INITIAL STUDY/
MITIGATED NEGATIVE DECLARATION

for

SOUTH FIRST STREET/EAST VIRGINIA STREET MIXED-USE DEVELOPMENT

File Nos. GPT18-009, GP20-004, & PDC17-022

CITY OF SAN JOSÉ
CALIFORNIA

December 2020

MITIGATED NEGATIVE DECLARATION

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

PROJECT NAME: South First Street/East Virginia Street Mixed-Use Development

PROJECT FILE NUMBER: GPT18-009, GP20-004, PDC17-022

PROJECT DESCRIPTION: A General Plan Amendment (GPA) to Envision San José 2040 General Plan land use designation from Mixed-Used Commercial and Mixed-Use Neighborhood to Transit Residential and a Planned Development (PD) Rezoning to rezone the site from Commercial Pedestrian (CP) and Commercial Neighborhood (CN) Zoning Districts to A(PD) Planned Development District on the 1.2 gross acre property. The project would also include a General Plan Text Amendment (GPT) to modify the Martha Gardens Specific Plan to allow the proposed heights, and floor area ratio (FAR), and setback for the proposed project boundary. The GPA, GPT, and Rezoning is to facilitate for the demolition of all buildings on site and to allow construction of a mixed-use building containing 246 residential units and 4,662 square feet of ground floor retail space.

PROJECT LOCATION: The project is located on approximately 1.2 gross acres at the southeast corner of S. First Street and E. Virginia Street..

ASSESSORS PARCEL NO.: 472-17-005, 472-17-006, 472-17-034, 472-17-094, and 472-17-095
COUNCIL DISTRICT: 3

APPLICANT CONTACT INFORMATION: Club Auto Sport-Silicon Valley, LLC (Attn: Jon D'Amico); 2051 Junction Avenue, Suite 100, San Jose, 95131; (408) 453-4700.

FINDING

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

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

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

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

C. AIR QUALITY.

Impact AIR-1: Project construction would result in an infant cancer risk of 26.6 in one million at the maximally exposed individual (MEI), which exceeds the BAAQMD's cancer risk significance threshold of 10 in one million.

MM AQ-1 Prior to the issuance of any grading or demolition permits, the project shall develop a plan demonstrating that the off-road equipment used on-site to construct the project would achieve a fleet-wide average 65 percent reduction in particulate matter exhaust emissions or greater. One feasible plan to achieve this reduction would include the following:

- All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet U.S. EPA particulate matter emissions standards for Tier 4 Interim engines or equivalent. Where equipment meeting Tier 4 standards are not available, the equipment will be required to include Tier 3 engines with CARB-certified Level 3 Diesel Particulate Filters that are considered CARB verified diesel emission control devices (VDECs). Equipment that is electrically powered or uses non-diesel fuels would also meet this requirement.
- Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs first), the project applicant shall submit to the Director of Planning, Building, and Code Enforcement or Director's designee a construction operations plan that includes specifications of the equipment to be used during construction. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth in this measure.

D. BIOLOGICAL RESOURCES.

Impact BIO-1: Construction activities associated with the project could result in the loss of fertile eggs of nesting raptors or other migratory birds, or nest abandonment.

MM BIO-1 The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive).

If demolition and construction cannot be scheduled to occur between September 1st and January 31st (inclusive and as amended), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist or biologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive). During

this survey, the ornithologist/biologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.

If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist/biologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the ornithologist/biologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of the Planning, Building, and Code Enforcement or the Director's designee.

E. CULTURAL RESOURCES.

Impact CR-1: Construction activities could impact the building fabric of adjacent contributing properties to the Conservation Area.

MM CR-1.1 Pre-Condition Survey: The project applicant shall prepare preconstruction documentation of the property at 835 S. Second Street. Prior to construction, a qualified Historic Architect shall undertake an existing visual conditions study of the 835 S. Second Street property. The purpose of the study would be to establish the baseline conditions of the building prior to construction. The documentation shall take the form of detailed written descriptions and visual illustrations and/or photos, including those physical characteristics of the resource that conveys its historic significance. The documentation shall be reviewed and approved by the City's Director of Planning or Designee and the City of San José's Historic Preservation Officer (HPO) prior to the issuance of any grading permits.

MM CR-1.2: Prior to issuance of any grading permits, the project applicant shall prepare and implement a Historical Resources Protection Plan (HRRP) that provides measures and procedures to protect the 835 S. Second Street property from direct or indirect impacts during construction activities (i.e., due to damage from operation of construction equipment, staging, and material storage). The HRRP shall be prepared by a qualified Historic Architect who meets the Secretary of Interior's Professional Qualifications Standards and reviewed and approved by the City's Director of Planning or Designee and the HPO.

The project applicant shall ensure the contractor follows the HRRP throughout construction. At a minimum, the plan shall include, but is not limited to:

- Guidelines for operation of construction equipment adjacent to the historic properties.
- Means and methods to reduce vibrations from excavation and construction.

- Requirements for monitoring and documenting compliance with the plan.
- Education/training of construction workers about the significance of the adjacent historic properties.

Impact CR-2: The project may impact historic-era archaeological deposits during excavation and construction activities. This impact would be reduced to a less than significant level with the following mitigation.

MM CR-2.1 **Preliminary Investigation.** Prior to the issuance of any grading permits, a qualified archaeologist shall conduct a mechanical presence/absence exploration to determine if there are any indications of subsurface archaeological deposits. This exploration would be completed after the buildings have been demolished and all of the asphalt removed, but prior to any ground disturbing activities including grading, potholing for utilities, and building foundation removal. If these activities or similar ground-disturbing ones need to be completed prior to presence/absence work, an archaeological monitor on-site shall be required. The project applicant shall notify the Director of Planning, Building, and Code Enforcement or the Director's designee of any finds during the preliminary field investigation, grading, or other construction activities. Any historic or prehistoric materials identified in the project area during the preliminary field investigation and during grading or other construction. Based on the findings of the subsurface testing, an archaeological resource treatment plan as described in MM CR-2.2 shall be prepared by a qualified archaeologist, if necessary.

MM CR-2.2 **Research Design and Work Plan.** If archaeological deposits or features that appear eligible to the California Register of Historical Resources are identified during any stage of exploration or monitoring, an archaeological research design and work plan shall be prepared to facilitate archaeological excavation and the site or any features discovered evaluated to the California Register. The Plans shall be submitted to the Director of Planning, Building, and Code Enforcement or the Director's designee for review prior to issuance of any grading permits.

MM CR-2.3 **Evaluations and Treatment Plan.** If MM CR-2.2 is applicable, the project applicant shall prepare a treatment plan that reflects permit-level detail pertaining to depths and locations of all ground disturbing activities. The treatment plan shall be prepared and submitted to the Director of Planning, Building, and Code Enforcement or the Director's designee prior to approval of any grading permit.

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

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

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

I. HAZARDS AND HAZARDOUS MATERIALS.

Impact HAZ-1: The site investigation identified site-specific contaminants for soil, groundwater, and/or soil gas.

MM HAZ-1 Prior to the issuance of a grading permit, the project applicant shall notify and provide evidence to the City of San José that they have met or are in compliance with all regulatory requirements from the Santa Clara County Department of Environmental Health (SCCDEH) Site Cleanup Program (SCP). This notification shall include copies of any Site Management Plans, Removal Action Workplans, or subsequent testing documents. This may be in the form of an email or letter sent to the Director of Planning, Building, and Code Enforcement or Director's designee and the Environmental Compliance Officer of the Environmental Services Department. In addition, permits to remove the active underground storage tank must be obtained from the SCCDEH and San José Fire Department. If after removal of the underground storage tank, the tank shows evidence of leakage or if the tank is in bad condition (pits/holes), a follow-up fuel leak investigation, with mitigation if needed, must be performed under SCCDEH regulatory oversight.

J. HYDROLOGY AND WATER QUALITY

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

K. LAND USE AND PLANNING

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

L. MINERAL RESOURCES

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

M. NOISE.

Impact NSE-1: Construction of the project would generate vibration levels exceeding the General Plan threshold of 0.08 in/sec PPV or more at historic buildings within 60 feet of the project site and of 0.2 in/sec PPV or more at buildings of normal conventional construction located within 25 feet of the project site.

MM NSE 1 The project applicant shall prepare and implement a construction vibration monitoring plan to document conditions prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. The construction vibration monitoring plan shall include, but not be limited to, the following measures:

- The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations.

- A list of all heavy construction equipment to be used for this project and the anticipated time duration of using the equipment that is known to produce high vibration levels (clam shovel drops, vibratory rollers, hoe rams, large bulldozers, caisson drillings, loaded trucks, jackhammers, etc.) shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building, and Code Enforcement by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort required for continuous vibration monitoring. Phase demolition, earth-moving, and ground impacting operations so as not to occur during the same time period.

- Where possible, use of the heavy vibration-generating construction equipment shall be prohibited within 20 feet of any adjacent building.

- Document conditions at all structures located within 30 feet of construction prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. Specifically:

    - Vibration limits shall be applied to vibration-sensitive structures located within 30 feet of all construction activities identified as sources of high vibration levels.

    - Performance of a photo survey, elevation survey, and crack monitoring survey for each structure of normal construction within 30 feet of all construction activities identified as sources of high vibration levels. Surveys shall be performed prior to any construction activity, in regular intervals during construction, and after project completion of vibration generating construction activities, and shall include internal and external crack monitoring in the structures, settlement, and distress, and shall document the condition of the foundations, walls and other structural elements in the interior and exterior of said structures.

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

- At a minimum, vibration monitoring shall be conducted during demolition and excavation activities.

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

- Conduct a post-construction survey on structures where either monitoring has indicated high vibration levels or complaints of damage has been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities.

- The construction vibration plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any demolition permits and grading permits. The associated monitoring reports shall be submitted after substantial completion of each phase identified in the project schedule to the Director of Planning, Building, and Code Enforcement or Director's designee. An explanation of all events that exceeded vibration limits shall be included together with proper documentation of any exceedance event.

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

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

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

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

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

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

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

U. MANDATORY FINDINGS OF SIGNIFICANCE.

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

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **Wednesday January 15, 2021** any person may:

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

2. Submit written comments regarding the information and analysis in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Rosalynn Hughey, Director
Planning, Building and Code Enforcement

12/21/2020
Date

Deputy

Thai-Chau Le
Environmental Project Manager

Circulation period: December 23, 2020 to January 15, 2021

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Chapter 1. Background Information

INTRODUCTION

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

The City of San José is the lead agency under CEQA for the proposed project. The City has prepared this Initial Study to evaluate the environmental impacts that might reasonably be anticipated to result from the construction of this project, as described below.

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

City of San José Department of Planning, Building, and Code Enforcement
200 East Santa Clara Street
Tower, Third Floor
San José, California 95113
Attn: Thai-Chau Le
Thai-Chau.Le@sanjoseca.gov

This Initial Study and all documents referenced in it are available for public review in the Department of Planning, Building and Code Enforcement at the above address.

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

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

PROJECT DATA

1. **Project Title**: S. First Street/E. Virginia Street Mixed-Use Development

2. **Lead Agency Contact:** City of San José Department of Planning, Building and Code Enforcement, 200 E. Santa Clara Street, San José, CA 95113
   Environmental Planner: Thai-Chau Le

3. **Project Owner:** San Jose Commercial Properties, 2051 Junction Avenue, Suite 100, San José, CA 95131

4. **Project Proponent:** Club Auto Sport-Silicon Valley, LLC (Attn: Jon D'Amico); 2051 Junction Avenue, Suite 100, San Jose, 95131; (408) 453-4700.

5. **Project Location:** The project is located on approximately 1.2 gross acres at the southeast corner of S. First Street and E. Virginia Street. The majority of the project site was previously occupied by commercial uses (Wheel Works); the rear warehouse space is currently used for storage of catering supplies.

   Assessor's Parcel Numbers (APNs): 472-17-005, 472-17-006, 472-17-034, 472-17-094, and 472-17-095 **City Council District:** 3

6. **Project Description Summary:** The project is application for a General Plan Amendment to Envision San José 2040 General Plan land use designation from *Mixed-Used Commercial* and *Mixed-Use Neighborhood* to *Transit Residential* and a Planned Development (PD) Rezoning to rezone the site from CP – Commercial Pedestrian and CN – Commercial Neighborhood Zoning Districts to A(PD) Planned Development District on the 1.2 gross acre property. This would allow construction of a mixed-use building containing 246 residential units and 4,662 square feet of ground floor retail space. The residential units would be located in four to five stories above the retail uses and podium parking garage. The project includes the right-of-way vacation of the existing City-owned alley that extends through the middle of the site from north-south. A General Plan text amendment is also proposed to modify the Martha Gardens Specific Plan to allow the proposed heights, floor area ratio (FAR), and setback for the project.

