determining that a structure would not be a hazard to air navigation, the FAA may recommend the application of lighting and marking consistent with the guidance in FAA Advisory Circular 70/7460-1, Obstruction Marking and Lighting. The project applicant would be required to obtain a "Determination of No Hazard" from the FAA before the City issues building permits.

[103] U.S. Environmental Protection Agency, *Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety*, March 1974. Available at https://nepis.epa.gov/Exe/ZyPDF.cgi/2000L3LN.PDF?Dockey=2000L3LN.PDF.

Policy T-1 requires that both a copy of Form 7460-1 and the FAA's hazard determination be sent to the ALUC as part of a submittal seeking a determination of consistency with the CLUP. The proposed project would be submitted to the ALUC for a consistency determination.

Should the ALUC determine that the project is inconsistent with the CLUP, the ALUC would notify the City. In such an event, California Public Utilities Code Section 21676(b) permits a local agency, such as the City of San José, to overrule the ALUC if the City Council votes, by a two-thirds margin and following a public hearing, to do so.

To override the ALUC determination, the City Council must make specific findings that the proposed action is consistent with the purposes the of the State Aeronautics Act (Public Utilities Code Section 21670 et seq.) "to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses" (California Public Utilities Code Section 21670(a)(2)). The City must provide at least 45 days' notice to the ALUC of a proposed decision to overrule the ALUC, and the ALUC and the California Division of Aeronautics (a part of Caltrans) may provide advisory comments to the City within 30 days of receiving the City's proposed decision and findings; any such comments must be included in the public record of any final decision to overrule the ALUC.[104]

Because the project applicant would be required to obtain an FAA "Determination of No Hazard," and because—in the event the ALUC determines the project is inconsistent with the CLUP—the City would have to make findings that the project would protect public health, safety, and welfare and minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses, this impact would be less than significant **with mitigation**.

Mitigation Measure

Mitigation Measure NO-3: Exposure to Airport Noise (refer to Section 3.10, *Noise and Vibration*)

Significance after Mitigation: Less than significant.

Impact HA-5: The proposed project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. ***(Less than Significant)***

Construction

Project construction activities would occur mostly within the footprint of parcels on the project site, with the exception of the off-site transportation of equipment and materials; utility

[104] It is noted that the City Council in 2016 made such findings in overruling the ALUC with respect to the Delmas Mixed-Use Development Project on the former San Jose Water Company site, which occupies the portion of the project site just south of West Santa Clara Street, east and west of Delmas Avenue (File Nos. PDC15-051, PD15-061, PT16-012, and HP16-002).

improvements on adjacent streets; and off-site transportation improvements (described in Section 2.7.6, *Off-Site Transportation Improvements*). Construction equipment and materials would enter and exit parcel work sites via existing public roads. The temporary increases in construction traffic and potential temporary closures of nearby roads could interfere with emergency services traffic in the project vicinity.

The City of San José would require the preparation and implementation of construction traffic plans for each parcel, group of parcels, or off-site improvements as condition of construction and building permits. The construction traffic plans would manage the movement of vehicles, including those transporting hazardous materials, on roads. Although construction activities may result in temporary single-lane closures, these activities would not require the complete closure of streets. Therefore, emergency access would be maintained.

During the construction of the new egress for the SAP Center, the fire department would not allow egress construction to occur at the same time as an event. Therefore, the construction activities would not interfere with emergency access for the SAP Center. In addition, the removal and replacement of the SAP Center stairs would be required to conform with building and fire code requirements, ensuring adequate egress during emergencies.

With implementation of the required construction traffic plans, the volume and timing of construction traffic would be managed to avoid adversely affecting the level of service on nearby roads. The impact of the proposed project relative to emergency response or evacuation plans would be **less than significant**.

Mitigation: None required.

Operation

The proposed project's land uses would increase the daily population at the project site, including from increases of employees and patrons of commercial enterprises, and increases in the permanent residential population. Adequate emergency response and evacuation plans would be needed to serve the project in the event of a large natural or man-made emergency.