7. **Envision 2040 San José General Plan Designation**: *Mixed Use Neighborhood* and *Mixed Use Commercial*

8. **Zoning Designation**: CN – Commercial Neighborhood and CP – Commercial Pedestrian

9. **Habitat Conservation Plan Designations**:
   Area 4: Urban Development Equal to or Greater than 2 Acres Covered
   Land Cover: Urban-Suburban
   Land Cover Fee Zone: Urban Areas (No Land Cover Fee)

10. Surrounding Land Uses:

- North: Commercial, residential
- South: Residential
- East: Commercial, residential
- West: Commercial, residential

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Chapter 2. Project Description

PROJECT LOCATION

The project site is located within the City limits of San José, in Santa Clara County, at the southeast corner of S. First Street and E. Virginia Street (refer to Figure 1). The project site is approximately 1.2 gross acre is size and located on Assessor's Parcel Numbers 472-17-005, 472-17-006, 472-17-034, 472-17-094, and 472-17-095 (see Figure 2). A total of seven buildings are found on the site. The property was previously occupied by Wheel Works, an automotive-related use, which vacated the site at the end of January 2020. The rear warehouse spaces are currently used for storage of catering supplies. An aerial photograph of the project site and surrounding area is presented in Figure 3.

PROJECT DESCRIPTION

The project is application for a PD Rezoning to rezone the site from CP – Commercial Pedestrian and CN – Commercial Neighborhood Zoning Districts to A(PD) Planned Development District. The proposed PD Zoning District would allow the construction of a mixed-use project consisting of 246 residential units and 4,662 square feet of ground floor retail space. The project is proposed in a single, approximately 178,351 square-foot building. The residential units would be located in four to five stories above the retail space and a podium parking garage. Proposed common outdoor areas consist of a podium-level courtyard.

The project proposes to vacate the right-of-way for the existing City-owned alley that extends through the middle of the site from north-south (see Figures 3 and 4). An emergency access road easement is proposed from Second Street connecting to the alley south of the site, at the property's south boundary (see Figure 4).

Approximately half of the site (west portion) is designated in the General Plan as *Mixed Use Commercial* and the other half (east portion) is designated *Mixed Use Neighborhood*. The *Mixed Use Neighborhood* designation allows a density of up to 30 du/ac and an FAR of 0.25 to 2.0 at heights of one to 3.5 stories. The *Mixed Use Commercial* designation allows a density of up to 50 du/ac and an FAR of 0.5 to 4.5 with heights of one to six stories.

General Plan Amendment (GPA) and General Plan Text Amendment (GPT). A GPA is proposed to change the General Plan land use designation from *Mixed-Use Commercial* and *Mixed-Use Neighborhood* to *Transit Residential* and a GPT is proposed to modify the Martha Gardens Specific Plan to allow the proposed heights, FAR, and setback for the project. The text amendment would increase the allowable building height along S. Second Street from 35 to approximately 66 feet and the building height along S. First Street from 55 to approximately 77 feet. The text amendment also proposes to change the allowable FAR on the entire site to 3.5, since the *Mixed Use Neighborhood* designation allows a maximum FAR of only 2.0. The proposed text amendment would also allow a reduced setback of 0' on the project boundary.

The proposed site plan for the project is presented in Figure 4 and the floor plans are provided in Figures 5A through 5E. A cross-section of the proposed building is shown in Figure 6. Additional project details are described below.

Parking and Access. As proposed, the project would remove four existing driveways and construct one new driveway. Two existing 38-foot wide driveways (one on First Street and one on Virginia Street) would be removed, and two driveways would be removed on Second Street: one 28-foot wide driveway and one 18-foot wide driveway. The project would construct one 26-foot wide full-access driveway on First Street. The project driveway would provide access to one at-grade parking level, as previously shown on Figure 2. The ground-level parking garage would contain 76 secured parking stalls, of which 19 would be shared between residents and retail customers. The existing alleyway, which runs parallel to First and Second Streets, currently connects Martha Street to Virginia Street. The project would reconfigure the north end of the alleyway so that it curves to the east and intersects Second Street instead of Virginia Street. Access to and from Martha Street would not be affected by the project. The alley would provide truck and emergency vehicle access. The project is also proposing parking for 63 bicycles in the parking garage. The garage includes a security gate.

Lighting. Outdoor lighting would be provided for site identification and security purposes. All outdoor exterior lighting will conform to the City Council's Outdoor Lighting Policy (4-3) and Interim Lighting Policy Broad Spectrum Lighting (LED) for Private Development.

Utilities. The project includes the provision of services and utilities to serve the project, including water, storm drainage, wastewater, and solid waste. A stormwater control plan would be developed for the site that directs runoff to bio-retention areas prior to flowing into the City's storm drainage system.

Grading. Development of the project would involve the excavation of approximately 5,787 cubic yards (CY) of material, to be exported from the site.

Public Improvements. The project proposes the construction of new 10' wide sidewalks along the S. First Street, S. Second Street, and E. Virginia Street project frontages. The project shall provide street dedication as needed. The proposed driveway will be constructed to meet the City's driveway standards.

Landscaping and Tree Removal. A landscape plan would be prepared for the project. The project proposes to remove two existing trees and replace them in accordance with the City's requirements.

PROJECT CONSTRUCTION

A construction schedule for the project has not been determined. Development of the project would occur in the future based on market demand. The duration of construction for similar developments is approximately 20 months.

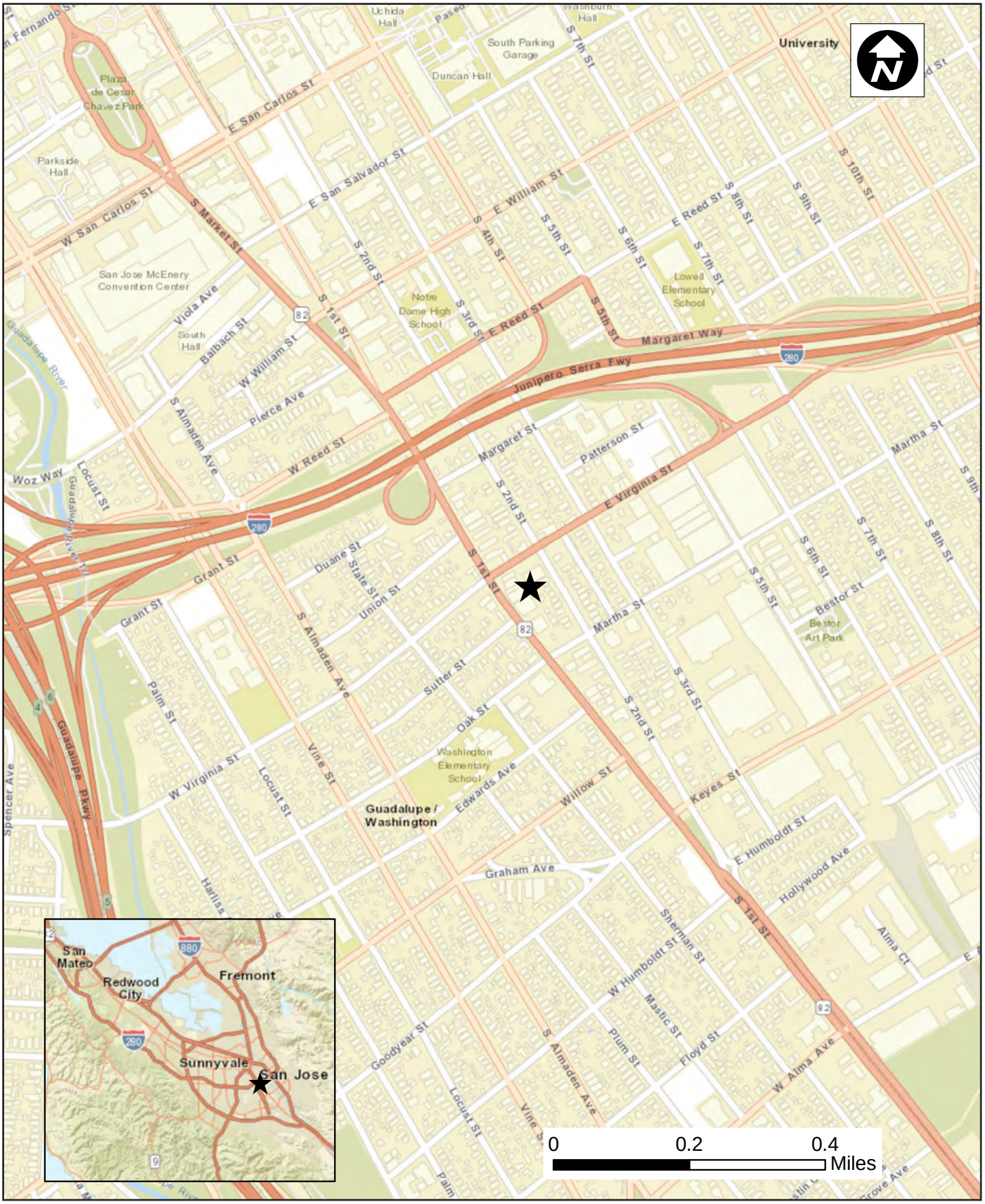
PROJECT OBJECTIVES

The objective of the project is to provide residential units and neighborhood-serving retail space to meet the current market demand for such uses. The project will implement the objectives of the Martha Gardens Specific Plan by replacing an existing auto-oriented use with new ground-floor commercial space and residential uses intended to revitalize the area.

PROJECT APPROVALS

The City of San José is the lead agency with responsibility for approving the proposed project. The project may require the following permits and approvals from the Lead Agency:

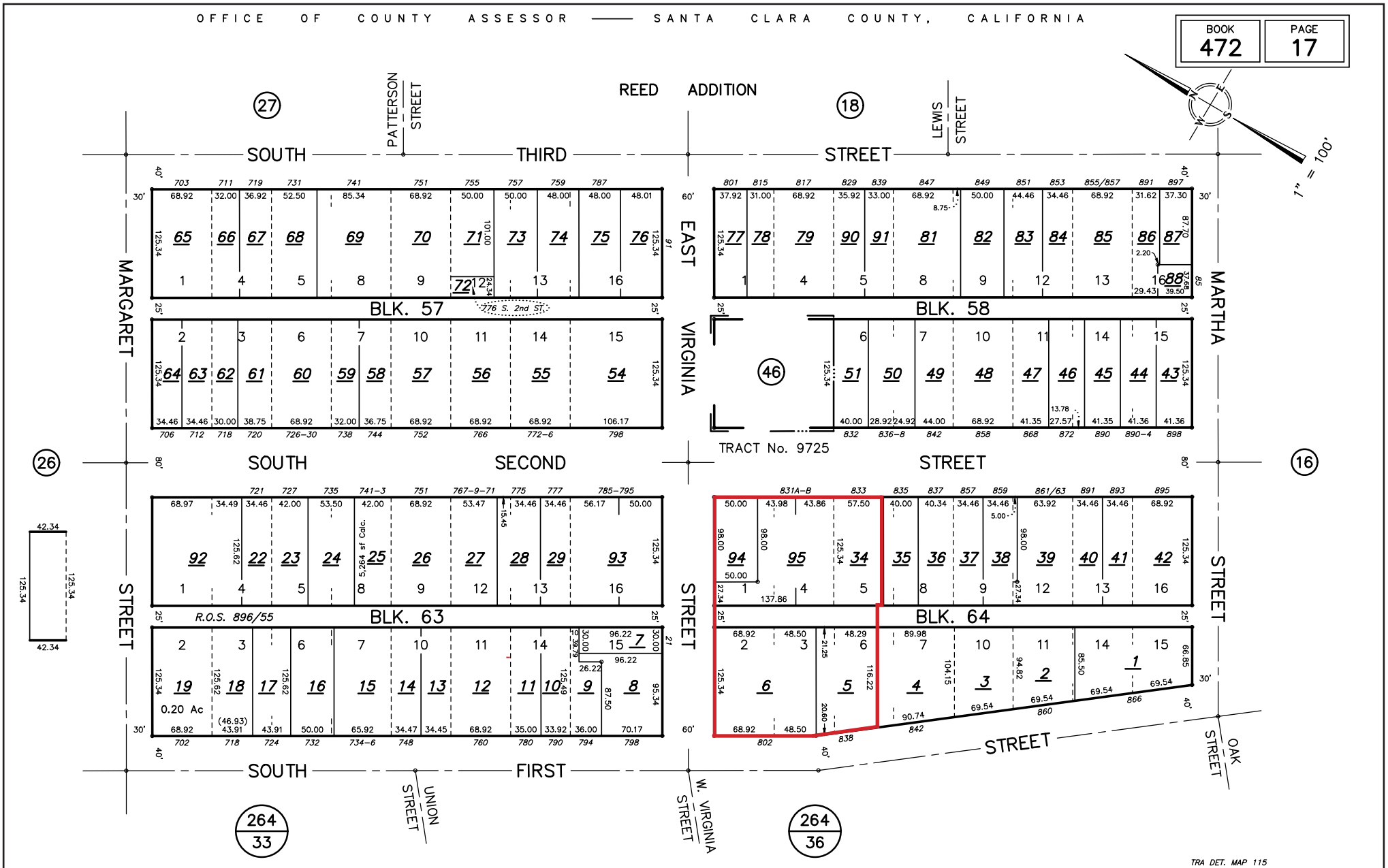
- Rezoning
- General Plan Amendment
- General Plan Text Amendment
- Demolition Permit
- Building Permit
- Grading Permit
- Other Public Works Clearances, as applicable



Location Map

S. First Street/E. Virginia Street Mixed-Use Initial Study

Figure 1



Project Boundaries

Source: Office of the Assessor, County of Santa Clara, 2019

APN Map

Figure 2

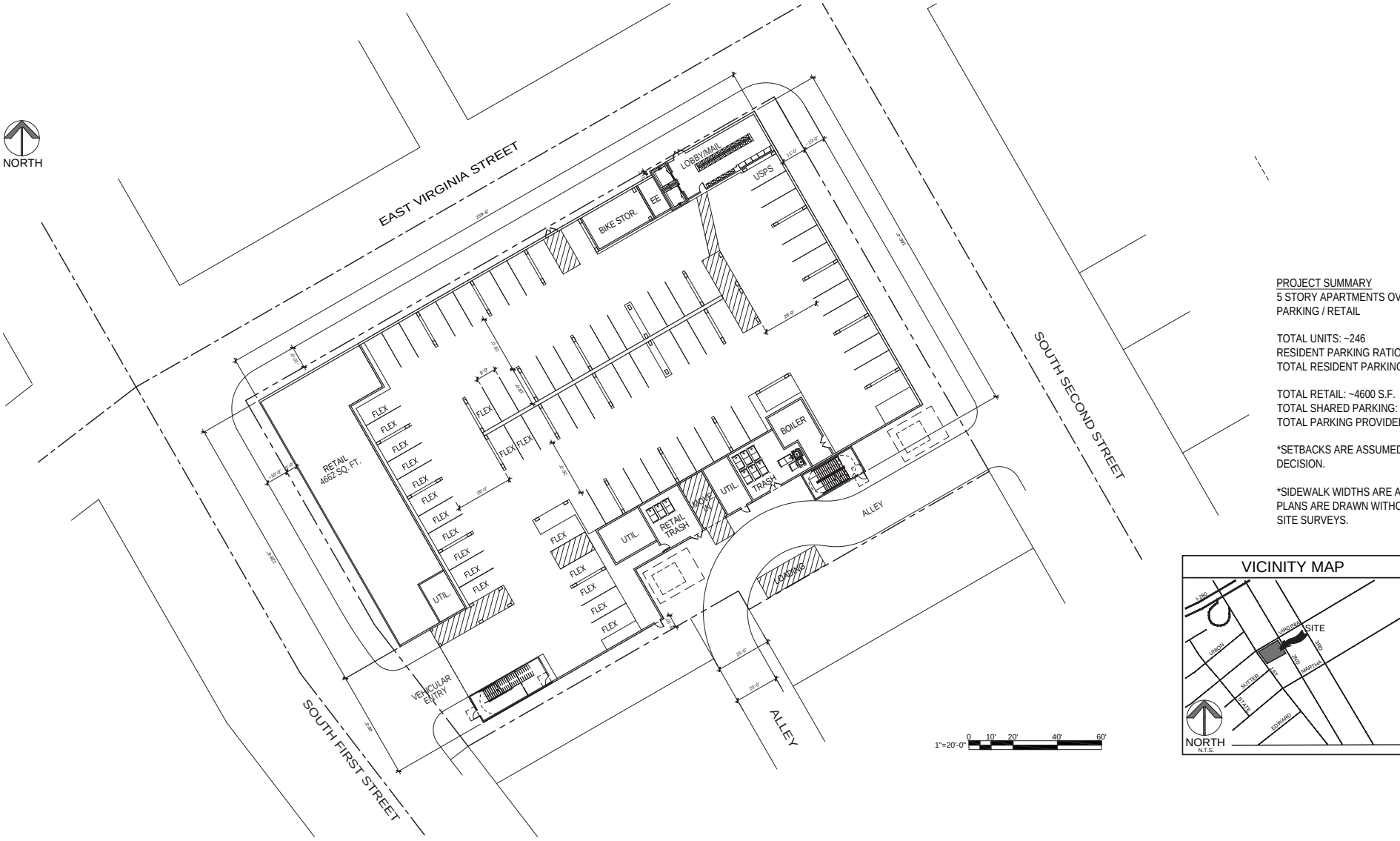
S. First Street/E. Virginia Street Mixed-Use Initial Study

Source: Google Earth, May 2019

Aerial

S. First Street/E. Virginia Street Mixed-Use Initial Study

Figure 3



PROJECT SUMMARY
5 STORY APARTMENTS OVER 1 LEVEL PARKING / RETAIL

TOTAL UNITS: ~246
RESIDENT PARKING RATIO: .3 PER UNIT
TOTAL RESIDENT PARKING: 74 STALLS

TOTAL RETAIL: ~4600 S.F.
TOTAL SHARED PARKING: 19 STALLS
TOTAL PARKING PROVIDED: 76 STALLS

*SETBACKS ARE ASSUMED PENDING ZONING DECISION.

*SIDEWALK WIDTHS ARE APPROXIMATED. PLANS ARE DRAWN WITHOUT THE BENEFIT OF SITE SURVEYS.