As discussed in Section 3.7.2, *Regulatory Framework*, the City of San José adopted the Emergency Operations Plan, an extension of the state's California Emergency Plan. Under this plan, the City has established policies and procedures to respond to a variety of emergencies. In addition, the City participates in the Association of Bay Area Governments' Local Hazard Mitigation Plan, *Taming Natural Disasters*. These plans have established policies and procedures for responding to earthquakes, fires, extreme weather, public health emergencies, technological and resource emergencies, hazardous materials incidents, terrorism, floods, and landslides.

As discussed in Section 3.12, *Public Services and Recreation*, new development on the project site would be reviewed by SJFD to ensure that the street system serving the proposed land uses would accommodate emergency response and evacuation. In addition, as discussed in Section 3.13, *Transportation*, the proposed project would include a program for managing traffic and minimizing congestion on and surrounding the project site during construction activities.

As discussed in Impact TR-4 in Section 3.13, *Transportation*, roadway extensions and new streets would need to comply with the City of San José's Complete Streets Design & Guidelines (May 2018), which include design specifications that consider emergency vehicle access requirements. All new street segments would be designed in accordance with City policies, would provide adequate emergency vehicle access, and would not impede emergency vehicle access to the project site and surrounding area.

As discussed in Section 2.7, *Transportation and Circulation*, the proposed project would establish the required emergency vehicle access at the northern end of the site before occupancy. The proposed project has evaluated a range of options for a new at-grade railroad crossing or new grade separation under the railroad. Grade separation options proposed by the project include an underpass at Lenzen Avenue or North Montgomery Street. The project does not propose a grade separation over the railroad because the elevations required for rail clearance would not be feasible given the current roadway geometry. At-grade rail crossing options proposed by the project include modifying the existing North Montgomery Street at-grade crossing or constructing a new at-grade crossing on the north leg of the Warm Springs wye[105] (the Union Pacific Railroad track that runs southeasterly from the Caltrain tracks north of the project site) to the San Jose Market Center (the retail center northeast of the site). In addition, with the introduction of new technologies, such as remotely controlled bollards/gates, integrated communications between building fire alarm systems and rail and/or mass notification systems, North Montgomery Street could potentially continue to serve as the sole access point for emergency vehicles.

The specific proposal for emergency vehicle access has not been finalized because of the need to coordinate with other efforts that affect the feasibility of certain options. The City is applying to the Federal Railroad Administration for a quiet zone on the Warm Springs corridor from North Montgomery Street to Horning Street, about a mile northeast of the project site, which may include improvements to the North Montgomery Street at-grade railroad crossing. In addition, the Diridon Integrated Station Concept Plan partner agencies are studying a concept layout that would elevate the railroad tracks that currently limit access to the north end of the site. Elevation of the tracks, consistent with the Concept Layout, would allow for at-grade or nearly at-grade reconnections of streets to the north end of the site. These streets could include North Autumn Street, Cinnabar Street (note that Cinnabar Street would provide no benefit as long as PG&E retains its existing service yard east of Stockton Avenue), and Lenzen Avenue. Any new emergency vehicle access proposed by the project at the north end of the site could be reconfigured, replaced, or supplemented by alternative access options at the time that the railroad is elevated as proposed by the Diridon Integrated Station Concept Plan partner agencies. The new at-grade or grade-separated crossing ultimately proposed by the project would require coordination with the City as well as the California Public Utilities Commission and/or the Federal Railroad Administration, and Caltrain and Union Pacific Railroad as applicable. This action would increase the amount of emergency access.

Finally, California Fire Code Chapter 10, *Means of Egress*, requires that all habitable structures—both residential and commercial buildings—comply with all relevant sections of the Fire Code, which includes designing structures to enable ingress and egress during fires and other

[105] A wye is a triangle of railroad track used for turning locomotives or trains.

emergencies. The code includes design for ingress and egress, emergency escape routes, exit design requirements, and lighting.

The proposed project and existing emergency response requirements are sufficient to ensure that the impact of the proposed project related to possible impairment or implementation of any emergency response or evacuation plans would be **less than significant**.

Mitigation: None required.

Cumulative Impacts

This section analyzes the cumulative effects of the proposed project in combination with other past, present, and reasonably foreseeable future projects that could cause cumulatively considerable impacts.

The geographic area affected by the proposed project and its potential to contribute to cumulative impacts vary based on the environmental resource under consideration. The geographic scope of the analysis for cumulative hazardous materials impacts encompasses and is limited to the project site and its immediately adjacent area. Impacts related to hazardous materials are generally site-specific and depend on the nature and extent of the hazardous materials release, and on existing and future soil and groundwater conditions. For example, most hazardous materials incidents tend to be limited to a smaller, more localized area surrounding the immediate spill location and extent of the release, and could be cumulative only if two or more hazardous materials releases were to spatially overlap.

The timeframe during which the proposed project could contribute to cumulative hazards and hazardous materials effects includes the construction and operational phases. For the proposed project, the operational phase is relatively permanent. However, similar to the geographic limitations discussed above, it should be noted that impacts related to hazardous materials are generally time-specific. Hazardous materials events could be cumulative only if two or more hazardous materials releases were to occur at the same time, and overlap at the same location.

A significant cumulative impact related to hazards and hazardous materials could occur if the incremental impacts of the project were to combine with the incremental impacts of one or more of the cumulative projects identified in Table 3-1 and Figure 3-1 at the beginning of Chapter 3, *Environmental Setting, Impacts, and Mitigation*, to substantially increase cumulative impacts.

Impact C-HA-1: The proposed project would not combine with other projects to result in significant cumulative impacts related to hazardous materials. *(Less than Significant with Mitigation)*

Cumulative Impacts during Project Construction

Routine Transport, Use, and Disposal; Accidental Spills; and Proximity to Schools

All of the cumulative projects would be subject to the same regulatory requirements as discussed for the proposed project, including the implementation of Hazardous Materials Business Plans to

ensure the safe and legal management of hazardous materials and the establishment of spill response protocols. Cumulative projects involving the use or spillage of hazardous materials also would be required to manage hazardous materials on their respective sites to the same established regulatory standards. This cumulative impact would be **less than significant**.

Hazardous Materials Sites

Relative to hazardous materials sites, as discussed in Section 3.7.1, *Environmental Setting*, under *Off-Site Conditions*, and shown on Figure 3.7-6, *Nearby Off-Site Hazardous Materials Sites*, a number of sites with known hazardous materials issues are near the project site, and have the potential to result in cumulative impacts.

The regulatory statuses of most of the nearby hazardous materials sites are closed or pending closure, meaning that cleanup at these sites was conducted to the satisfaction of the overseeing regulatory agency. Closure granted by the regulatory agency means that, based on the testing data, the regulatory agency is satisfied that the site does not pose a threat to the public or the environment, including nearby properties. As discussed in Section 3.7.1, *Environmental Setting*, under *Off-Site Conditions*, the only off-site cases that have the potential to combine with the project site for a cumulatively considerable impact would be Site 20, Dariano & Sons at 638 Auzerais Avenue, an open UST site with verification monitoring, and the Diridon Caltrain Station parking lots, with several contamination sources that may extend to within the project site.

Site 20 has soil and groundwater contaminated with gasoline, and this site has been undergoing investigation and remediation. Gasoline has been reported floating on groundwater beneath this site since 2005. Ongoing remediation consists of soil vapor extraction. The direction of groundwater flow has been mostly to the southwest, generally parallel to the southern border of the project site, but has fluctuated with some observed flow directions to the south. Given the location immediately adjacent and south of the project site, contaminated groundwater—including floating gasoline—may extend to the southern border of the project site. This could result in a cumulatively considerable impact.