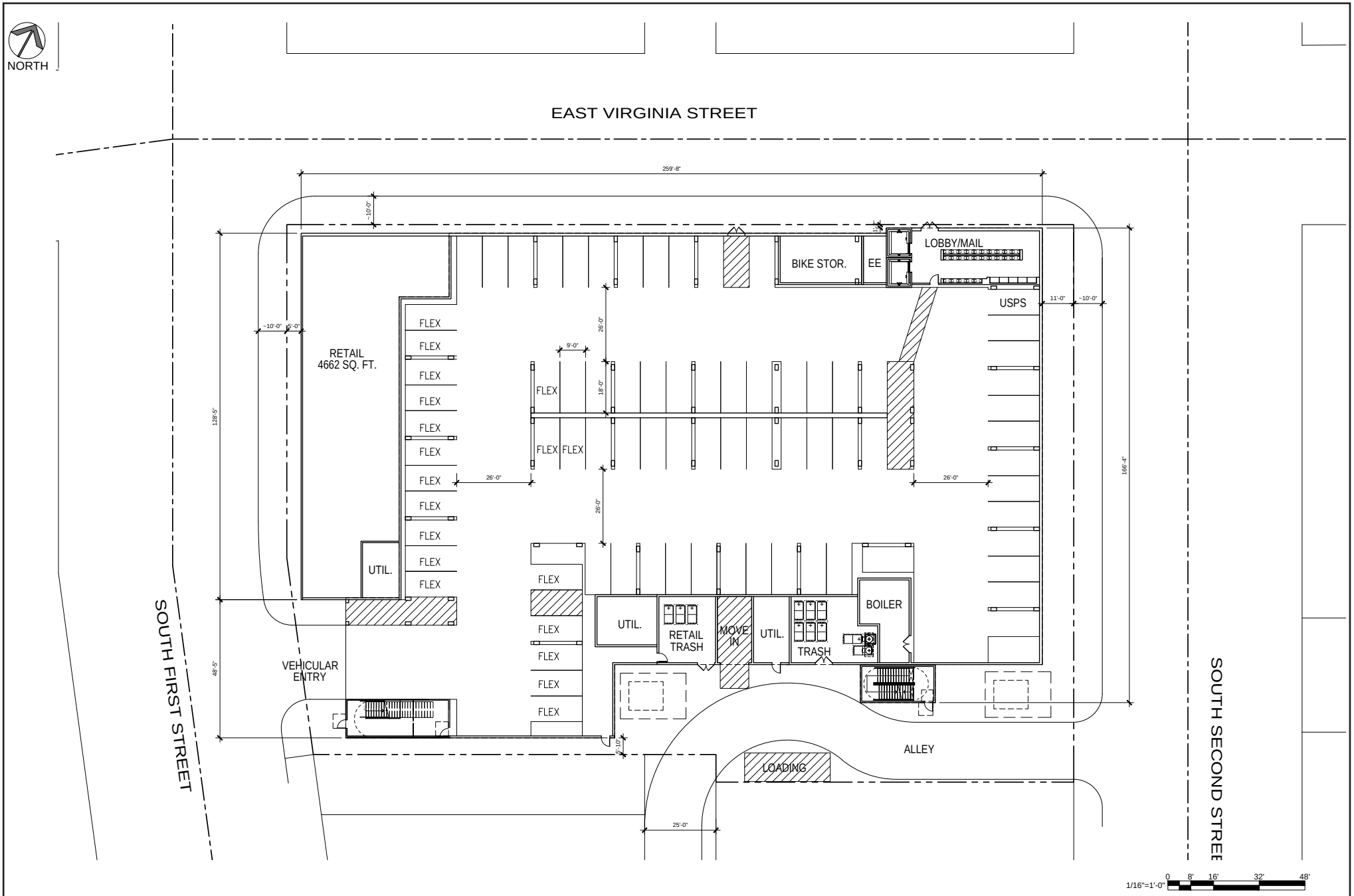
VICINITY MAP

Source: AO Architects, March 2020

Site Plan

S. First Street/E. Virginia Street Mixed-Use
Initial Study

Figure
4

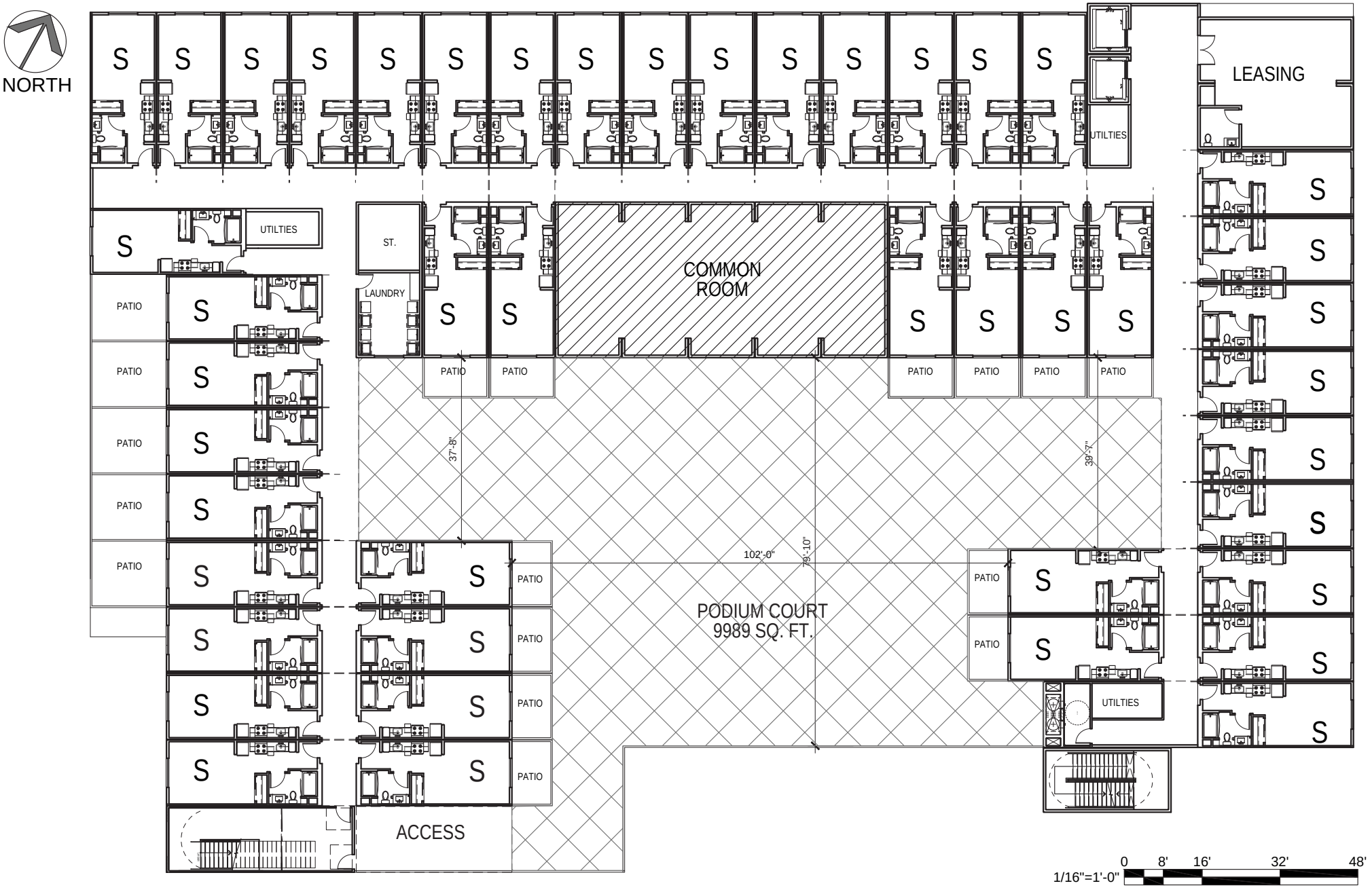


Source: AO Architects, March 2020

Floor Plan - First Floor

S. First Street/E. Virginia Street Mixed-Use
Initial Study

Figure
5A

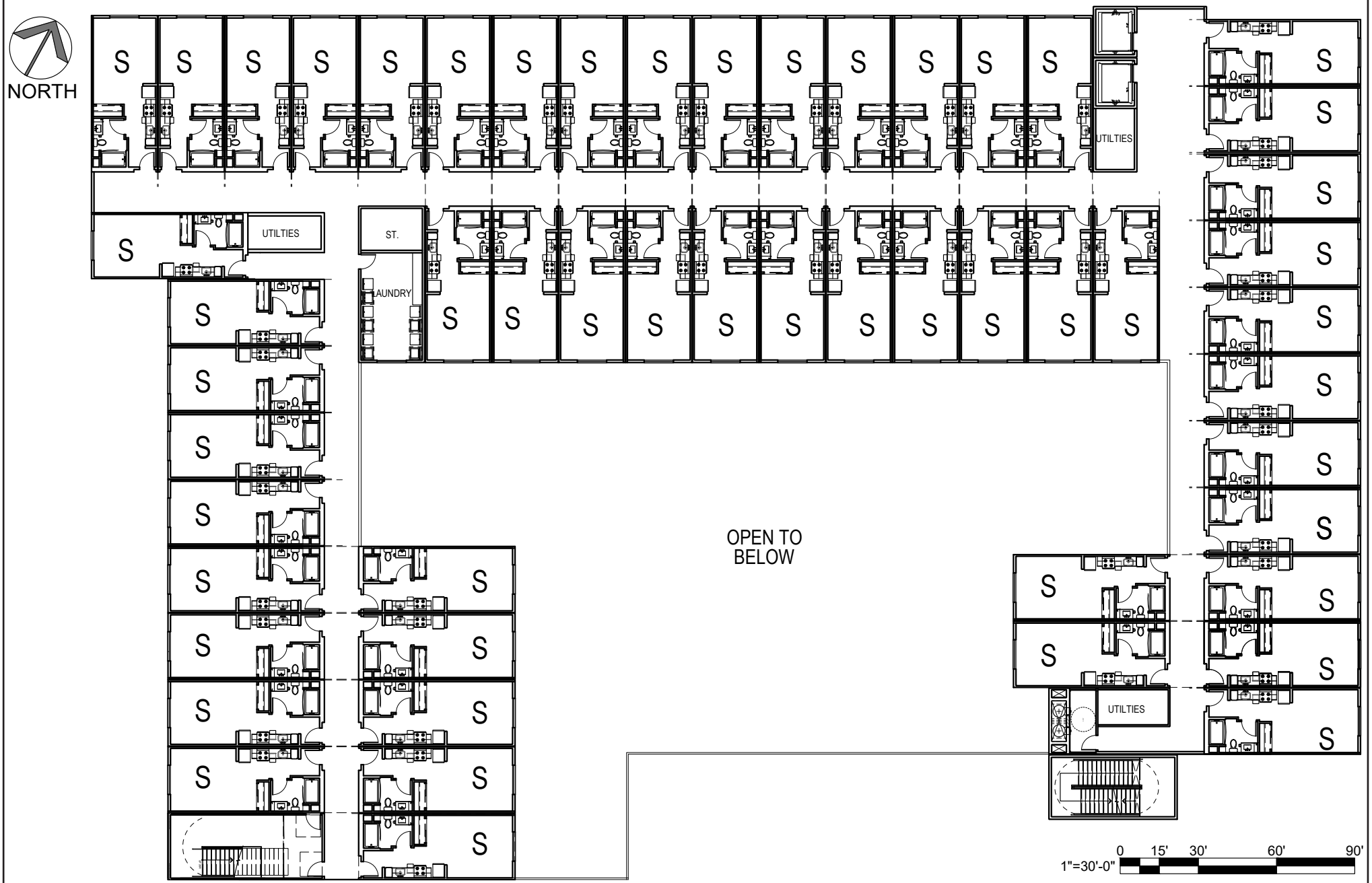


Source: AO Architects, March 2020

Floor Plan - Second Floor

Figure 5B

S. First Street/E. Virginia Street Mixed-Use
Initial Study

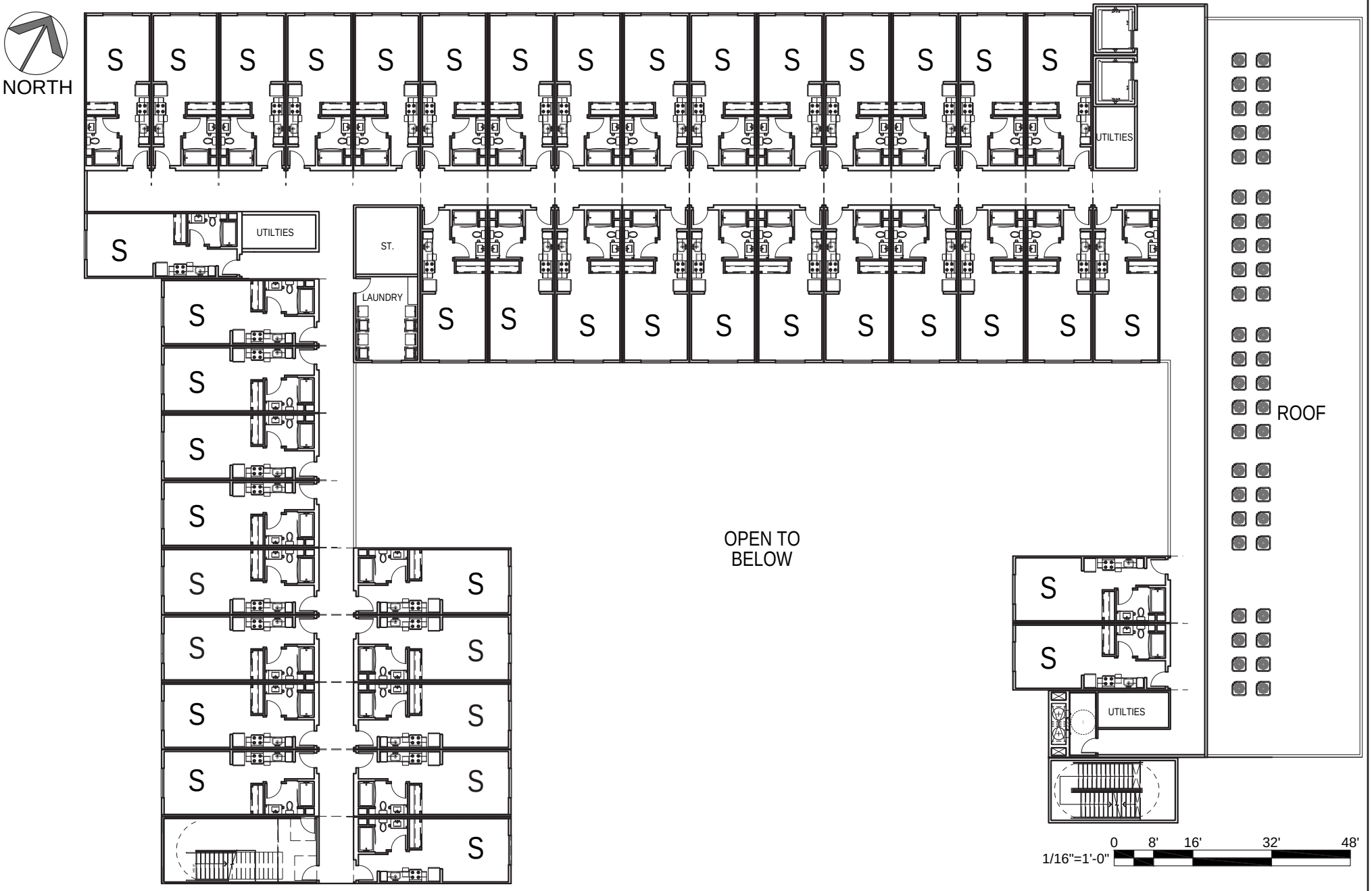


Source: AO Architects, March 2020

Floor Plan - Third-Fifth Floors

S. First Street/E. Virginia Street Mixed-Use
Initial Study

Figure
5C

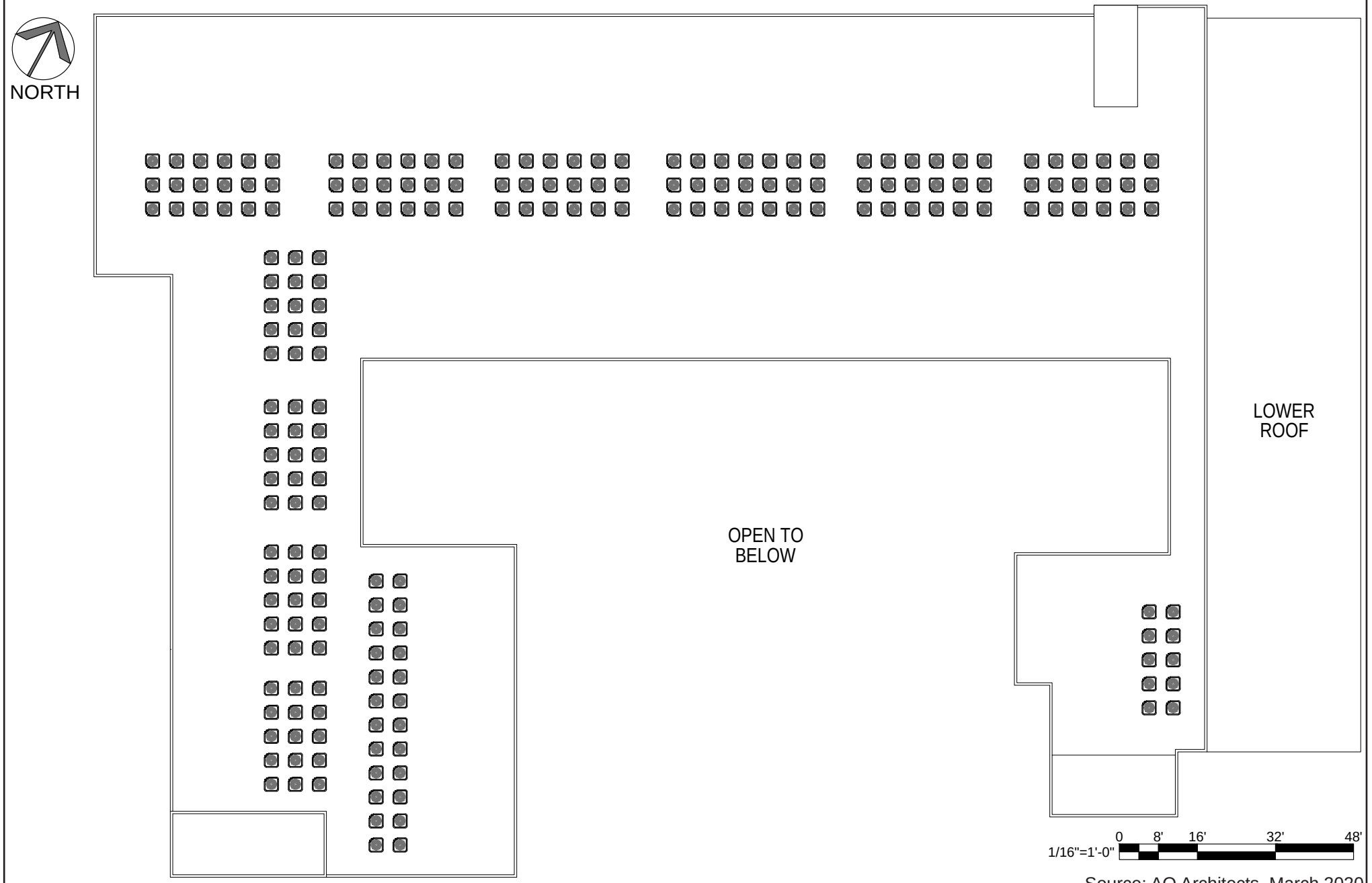


Source: AO Architects, March 2020

Floor Plan - Sixth Floor

S. First Street/E. Virginia Street Mixed-Use
Initial Study

Figure
5D

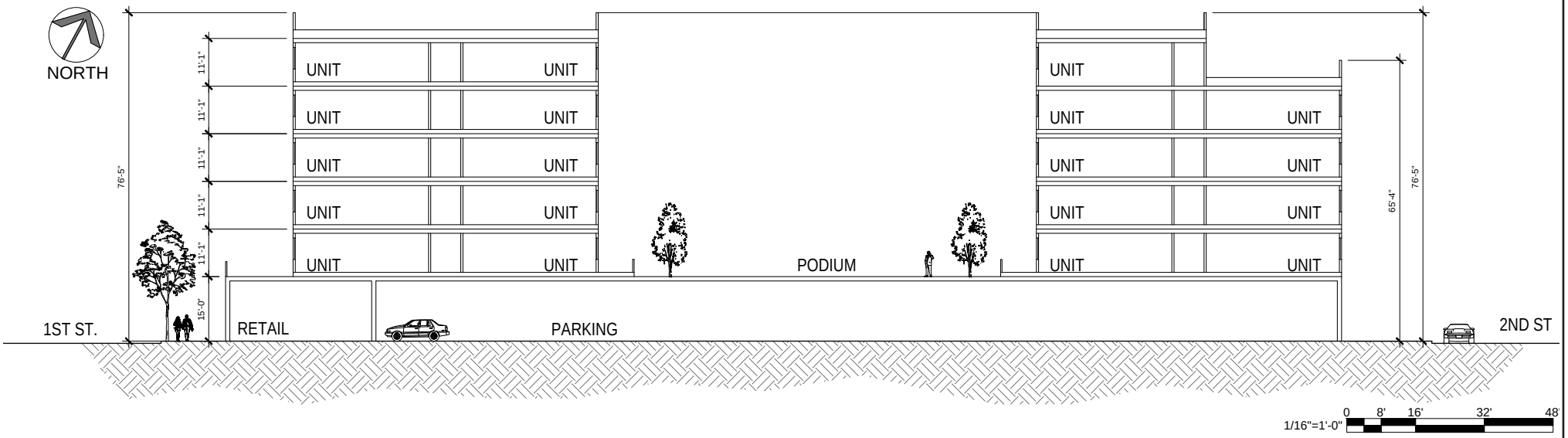


Source: AO Architects, March 2020

Floor Plan - Roof

S. First Street/E. Virginia Street Mixed-Use
Initial Study

Figure
5E



Source: AO Architects, March 2020

Elevations (Cross-Section)

S. First Street/E. Virginia Street Mixed-Use
Initial Study

Figure
6

Photo 1. View of the project site from the intersection of First Street and Virginia Street looking east, showing the existing automotive business on the western corner of the property.