Site 20 would be subject to the same regulatory requirements as discussed for the proposed project, including the implementation of health and safety plans and soil and groundwater management plans, as needed. That is, the owner of Site 20 is being required to remediate its site to established regulatory standards. This would be the case regardless of the number, frequency, or size of the release(s), or the residual amount of chemicals present in the soil from previous spills. The responsible party for Site 20 would be required to remediate site conditions to the same established regulatory standards.

However, Site 20 is currently undergoing investigation and cleanup, and the cleanup may not be complete before construction of the proposed project begins. Therefore, depending on the timing of project construction and the depth of construction that might encounter contaminated soil and groundwater, the proposed project and Site 20 could result in a cumulatively considerable impact that would require mitigation.

The historical records for the Diridon Caltrain Station parking lots indicate previous industrial use. USTs and contaminated soil have been removed. However, the remaining soil and groundwater have concentrations above various soil and groundwater screening levels. It is unknown whether contamination from the prior uses has migrated east to the parcels of the proposed project.

As discussed in Section 2.7.6, *Off-Site Transportation Improvements*, under *SAP Center Parking*, additional SAP Center parking could be developed off-site in the vicinity of the project, including on a group of assessor's parcels known as "Lot E." Although the specific parcels have not been selected, the properties under consideration would potentially include Site 10, San Jose Foundry, and Site 11, Manada Tile, discussed above in the *Off-Site Conditions* section. As listed on Table 3.7-2, both sites are former UST sites that have been closed to the satisfaction of the regulatory agencies. Consequently, construction at these two sites would not be expected to encounter hazardous materials and would not contribute to cumulative impacts.

As discussed above in Impact HA-3, the proposed project would implement Mitigation Measures HA-3b, Health and Safety Plan; HA-3c, Site Management Plan; and HA-3d, Vapor Mitigation. In particular, Mitigation Measure HA-3c requires that contractors develop a groundwater dewatering control and disposal plan specifying how groundwater (dewatering effluent), if encountered, will be handled and disposed of in a safe, appropriate, and lawful manner. The Site Management Plan must identify the locations at which groundwater dewatering is likely to be required, the test methods for analyzing groundwater for hazardous materials, the appropriate treatment and/or disposal methods, and licensed treatment or disposal facilities permitted to accept the waste. The contractor(s) may also discharge the effluent under an approved permit to a publicly owned treatment works, in accordance with any requirements the treatment works may have. Implementing the Site Management Plan would reduce the project's contribution to any cumulative impacts to **less than cumulatively considerable**. Therefore, the cumulative impact would be **less than significant with mitigation incorporated**.

Mitigation Measures

Mitigation Measure HA-3b, Health and Safety Plan (refer to Impact HA-3)

Mitigation Measure HA-3c, Site Management Plan (refer to Impact HA-3)

Mitigation Measure HA-3d, Vapor Mitigation, as appropriate (refer to Impact HA-3)

Significance after Mitigation: Less than Significant

Cumulative Impacts during Project Operations

Routine Transport, Use, and Disposal; Accidental Spills; and Proximity to Schools

Significant cumulative impacts related to operational hazards could occur if the incremental impacts of the proposed project were to combine with those of one or more of the cumulative projects to cause a substantial increase in risk that people or the environment would be exposed to hazardous materials used or encountered during the operations phase.

As discussed under Impact 3.7-1, operation of the project facilities would require the use of various chemicals including solvents and cleaning agents, paints and thinners, and other chemicals associated with routine operations and maintenance activities. Compliance with the various

regulations for the safe transport, use, storage, and disposal of hazardous materials would reduce the project-specific incremental impact to a less-than-significant level.