Photo 2. View of the project site from the intersection of S. Second Street and E. Virginia Street looking southeast, showing the existing automotive business on the northwestern corner of the property.

Photo 3: View of the project site from S. Second Street south of E. Virginia Street looking northeast, showing the existing commercial buildings on the southeastern corner of the property.

Photo 4: View of the project site from S. First Street south of E. Virginia Street looking northwest, showing the existing commercial building on the southwestern corner of the property.

Site Photos

S. First Street/E. Virginia Street Mixed-Use
Initial Study

Figure
7

Chapter 3. Environmental Evaluation

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The key environmental factors potentially impacted by the project are identified below and discussed within Chapter 3. Environmental Setting and Impacts. Sources used for analysis of environmental effects are cited in the checklist and listed in Chapter 4. References.

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

EVALUATION OF ENVIRONMENTAL IMPACTS

A brief explanation is required for all answers except "No Impact" answers. Answers need to be adequately supported by the information sources cited by the lead agency. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on project-specific screening analysis).

The explanation of each issue should identify:

a) The significance criteria or threshold, if any, used to evaluate each question; and
b) The mitigation measure identified, if any, to reduce the impact to less than significance.

All answers must take into account the whole action involved, including offsite as well as onsite, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts. Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant.

- A "potentially significant impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "potentially significant impact" entries when the determination is made, an EIR is required.

- A "less than significant with mitigation incorporated" response applies where the incorporation of mitigation measures has reduced an effect from a potentially significant impact to less than significant impact. The lead agency must describe the mitigation measures and briefly explain how they reduce the effect to a less than significant level.

Important Note to the Reader:

In a December 2015 opinion [California Building Industry Association v. Bay Area Air Quality Management District, 62 Cal. 4th 369 (No. S 213478)], the California Supreme Court confirmed that CEQA, with several specific exceptions, is concerned with the impacts of a project on the environment and not the effects that the existing environment may have on a project. Therefore, the evaluation of the significance of project impacts under CEQA in the following sections focuses on impacts of the project on the environment, including whether a project may exacerbate existing environmental hazards.

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

Therefore, where applicable, in addition to describing the impacts of the project on the environment, this Initial Study discusses "planning considerations" that relate to City policies pertaining to existing conditions. Such examples include, but are not limited to, locating a project near sources of air emissions that can pose a health risk, in a floodplain, in a geologic hazard zone, in a high noise environment, or on/adjacent to sites involving hazardous substances.

ENVIRONMENTAL SETTING AND IMPACTS

The following section describes the environmental setting and identifies the environmental impacts anticipated from implementation of the proposed project. The criteria provided in the CEQA environmental checklist was used to identify potentially significant environmental impacts associated with the project. Sources used for the environmental analysis are cited in the checklist and listed in Chapter 4 of this Initial Study.

A. AESTHETICS

Existing Setting

The project site is located on a developed parcel within an urbanized area of San José. The existing property is developed with buildings and pavement. A total of seven buildings are found on the site. The majority of the site was previously occupied by Wheel Works, an automotive-related use, which vacated the site at the end of January 2020. The rear warehouse spaces are currently used for storage of catering supplies.

The site is located in a mixed residential and commercial area along E. Virginia Street. The project site is bordered by the following land uses:

- North: Commercial, Residential
- South: Commercial Residential
- East: Commercial, Residential
- West: Commercial, Residential

Photographs of the property are presented in Figure 7, and an aerial of the project area is provided in Figure 3. The project site is currently occupied by vacant commercial buildings and parking areas. The site contains limited landscaping that consists of some shrubs and one tree. Four street trees surround the site along First, Second, and Virginia Streets.

Regulatory Framework

State Scenic Highways Program

The State Scenic Highways Program is managed by the California Department of Transportation (Caltrans) and is designed to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. The nearest state-designated scenic highway is State Route 9, located approximately seven miles west of the project site in Saratoga. The project site is not located near this designated scenic highway.

Outdoor Lighting Policy (City Council Policy 4-3)

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

City's Scenic Corridors Diagram

The City's General Plan defines scenic vistas in the City of San José as views of and from the Santa Clara Valley, surrounding hillsides, and urban skyline. Scenic urban corridors, such as segments of major highways that provide gateways into the City, can also be defined as scenic resources by the City. The designation of a scenic route applies to routes affording especially aesthetically pleasing

views. The project property is not located along any scenic corridors per the City's Scenic Corridors Diagram.

General Plan Policies

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

Envision San José 2040 Relevant Aesthetic Policies	
Policy CD-1.1	Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
Policy CD-1.8	Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity through the City.
Policy CD-1.12	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
Policy CD-1.13	Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.
Policy CD-1.17	Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.
Policy CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
Policy CD-1.26	Apply the Historic Preservation Goals and Policies of this Plan to proposals that modify historic resources or include development near historic resources.
Policy CD-4.9	For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
Policy CD-8.1	Ensure new development is consistent with specific height limits established within the City's Zoning Ordinance and applied through the zoning designation for properties throughout the City. Land use designations in the Land Use/ Transportation Diagram provide an indication of the typical number of stories.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS		Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
1.	AESTHETICS. Except as provided in Public Resources Code Section 21099, would the project:					
a)	Have a substantial adverse effect on a scenic vista?			X		1, 2
b)	Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?			X		1, 2
c)	In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?			X		1, 2
d)	Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?			X		1, 2

Explanation

a) **Less Than Significant Impact**. The City's General Plan states that the San José contains many scenic resources that include the broad sweep of the Santa Clara Valley, the hills and mountains that frame the Valley floor, the baylands, and the urban skyline itself, particularly high-rise development. The project site is located in an urbanized location near downtown San José. The development of a new five to seven-story building would not impact scenic vistas since no scenic vistas are observable from the project vicinity due to the existing, obstructing buildings.

b) **Less Than Significant Impact**. The project site is not located within a state-designated scenic route or City-designated scenic corridor. Specifically, no rock outcroppings occur on the project site. In addition, the project would not impact any historic buildings since the existing building on the site does not qualify for federal, state or local listing as described in *E. Cultural Resources*. Finally, the project is proposing to remove two existing trees, which would be replaced in accordance with the City's Tree Replacement Ratio requirements as described in *D. Biological Resources*. Street tree removal and replacement would be conducted in consultation with the City's Department of Transportation.

c) **Less Than Significant Impact**. The project would alter the existing visual character of the site and its immediate surroundings by introducing a new five to seven-story building onto a site that is currently occupied by one and two-story commercial structures. The preliminary building elevation (cross-section) is presented in Figure 6. The building heights vary from approximately 66 to 77 feet. The proposed building would be six stories along First Street and step down to five stories along Second Street to provide a transition to the residential uses to the south and west. The project is proposing a General Plan amendment to allow for the increased heights.

Conceptual renderings were prepared for the project, showing the proposed development from the intersections of S. First Street/E. Virginia Street and S. Second Street/E. Virginia Street, as presented in Figures 8a and 8b. The project would alter the existing public views of the site from First Street, Second Street, and Virginia Street. Other public views would be more distant and less noticeable. The proposed project would be required to 1) conform to the City's Design Guidelines, and 2) undergo design review to ensure the scale and mass are compatible with surrounding development. By adhering to these requirements, the project would not substantially degrade the existing visual character or quality of the site and its surroundings within this urbanized area.

d) **Less Than Significant Impact**. The project does not propose any major sources of lighting or glare. All outdoor lighting would conform to the City's Outdoor Lighting policies, and would be shielded to direct light downwards to ensure that lighting does not spill over onto nearby residential properties, consistent with City standards. In addition, the project does not propose to introduce materials into the design that would create substantial glare. The project would have a less than significant impact related to lighting and glare.

Conclusion: The project would have a less than significant impact on aesthetics.

Source: AO Architects, March 2020

Renderings - E. Virginia St. & S. First St.

Figure
8A

Source: AO Architects, March 2020

Renderings - E. Virginia St. & S. Second St.

Figure
8B

S. First Street/E. Virginia Street Mixed-Use
Initial Study

B. AGRICULTURAL AND FORESTRY RESOURCES

Existing Setting

CEQA requires the evaluation of agricultural and forest/timber resources where they are present. The developed infill project site does not contain any agricultural and forest/timber resources.

In California, agricultural land is given consideration under CEQA. According to Public Resources Code §21060.1, "agricultural land" is identified as prime farmland, farmland of statewide importance, or unique farmland, as defined by the U.S. Department of Agriculture land inventory and monitoring criteria, as modified for California. CEQA also requires consideration of impacts on lands that are under Williamson Act contracts. The project area is identified as "Urban and Built-Up Land" on the 2016 Santa Clara County Important Farmland Map (California Department of Conservation).

The site does not contain any forest land as defined in Public Resources Code section 12220(g), timberland as defined by Public Resources Code section 4526, or property zoned for Timberland Production as defined by Government Code section 51104(g).

Regulatory Framework

State

California Land Conservation Act

The Williamson Act, officially designated as the California Land Conservation Act of 1965, enables local governments to enter into contracts with private landowners, for the purpose of restricting specific parcels of land to agricultural or related open space uses. In return, landowners receive lower property tax assessments that are based on farming and open space as opposed to full market value. Regulations and rules regarding implementation of Williamson Act contracts are established by local participating cities and counties, as guided by the Williamson Act.

Land Evaluation and Site Assessment

The California Agricultural Land Evaluation and Site Assessment (LESA) was developed by the California Department of Conservation to provide a standardized point-based approach for the rating of relative importance of agricultural land. The LESA model ensures that an optional methodology is available for lead agencies to determine if a project will result in potentially significant effects on the environment as a result of agricultural land conversion. The LESA model is based on specific measurable features, including project size, soil quality, surrounding agricultural and/or protected resource lands, and water resource availability, which are weighted, rated and combined to provide a numeric score. The score serves as the basis for making a determination of potential significance for a project.

Farmland Mapping and Monitoring Program

The California Department of Conservation prepares and maintains farmland map data for Counties throughout the state, including for Santa Clara County, through the Farmland Mapping and Monitoring Program (FMMP). The FMMP produces statistical data and maps for the purpose of analyzing potential impacts on agricultural resources. The FMMP is designed to regulate the conversion of

agricultural land to permanent non-agricultural uses. The FMMP contains a rating system based on soil quality and irrigation status, with the best quality land being designated as "Prime Farmland". Maps are updated every two years using computer mapping, aerial photography, public review, and field reconnaissance. The FMMP for Santa Clara County has data from 1984 to the present day, including historical land use conversion, PDF maps, and GIS data.

General Plan Policies

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

Envision San José 2040 Relevant Agricultural Resources Policies	
Policy LU-12.3	Protect and preserve the remaining farmlands within San José's sphere of influence that are not planned for urbanization in the timeframe of the Envision General Plan through the following means: • Limit residential uses in agricultural areas to those which are incidental to agriculture. • Restrict and discourage subdivision of agricultural lands. Encourage contractual protection for agricultural lands, such as Williamson Act contracts, agricultural conservation easements, and transfers of development rights. • Prohibit land uses within or adjacent to agricultural lands that would compromise the viability of these lands for agricultural uses. • Strictly maintain the Urban Growth Boundary in accordance with other goals and policies in this Plan.
Policy LU-12.4	Preserve agricultural lands and prime soils in non-urban areas in order to retain the aquifer recharge capacity of these lands.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
2. AGRICULTURAL AND FORESTRY RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:					
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X	4
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X	2

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?				X	2
d) Result in the loss of forest land or conversion of forest land to non-forest use?				X	2
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?				X	2

Explanation

a) **No Impact**. The project site is an infill property and designated as Urban and Built-Up Land on the Important Farmlands Map for Santa Clara County and does not contain any prime farmland, unique farmland, or farmland of statewide importance. The project would not affect agricultural land.

b) **No Impact**. The project is proposed on a developed infill property, is not zoned for agricultural use, and does not contain lands under Williamson Act contract; therefore, no conflicts with agricultural uses would occur.

c) **No Impact**. The project would not impact forest resources since the site does not contain any forest land as defined in Public Resources Code section 12220(g), timberland as defined by Public Resources Code section 4526, or property zoned for Timberland Production as defined by Government Code section 51104(g).

d) **No Impact**. See c) above. No other changes to the environment would occur from the project that would result in the loss of forest land or conversion of forest land to non-forest uses.

e) **No Impact**. As per the discussion above, the project would not involve changes in the existing environment which, due to their location or nature, could result in conversion of farmland or forest land, since none are present on this infill property.

Conclusion: The project would have no impact on agricultural and forest resources.

C. AIR QUALITY

An air quality assessment was prepared for the project by Illingworth & Rodkin, Inc. (April 2020). This report is included as Appendix A.

Existing Setting

The project is located within the San Francisco Bay Area Air Basin. The Bay Area Air Quality Management District (BAAQMD) is the local agency authorized to regulate stationary air quality sources in the Bay Area. The Federal Clean Air Act and the California Clean Air Act mandate the control and reduction of specific air pollutants. Under these Acts, the U.S. Environmental Protection Agency and the California Air Resources Board have established ambient air quality standards for specific "criteria" pollutants, designed to protect public health and welfare. Primary criteria pollutants include carbon monoxide (CO), reactive organic gases (ROG), nitrogen oxides (NO_X), particulate matter (PM_{10}), sulfur dioxide (SO_2), and lead (Pb). Secondary criteria pollutants include ozone (O_3), and fine particulate matter ($PM_{2.5}$).

The BAAQMD defines sensitive receptors as facilities where sensitive population groups are located, including residences, schools, childcare centers, convalescent homes, and medical facilities. Land uses such as schools and hospitals are considered more sensitive than the general public to poor air quality because of an increased susceptibility to respiratory distress within the populations associated with these uses. For cancer risk assessments, children are the most sensitive receptors, since they are more susceptible to cancer causing TACs. Residential locations are assumed to include infants and small children.

The project would introduce new sensitive receptors in the form of residents of the new units. In addition, the closest sensitive receptors to the project site are the residents on S. Second Street, adjacent to the southern site boundary. There are additional residents north, south, east, and west of the site.

Regulatory Framework

Federal

Federal Clean Air Act and United States Environmental Protection Agency

The Federal Clean Air Act (CAA) authorized the establishment of federal air quality standards and set deadlines for their attainment. The CAA identifies specific emission reduction goals, requires both a demonstration of reasonable further progress and attainment, and incorporates more stringent sanctions for failure to meet interim milestones. The U.S. EPA is the federal agency charged with administering CAA and other air quality-related legislation. The CAA of 1970, as amended, establishes air quality standards for several pollutants.

The United States Environmental Protection Agency (U.S. EPA) administers the National Ambient Air Quality Standards (NAAQS) under the Federal Clean Air Act. The U.S. EPA sets the NAAQS and determines if areas meet those standards. Violations of ambient air quality standards are based on air pollutant monitoring data and judged for each air pollutant. Areas that do not violate ambient air quality standards are considered to have attained the standard. The U.S. EPA has classified the region as a nonattainment area for the 8-hour O_3 standard and the 24-hour $PM_{2.5}$ standard. The Bay Area has met the CO standards for over a decade and is classified as an attainment area by the U.S. EPA. The U.S.

EPA has deemed the region as attainment/unclassified for all other air pollutants, which include PM_{10}. At the State level, the Bay Area is considered nonattainment for ozone, PM_{10} and $PM_{2.5}$.

State

California Clean Air Act

The Federal Clean Air Act (CAA) allows California to seek a waiver of the federal preemption that prohibits states and local jurisdictions from enacting emission standards and other emission-related requirements for new motor vehicles and engines (CAA section 209(a)). The California Air Resources Board (CARB) serves as the representative of California in filing waiver requests with U.S. EPA. After California files a written request for a waiver, U.S. EPA will publish a notice for a public hearing and submission of comments in the *Federal Register*. After consideration of comments received, the Administrator of U.S. EPA will issue a written determination on California's request, which is also published the *Federal Register*.

Regional and Local

Bay Area Air Quality Management District

The BAAQMD is primarily responsible for assuring that the federal and state ambient air quality standards for criteria pollutants are attained and maintained in the Bay Area. The BAAQMD's May 2017 CEQA Air Quality Guidelines update the 2010 CEQA Air Quality Guidelines, addressing the California Supreme Court's 2015 opinion in the *California Building Industry Association vs. Bay Area Air Quality Management District* court case.

In an effort to attain and maintain federal and state ambient air quality standards, the BAAQMD establishes thresholds of significance for construction and operational period emissions for criteria pollutants and their precursors, which are summarized in Table 1 in the impact discussion below.

2017 Bay Area Clean Air Plan

The BAAQMD, along with other regional agencies such as the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC), develops plans to reduce air pollutant emissions. The most recent clean air plan is the *Bay Area 2017 Clean Air Plan: Spare the Air, Cool the Climate* (2017 CAP), which was adopted by BAAQMD in April 2017. This is an update to the 2010 CAP, and centers on protecting public health and climate. The 2017 CAP identifies a broad range of control measures. These control measures include specific actions to reduce emissions of air and climate pollutants from the full range of emission sources and is based on the following four key priorities:

- Reduce emissions of criteria air pollutants and toxic air contaminants from all key sources.
- Reduce emissions of "super-GHGs" such as methane, black carbon, and fluorinated gases.
- Decrease demand for fossil fuels (gasoline, diesel, and natural gas).
- Decarbonize our energy system.

General Plan Policies

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

Envision San José 2040 Relevant Air Quality Policies	
Policy MS-10.1	Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement air emissions reduction measures.
Policy MS-10.2	Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.
Policy MS-11.1	Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.
Policy MS-11.2	For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.
Policy MS-11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
Policy MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.
Policy CD-3.3	Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
3. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project:					
a) Conflict with or obstruct implementation of the applicable air quality plan?			X		2, 5, 6, 7

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?			X		2, 5, 7
c) Expose sensitive receptors to substantial pollutant concentrations?		X			2, 5, 7
d) Result in other emissions (such as those leading to odors adversely affecting a substantial number of people?			X		2, 5, 7

Explanation

a) **Less Than Significant Impact**. Using the BAAQMD's methodology, a determination of consistency with the 2017 CAP should demonstrate that a project: 1) supports the primary goals of the air quality plan; 2) includes applicable control measures from the air quality plan, and 3) does not disrupt or impede implementation of air quality plan control measures. The consistency of the project with the applicable control measures is presented in Table 1 below.

Table 1
2017 CAP Applicable Control Measures

Control Measures	Description	Project Consistency
Transportation Measures		
Bicycle and Pedestrian Access and Facilities	Encourage planning for bicycle and pedestrian facilities in local plans, e.g., general and specific plans, fund bike lanes, routes, paths and bicycle parking facilities.	The project would include long-term and short-term bicycle parking consistent with City's Zoning Ordinance standards. Additionally, the project would construct new 10' wide sidewalks along the S. First Street, S. Second Street and E. Virginia Street project frontages for pedestrian access. Therefore, the project is consistent with this measure.
Energy Control Measures		
Decrease Electricity Demand	Work with local governments to adopt additional energy efficiency policies and programs. Support local government energy efficiency program via best practices, model ordinances, and technical support. Work with partners to develop messaging to decrease electricity demand during peak times.	The project would be required to comply with Building Energy Efficiency Standards (Municipal Code Title 24), which would help reduce energy consumption. The project would also be required to comply with the City's Green Building Policy (Council Policy 8-13), Private Sector Green Building Policy (Council Policy 6-32) and the City's Green Building Ordinance, which would increase building efficiency over standard construction. Therefore, the project is consistent with this control measure.

Table 1 2017 CAP Applicable Control Measures		
Control Measures	**Description**	**Project Consistency**
Building Control Measures		
Green Buildings	Collaborate with partners such as KyotoUSA to identify energy-related improvements and opportunities for onsite renewable energy systems in school districts; investigate funding strategies to implement upgrades. Identify barriers to effective local implementation of the CALGreen (Title 24) statewide building energy code; develop solutions to improve implementation/enforcement. Work with ABAG's BayREN program to make additional funding available for energy-related projects in the buildings sector. Engage with additional partners to target reducing emissions from specific types of buildings.	The project would be required to comply with CALGreen and the City's Green Building Policy (Council Policy 8-13), Private Sector Green Building Policy (Council Policy 6-32) the City's Green Building Ordinance, and the most recent California Building Code which would increase building efficiency over standard construction. Therefore, the project is consistent with this control measure
Urban Heat Island Mitigation	Develop and urge adoption of a model ordinance for "cool parking" that promotes the use of cool surface treatments for new parking facilities.	The project would locate vehicle parking in a parking garage. In addition, the project would provide new landscaping. These features would minimize surface parking and reduce the project's heat island effect. The project, therefore, is consistent with this measure.
Water Management Control Measures		
Support Water Conservation	Develop a list of best practices that reduce water consumption and increase on-site water recycling in new and existing buildings; incorporate into local planning guidance.	The project would be required to adhere to State and local polices to conserve water. Therefore, the project is consistent with this control measure.
Natural and Working Lands Measures		
Urban Tree Planting	Develop or identify an existing model municipal tree planting ordinance and encourage local governments to adopt such an ordinance. Include tree planting recommendations, the Air District's technical guidance, best management practices for local plans, and CEQA review.	The project would be required to adhere to the City's tree replacement policy. Therefore, the project is consistent with this control measure.

As summarized in the "Project Consistency" column of Table 1, the project would not conflict with the 2017 CAP's goal to attain air quality standards and would not result in exceedances of BAAQMD 2017 thresholds for criteria air pollutants as described in b) below. Therefore, the project would have a less than significant impact on clean air planning efforts.

b) **Less Than Significant Impact**. The San Francisco Bay Area is considered a non-attainment area for ground-level ozone and $PM_{2.5}$ under both the Federal Clean Air Act and the California Clean Air Act. The area is also considered non-attainment for PM_{10} under the California Clean Air Act, but not the federal act. The area has attained both State and federal ambient air quality standards for carbon monoxide.

The City of San José uses the thresholds of significance established by the BAAQMD to assess air quality impacts of proposed development. The BAAQMD CEQA Guidelines include screening levels and thresholds for evaluating air quality impacts in the San Francisco Bay Area Air Basin. As part of an effort to attain and maintain ambient air quality standards for ozone and PM_{10}, the BAAQMD has established thresholds of significance for these air pollutants and their precursors. These thresholds are for ozone precursor pollutants (ROG and NO_X), PM_{10}, and $PM_{2.5}$ and apply to both construction period and operational period impacts. The applicable thresholds are presented below in Table 2.

Table 2
BAAQMD Air Quality Significance Thresholds

Pollutant	Construction Thresholds	Operational Thresholds	
	Average Daily Emissions (lbs./day)	Average Daily Emissions (lbs./day)	Annual Average Emissions (tons/year)
Criteria Air Pollutants			
ROG, NO_x, $PM_{2.5}$ (exhaust)	54	54	10
PM_{10} (exhaust)	82	82	15
CO	Not Applicable	9.0 ppm (8-hour average) or 20.0 ppm (1-hour average)	
Fugitive Dust ($PM_{2.5}$, PM_{10})	Construction Dust Ordinance or other Best Management Practices	Not Applicable	
Health Risks and Hazards for Sources within 1,000 Feet of Project			
Excess Cancer Risk	10 per one million	10 per one million	
Chronic or Acute Hazard Index	1.0	1.0	
Incremental annual average $PM_{2.5}$	0.3 µg/m^3	0.3 µg/m^3	
Health Risks and Hazards for Sensitive Receptors (Cumulative from All Sources within 1,000-Foot Zone of Influence) and Cumulative Thresholds for New Sources			
Excess Cancer Risk	100 per 1 million		
Chronic Hazard Index	10.0		
Annual Average $PM_{2.5}$	0.8 µg/m^3		
Greenhouse Gas Emissions (Land Use Projects)			
GHG Annual Emissions	1,100 metric tons or 4.6 metric tons per service population		

Notes: ROG = reactive organic gases, NOx = nitrogen oxides, PM_{10} = course particulate matter or particulates with an aerodynamic diameter of 10 micrometers (µm) or less, and $PM_{2.5}$ = fine particulate matter or particulates with an aerodynamic diameter of 2.5µm or less; GHG = greenhouse gas; ppm = parts per million; µg/m^3 = micrograms per cubic meter

The air quality assessment for the project (Appendix A) used the California Emissions Estimator Model (CalEEMod) Version 2016.3.2 to estimate air pollutant emissions from construction and operation of the project at buildout.

Operational Emissions

Operational air emissions from the project would be generated primarily from vehicles driven by future residents, employees, and customers. Evaporative emissions from architectural coatings and maintenance products (classified as consumer products) are typical emissions from these types of uses. CalEEMod was used to estimate emissions from operation of the proposed project at buildout. Inputs for this modeling scenario included project components along with the trip rate generation rates used in the traffic study, with the results of the modeling are presented in Table 3. As shown in Table 3, operational emissions would not exceed the BAAQMD significance thresholds, representing a less than significant impact.

Table 3
Operational Emissions

Scenario	ROG	NOx	PM_{10}	$PM_{2.5}$
2022 Project Operational Emissions *(tons/year)*	1.5 tons	1.2 tons	0.9 tons	0.3 tons
2022 Existing Use Emissions (*tons/year*)	0.2 tons	0.3 tons	0.1 tons	0.1 tons
Net Annual Emissions (*tons/year*)	1.3 tons	0.9 tons	0.8 tons	0.2 tons
BAAQMD Thresholds (tons /year)	*10 tons*	*10 tons*	*15 tons*	*10 tons*
Exceed Threshold?	***No***	***No***	***No***	***No***
2022 Project Operational Emissions *(lbs/day)*	7.2 lbs.	4.9 lbs.	4.3 lbs.	1.2 lbs.
BAAQMD Thresholds (pounds/day)	*54* lbs.	*54* lbs.	*82* lbs.	*54* lbs.
Exceed Threshold?	***No***	***No***	***No***	***No***

[1] Assumes 365-day operation

Construction Emissions

On-site activities are primarily made up of construction equipment emissions, while off-site activity includes worker, hauling, and vendor traffic. A construction build-out scenario, including equipment list and schedule, was based on default CalEEMod information for a project of this type and size.