Similar to the proposed project, the cumulative project components involving the handling, storage, and disposal of hazardous materials would be required to prepare and implement a Hazardous Materials Business Plan and comply with applicable regulations, including those governing containment, site layout, and emergency response and notification procedures in the event of a spill or release. Transportation and disposal of wastes, such as spent cleaning solutions, would also be subject to regulations for the safe handling, transportation, and disposal of chemicals and wastes. As noted previously, such regulations include standards to which parties responsible for hazardous materials releases must return spill sites, regardless of location, frequency, or size of release, or existing background contaminant concentrations to their original conditions.

Compliance with existing regulations regarding hazardous materials transport would reduce the risk of environmental or human exposure to such materials. The combined effects of the proposed project and cumulative projects would result in a **less-than-significant cumulative impact**.

Hazardous Materials Sites

Once project construction has been completed, hazardous materials issues on the project site would have been addressed and would not be able to combine with hazardous materials issues from cumulative projects. Accordingly, the proposed project and cumulative projects would result in a **less-than-significant cumulative impact**.

Mitigation: None required.

Impact C-HA-2: The proposed project would not combine with other projects to result in significant cumulative impacts related to proximity to airports. ***(Less than Significant with Mitigation)***

Cumulative Impacts during Project Construction

The cumulative sites listed on Figure 3-1 that are west of State Route 87 are within the FAR Part 77 building height restriction area south of Norman Y. Mineta San José International Airport. As discussed previously in Section 3.7.2, *Regulatory Framework, City of San José Downtown Airspace Development Capacity Study*, the height limits are in the process of being revised, which will result in an increase in the allowable building heights. Similar to the proposed project, cumulative projects that would include the construction of structures within the building height restriction area would be subject to the same height restrictions as discussed above in Impact HA-4. In addition, for cumulative projects located within the Airport Influence Area for the Airport as delineated in the Airport's CLUP, CLUP noise compatibility policies would be applicable to the cumulative project. CLUP noise policies are discussed in Section 3.10, *Noise and Vibration*, and would be required to implement a mitigation measure similar to Mitigation Measure NO-3 discussed above in Impact HA-4. Compliance with those restrictions would be a condition of their construction permits. As described in Impact HA-4, exposure to aircraft noise would not result in adverse health or safety impacts with implementation of Mitigation Measure NO-3 to ensure acceptable indoor noise levels and therefore the hazards-related effect would be rendered

less than significant with mitigation. Accordingly, the proposed project and cumulative projects would result in a **less-than-significant cumulative impact with mitigation**.

Mitigation Measure

Mitigation Measure NO-3: Exposure to Airport Noise (refer to Section 3.10, *Noise and Vibration*)

Significance after Mitigation: Less than significant.

Cumulative Impacts during Project Operations

Once project construction has been completed for both the proposed project and cumulative projects, structure height restrictions would have been complied with as a condition of their construction permits. Accordingly, the proposed project and cumulative projects would result in a **less-than-significant cumulative impact**.

Mitigation: None required.

Impact C-HA-3: The proposed project would not combine with other projects to result in significant cumulative impacts related to impairment of implementation of or physical interference with adopted emergency response or evacuation plans. ***(Less than Significant)***

Cumulative Impacts during Project Construction

Similar to the proposed project, cumulative projects that would include construction activities that would encroach on public streets would be required to develop and implement traffic control plans as conditions of their construction permits. Each plan would be required to ensure that emergency vehicles would be able to access or pass by the construction site. Accordingly, the proposed project and cumulative projects would result in a **less-than-significant cumulative impact**.

Mitigation: None required.

Cumulative Impacts during Project Operations

Once project construction has been completed for both the proposed project and cumulative projects, no further street encroachments would occur. Note that as discussed in Section 2.7, *Transportation and Circulation*, the project applicant is proposing to change certain streets to improve circulation and emergency access. The changes would be based on the final design of the project to account for and accommodate the increased volume of traffic. Once complete, the changes would cause streets to be at acceptable levels of service. Accordingly, the proposed project and cumulative projects would result in a **less-than-significant cumulative impact**.

Mitigation: None required.