The project land use types and size, and anticipated construction schedule were input to CalEEMod, as follows:

- 246 dwelling units entered as “Apartment Mid Rise” on a 1.2-acre site
- 4,662 square feet entered as “Strip Mall”
- 76 spaces entered as “Enclosed Parking with Elevator”
- 18,000 square feet of existing building demolition

The default CalEEMod information also assumed project construction would begin January 2021 and last 12 months.[1] There were an estimated 246 construction workdays. Average daily emissions were computed by dividing the total construction emissions by the number of construction days.

Table 4 shows average daily construction emissions of ROG, NO_X, PM_{10} exhaust, and $PM_{2.5}$ exhaust during construction of the project. As indicated in Table 4, the predicted construction period emissions would not exceed the BAAQMD significance thresholds.

Table 4
Construction Period Emissions

Scenario	ROG	NOx	PM_{10} Exhaust	$PM_{2.5}$ Exhaust
Total construction emissions (tons)	2.0 tons	2.0 tons	0.1 tons	0.1 tons
Average daily emissions (pounds)[1]	16.6 lbs./day	16.5 lbs./day	0.7 lbs./day	0.7 lbs./day
BAAQMD Thresholds (pounds per day)	*54* lbs./day	*54* lbs./day	*82* lbs./day	*54* lbs./day
Exceed Threshold?	**No**	**No**	**No**	**No**

[1]Assumes 246 workdays.

Construction activities, particularly during site preparation and grading, would temporarily generate fugitive dust in the form of PM_{10} and $PM_{2.5}$. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying uncovered loads of soil. Unless properly controlled, vehicles leaving the site would deposit mud on local streets, which could be an additional source of airborne dust after it dries.

Although construction period emissions would not exceed the BAAQMD significance thresholds, the BAAQMD CEQA Air Quality Guidelines require implementation of best management practices. During any construction period ground disturbance, the applicant shall ensure that the project contractor implement measures to control dust and exhaust. Implementation of the measures recommended by BAAQMD and listed below as standard permit conditions would reduce the air quality impacts associated with grading and new construction to a less than significant level.

Standard Permit Conditions

- Water active construction areas at least twice daily or as often as needed to control dust emissions.

- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.

[1] According to the applicant, "*A construction schedule for the project has not been determined. The duration of construction for similar developments is approximately 20 months."* A detailed construction schedule could not be provided, so the CalEEMod default construction schedule of 12 months was used. Using the default schedule to analyze the construction emissions in the shorter amount of time, with more intensive construction activity, would yield higher construction impacts. Therefore, the more conservative construction scenario was assessed.

- Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).

- Pave new or improved roadways, driveways, and sidewalks as soon as possible.

- Lay building pads as soon as possible after grading unless seeding or soil binders are used.

- Replant vegetation in disturbed areas as quickly as possible.

- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.

- Minimize idling times either by shutting off equipment when not in use or reducing the maximum idling time to 5 minutes (as required by the California Airborne Toxics Control Measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.

- Maintain and property tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.

- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

In addition to the BAAQMD-recommended best management practices listed above as standard permit conditions, implementation of the mitigation measure in c) below would include construction equipment exhaust control measures to reduce construction particulate matter impacts. As the project would not result in emissions that exceed the BAAQMD thresholds, it would not contribute substantially to existing or projected violations of air quality standards.

c) **Less Than Significant with Mitigation.** Project impacts related to increased community risk can occur either by introducing a new sensitive receptor, such as a residential use, in proximity to an existing source of TACs or by introducing a new source of TACs with the potential to adversely affect existing sensitive receptors in the project vicinity. Project impacts would include construction activity. The project would generate some traffic, consisting of mostly light-duty vehicles that are not a source of substantial TACs or $PM_{2.5}$.

Temporary project construction activity would generate dust and equipment exhaust, in the form of DPM, on a temporary basis that could affect nearby sensitive receptors. Community risk impacts are addressed by predicting increased lifetime cancer risk, the increase in annual $PM_{2.5}$ concentrations and computing the Hazard Index (HI) for non-cancer health risks.

Community Health Risk Impacts Associated with Construction

Construction equipment and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC. These exhaust air pollutant emissions would not be considered to contribute substantially to existing or projected air quality violations. Construction exhaust emissions may still pose health risks for sensitive receptors such as surrounding residents. The primary community risk impact issues associated with construction emissions are cancer risk and exposure to $PM_{2.5}$. Diesel exhaust poses both a potential health and nuisance impact to nearby receptors.

A health risk assessment of the project construction activities was conducted that evaluated potential health effects to nearby sensitive receptors from construction emissions of DPM and $PM_{2.5}$.[2] The project would introduce new sensitive receptors in the form of residents. In addition, the closest sensitive receptors to the project site are residences on S. Second Street, adjacent to the southern site boundary. There are additional residences north, south, east, and west of the site.

The maximum DPM and $PM_{2.5}$ concentrations from project construction were located at single-family homes (1.5 meters) south of the project site. These receptors are considered the maximally exposed individuals (MEI) and are shown in Figure 9. The maximum excess residential cancer risks and annual maximum $PM_{2.5}$ concentration at these locations would be greater than the BAAQMD significance thresholds of 10 in one million for cancer risk and 0.3 $\mu g/m^3$ for $PM_{2.5}$ concentration. Table 5 summarizes the maximum cancer risks, $PM_{2.5}$ concentrations, and health hazard indexes for project related construction activities affecting the construction MEIs.

Cumulative Community Health Risk at Construction MEI

The cumulative impacts of TAC emissions from construction of the project, traffic on Interstate-280 and S. First Street as well as the three stationary sources on the construction MEI are summarized in Table 5. The construction MEI is represented by the residential MEI identified above. As shown in Table 5, the combined cancer risk and hazard risk values, which includes unmitigated and mitigated, would not exceed the cumulative thresholds.

[2] DPM is identified by California as a toxic air contaminant due to the potential to cause cancer.

Source: Illingworth & Rodkin, April 2020

Location of Nearby Sensitive Receptors and Maximally Exposed Individual

S. First Street/E. Virginia Street Mixed-Use Initial Study

Figure 9

Table 5 Impacts from Individual and Combined Sources at Construction MEI			
Source	**Cancer Risk (per million)**	**Annual $PM_{2.5}$ ($\mu g/m^3$)**	**Hazard Index**
Project Construction Unmitigated Mitigated	**26.6 (infant)** 5.4 (infant)	0.33* 0.12	0.03 0.01
BAAQMD Single-Source Threshold	*>10.0*	*>0.3*	*>0.1*
Significant? Unmitigated Mitigated	***Yes*** *No*	*No* *No*	*No* *No*
Interstate-280	1.4	0.25	<0.01
S. First Street (north-south) at 200 feet east, ADT 17,155	3.4	0.12	--
Plant #110387 (gas station) at 270 feet	1.5	--	<0.01
Plant #5288 (autobody) at 1,000 feet	--	--	<0.01
Plant #21546 (autobody) at 760 feet	--	--	<0.01
Cumulative Total Unmitigated Mitigated	32.9 11.7	0.70 0.49	<0.07 <0.05
BAAQMD Cumulative Source Threshold	*>100*	*>0.8*	*>10.0*
Significant? Unmitigated Mitigated	*No* *No*	*No* *No*	*No* *No*
* Values 0.34 and under are not considered "exceeding" the 0.3 $\mu g/m^3$ threshold.			

Impact AQ-1: Project construction would result in an infant cancer risk of 26.6 in one million at the maximally exposed individual (MEI), which exceeds the BAAQMD's cancer risk significance threshold of 10 in one million.

Mitigation Measures

MM AQ-1 Prior to the issuance of any grading or demolition permits, the project shall develop a plan demonstrating that the off-road equipment used on-site to construct the project would achieve a fleet-wide average 65 percent reduction in particulate matter exhaust emissions or greater. One feasible plan to achieve this reduction would include the following:

- All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet U.S. EPA particulate matter emissions standards for Tier 4 Interim engines or equivalent. Where equipment meeting Tier 4 standards are not available, the equipment will be required to include Tier 3 engines with CARB-certified Level 3 Diesel Particulate Filters that are considered CARB verified diesel emission control devices (VDECs).[3] Equipment that is electrically powered or uses non-diesel fuels would also meet this requirement.

[3] See http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm

- Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs first), the project applicant shall submit to the Director of Planning, Building, and Code Enforcement or Director's designee a construction operations plan that includes specifications of the equipment to be used during construction. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth in this measure.

Implementation of Mitigation Measure AQ-1 using construction equipment meeting Tier 4 interim engine standards would reduce on-site diesel exhaust emissions from construction equipment by 80 percent. The project needs at least a 65 percent reduction in DPM emissions to be below the BAAQMD thresholds. Modeling with Tier 4 engines on the construction equipment resulted in an 80 percent reduction in DPM emissions, showing that the use of this Tier 4 engine equipment would be enough to reduce the emissions to below the BAAQMD significance thresholds. This would reduce the cancer risk and $PM_{2.5}$ concentration, such that the mitigated infant cancer risk from the project at the construction MEI would be less than 5.4 in one million and the maximum annual $PM_{2.5}$ concentration would be 0.12 $\mu g/m^3$, which would not exceed the BAAQMD significance thresholds.

d) **Less Than Significant Impact**. The proposed project is a mixed-use development consisting of residential and commercial uses. The proposed project would not create other emissions including new sources of odor. Common sources of odors and odor complaints are uses such as transfer stations, recycling facilities, painting/coating facilities, landfills, and wastewater treatment plants. During construction, use of diesel-powered vehicles and equipment could temporarily generate localized odors, which would cease upon project completion. This represents a temporary impact and implementation of abatement measures for construction period emissions identified in c) above would further assure that this impact is less than significant.

Non-CEQA Effects

The project would introduce new residents that are sensitive receptors. In December 2015, the California Supreme Court issued an opinion in the California Building Industry Association vs. Bay Area Air Quality Management District (CBIA vs. BAAQMD) case that CEQA is primarily concerned with the impacts of a project on the environment, not the effects of the existing environment on a project. In light of this ruling, the effect of existing air pollutants from off-site sources on new sensitive receptors introduced by the project would not be considered an impact under CEQA.

However, General Plan Policy MS-11.1 requires completion of air quality modeling for new sensitive land uses located near sources of pollution and the identification of project design measures to avoid significant risks to future residents and users of the project. The project proposes new sensitive receptors (residential occupants) in the proximity of nearby potential TAC sources, as shown in Figure 10. Though not necessarily a CEQA issue, the effect of existing TAC sources on future project receptors was conducted to comply with the 2017 CAP goal of reducing TAC exposure and protecting public health as well as the City's General Plan

Policy MS-11.1. The types of uses proposed by the project (retail and residential) would not create a substantial source of localized TACs.

Community health risk assessments typically consider all substantial sources of TACs that can affect sensitive receptors located within 1,000 feet of a project site. These sources can include freeways or highways, busy surface streets, and stationary sources identified by BAAQMD. In order for the project to be consistent with General Plan Policy MS-11.1, MS-11.4, and MS-11.5, the following measures will be required as a condition of the Conditional Use Permit to reduce exposure to TAC emissions and avoid significant risks to health and safety. TAC sources in the project area are shown in Figure 10.

A review of the project area indicates that traffic on Interstate 280 (I-280) and S. First Street has an average daily traffic (ADT) of over 10,000 vehicles, which are considered sources of TACs. All other roadways within the area are assumed to have an ADT that is less than 10,000 vehicles. Three stationary sources were identified within the 1,000-foot influence area. This project would not introduce any new TAC sources, such as generators.

Roadway Sources. To assess potential health impacts at the project site from traffic on I-280, the health risk (potential cancer risks) impacts were computed using modeled TAC and $PM_{2.5}$ concentrations from traffic. The maximum modeled TAC and $PM_{2.5}$ concentrations from I-280 occurred at the second floor level in the northern corner of the project residential area closest to I-280 as shown in Figure 11. TAC and $PM_{2.5}$ concentrations from I-280 traffic at the project site will decrease with distance from the highway and with increasing height (floor levels).

The maximum increased lifetime cancer risk and annual $PM_{2.5}$ concentrations for new residents at the project site from I-280 are shown in Table 6.

Table 6
Community Risk Impact to Proposed Project Residents

Source	Cancer Risk (per million)	Annual $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
Interstate-280	2.4	0.31*	<0.01
S. First Street (north-south) at 30 feet east (2nd Fl), ADT 17,155	9.5	0.33	--
Plant #110387 (gas station) at 100 feet	7.8	--	0.04
Plant #5288 (auto body) at 900 feet	--	--	<0.01
Plant #21546 (auto body) at 900 feet	--	--	<0.01
BAAQMD Single-Source Threshold	*>10.0*	*>0.3*	*>0.1*
Significant?	*No*	*No*	*No*
Cumulative Total	19.9	0.64	<0.07
BAAQMD Cumulative Source Threshold	*>100*	*>0.8*	*>10.0*
Significant?	*No*	*No*	*No*

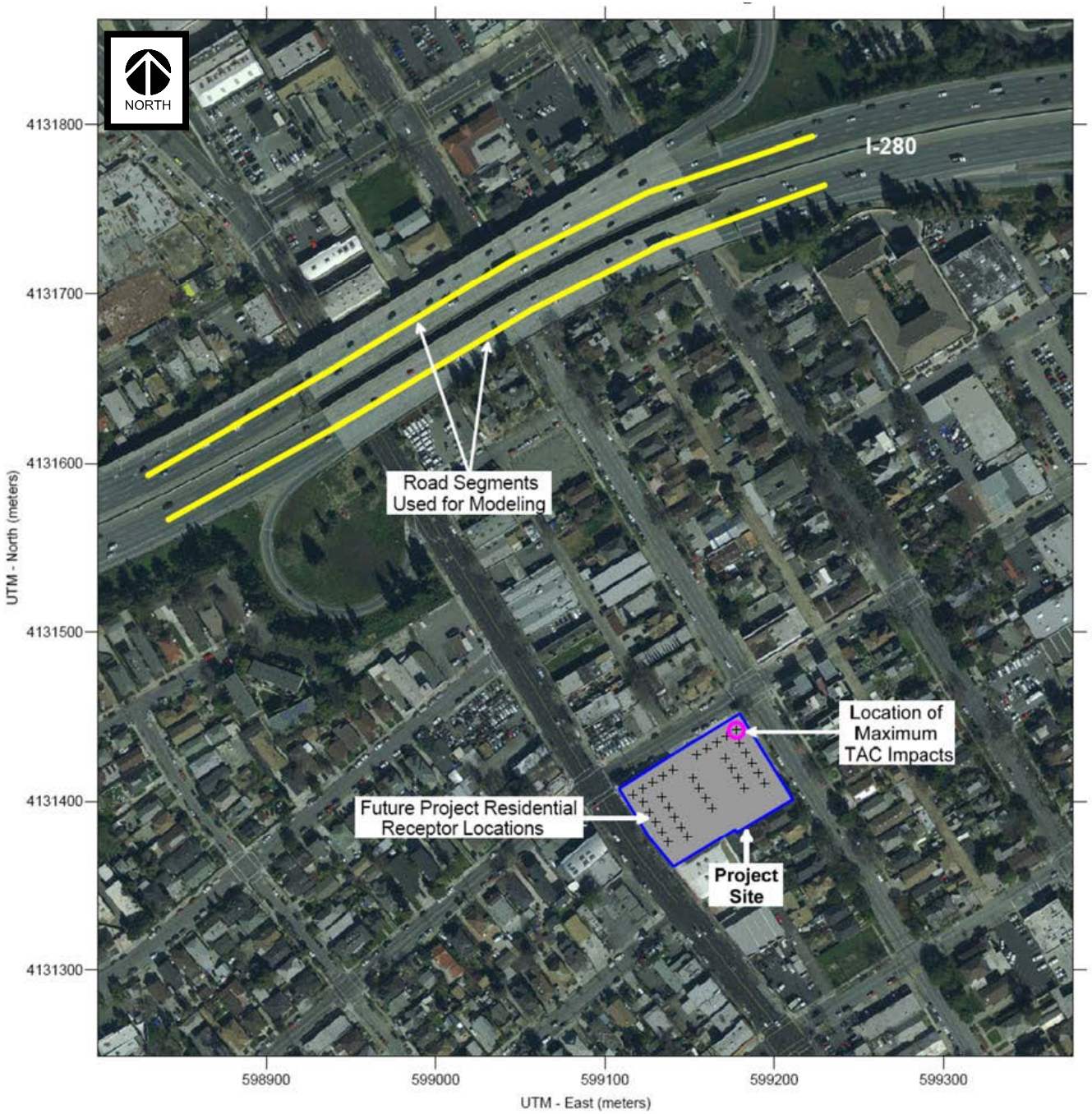
Risks and concentrations for S. First Street were also analyzed using The BAAQMD *Roadway Screening Analysis Calculator* for Santa Clara County. Estimated Risk values for S. First Street upon the project's sensitive receptors located on the second floor are listed in Table 6. Note that BAAQMD has found that non-cancer hazards from all local roadways would be below a Hazard Index of 0.03.

Source: Illingworth & Rodkin, April 2020

TAC Sources

S. First Street/E. Virginia Street Mixed-Use Initial Study

Figure 10



Source: Illingworth & Rodkin, April 2020

Project Site and Location of Maximum TAC Impacts at Proposed Residential Uses

S. First Street/E. Virginia Street Mixed-Use
Initial Study

Figure
11

Stationary Sources. Three stationary sources were identified (Plant #110387, #5288, and #21546) with one source being a gas dispensing facility and the other two sources being an autobody shops. The emissions data for all these stationary sources were provided by BAAQMD and adjusted for distance based on BAAQMD's *Distance Adjustment Multiplier Tool for Gasoline Dispensing Facilities* or *Distance Adjustment Multiplier Tool for Generic Engines* when appropriate.

As shown in Table 6, the annual cancer risks and HI are below their respective single and cumulative source significance thresholds. The annual $PM_{2.5}$ concentrations for the roadways are at the significance threshold. BAAQMD's significance threshold for annual $PM_{2.5}$ concentration is "greater than 0.3 $\mu g/m^3$" which is interpreted as 0.35 $\mu g/m^3$ or greater to be considered a significant impact. Therefore, as the roadways' annual $PM_{2.5}$ concentrations would not exceed the significance threshold. The cancer risk, non-cancer health impact (hazard index), and $PM_{2.5}$ concentrations are all below their respective BAAQMD significance thresholds.

Although the annual $PM_{2.5}$ concentrations are at and not exceeding the BAAQMD threshold, to provide a conservative approach, the following specific permit condition is identified to ensure the annual $PM_{2.5}$ concentrations would be well below the threshold.

Conditions of Approval

The project shall include the following measures to minimize long-term annual $PM_{2.5}$ exposure for new project occupants:

1. Install air filtration in residential buildings. Air filtration devices shall be rated MERV13 or higher for portions of the site that have direct line-on-site to the roadways and annual $PM_{2.5}$ exposure at 0.3 $\mu g/m^3$. To ensure adequate health protection to sensitive receptors (i.e., residents), this ventilation system, whether mechanical or passive, all fresh air circulated into the dwelling units shall be filtered.

2. As part of implementing this measure, an ongoing maintenance plan for the buildings' heating, ventilation, and air conditioning (HVAC) air filtration system should be required.

3. Ensure that the use agreement and other property documents: 1) require cleaning, maintenance, and monitoring of the affected buildings for air flow leaks, 2) include assurance that new owners or tenants are provided information on the ventilation system, and 3) include provisions that fees associated with owning or leasing units in the building include funds for cleaning, maintenance, monitoring, and replacements of the filters, as needed.

A properly installed and operated ventilation system with MERV13 would achieve an 80-percent reduction.[4] Increased cancer risk and $PM_{2.5}$ exposures for MERV13 filtration cases

[4] Bay Area Air Quality Management District (2016). Appendix B: Best Practices to Reduce Exposure to Local Air Pollution, *Planning Healthy Places A Guidebook for Addressing Local Sources of Air Pollutants in Community Planning* (p. 38). http://www.baaqmd.gov/~/media/files/planning-and-research/planning-healthy-places/php_may20_2016-pdf.pdf?la=en

were calculated assuming a combination of outdoor and indoor exposure. For use of MERV13 filtration systems, assuming exposure to outdoor air at each unit (from open windows or being outside the unit) of three hours to ambient $PM_{2.5}$ concentrations and 21 hours of indoor exposure to filtered air was assumed. In this case, the effective control efficiency using MERV13 is about 70 percent for $PM_{2.5}$ exposure. This would reduce the maximum annual $PM_{2.5}$ concentration from I-280 to 0.09 $\mu g/m^3$ and from S. 1st Street to 0.1 $\mu g/m^3$. These mitigated levels would not exceed the recommended significance thresholds for annual $PM_{2.5}$ exposure from any single source of air pollutants or TACs.

Conclusion: The project would have a less than significant impact on air quality with implementation of identified mitigation measures, permit conditions, and applicable General Plan Policies.

D. BIOLOGICAL RESOURCES

Existing Setting

The project site is located within an urbanized area. The existing property is developed with buildings and pavement. A total of seven buildings are found on the site. The majority of the site was previously occupied by Wheel Works, an automotive-related use, which vacated the site at the end of January 2020. The rear warehouse spaces are currently used for storage of catering supplies. The site contains minimal landscaping including one onsite tree and four off site street trees fronting the site. Due to the disturbed nature of the site, it has a low habitat value.

A tree survey was completed for the project (HMH, March 2019) and is contained in Appendix B. The results of the tree survey are presented below in Table 7. One of these trees (#2) is located onsite and the other four are street trees.

Table 7
Tree Survey Results

No.	Species	Scientific Name	Trunk Circumference/ Diameter (inches)	Condition	Proposed Action
1*	**Sycamore Tree**	***Palantus Acerifolia***	**58/18.5**	**Good**	**Retain**
2	Oleander Standard	*Nerium Oleander*	16/5.0	Fair	Remove
3*	**Sycamore Tree**	***Palantus Acerifolia***	**62/20.0**	**Fair**	**Retain**
4*	**Sycamore Tree**	***Palantus Acerifolia***	**56/18.0**	**Fair**	**Retain**
5*	**Sycamore Tree**	***Palantus Acerifolia***	**52/16.5**	**Fair**	**Remove**

Ordinance size trees are shown in **bold**.
*Indicates street tree.
Source: HMH, Arborist Report, March 2019.

Regulatory Framework

Federal and State

Special-Status Species

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

In addition to species listed under state and federal Endangered Species Acts, Section 15380(b) and (c) of the CEQA Guidelines provided that all potential rare or sensitive species, or habitats capable of

supporting rare species, are considered for environmental review per the CEQA Guidelines. These may include plant species of concern in California listed by the California Native Plant Society and CDFW listed "Species of Special Concern."

Migratory Bird and Birds of Prey Protection

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, possessing, or trading in migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, and bird nests and eggs. Construction disturbances during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment, a violation of the MBTA. Additionally, nesting birds are considered special-status species are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

Sensitive Habitats

Wetland and riparian habitats are considered sensitive habitats under CEQA. They are also afforded protection under applicable federal, state, and local regulations, and are generally subject to regulation, protection, or consideration by the US Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), CDFW, and /or the USFWS under provisions of the federal Clean Water Act (e.g., Sections 303, 304, 404) and State of California Porter-Cologne Water Quality Control Act.

Regional and Local

Santa Clara Valley Habitat Plan/Natural Communities Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Communities Conservation Plan (HCP) was developed through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District, Santa Clara Valley Transportation Authority, U.S. Fish and Wildlife Service, and California Department of Fish and Wildlife. The HCP is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. The project site is located within the boundaries of the HCP and is designated as follows:

- Area 4: Urban Development Equal to or Greater than 2 Acres Covered
- Land Cover: Urban-Suburban
- Land Cover Fee Zone: Urban Areas (No Land Cover Fee) and Fee Zone C (Small Vacant Sites Under 10 Acres)

In addition, the HCP indicates that nitrogen deposition has damaging effects on many of the serpentine plants in the HCP area, including the host plants that support the Bay checkerspot butterfly. Because serpentine soils tend to be nutrient poor and nitrogen deposition artificially fertilizes serpentine soils, nitrogen deposition facilitates the spread of invasive plant species. Nitrogen tends to be efficiently recycled by the plants and microbes in infertile soils such as those derived from serpentine, so that fertilization impacts could persist for years and result in cumulative habitat degradation. All major remaining populations of the butterfly and many of the sensitive serpentine plant populations occur in areas subject to air pollution from vehicle exhaust and other sources throughout the Bay Area,

including the project site. The displacement of native serpentine plant species and subsequent decline of several federally-listed species, including the butterfly and its larval host plants, has been documented on Coyote Ridge in central Santa Clara County.

City of San José Tree Ordinance

The City of San José's Municipal Code includes tree protection measures (Municipal Code Title 13, Chapters 13.28 [Street Trees, Hedges and Shrubs] and 13.32 [Tree Removal Controls]) that regulate the removal of trees. An "ordinance-sized tree" on private property is defined as any tree having a main stem or trunk, 12 inches in diameter (38 inches or more in circumference) at a height measured 54 inches (4.5 feet) above ground. For multi-trunk trees, the circumference is measured as the sum of the circumferences of all trunks at 54 inches above grade. On single-family or duplex lots, a permit is required to remove ordinance-sized trees, even if they are unhealthy or dead. On multi-family, commercial, or industrial lots, a permit is required to remove a tree of any size. The Code defines a "heritage tree" as any tree that because of factors including but not limited to its history, girth, height, species or unique quality, has been found by the City Council to have a special significance to the community. Pruning or removing a heritage tree is illegal without first consulting the City Arborist and obtaining a permit. Finally, street trees are those that are located in the public right-of-way between the curb and sidewalk. A permit is required before pruning or removing a street tree.

General Plan Policies

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

Envision San José 2040 Relevant Biological Resource Policies	
Policy CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible, include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.
Policy ER-5.1	Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
Policy ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
Policy MS-21.4	Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.
Policy MS-21.5	As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not

Envision San José 2040 Relevant Biological Resource Policies	
	feasible, include appropriate tree replacement, both in number and spread of canopy.
Policy MS-21.6	As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.
Policy MS-21.8	For Capital Improvement Plan or other public development projects, or through the entitlement process for private development projects, require landscaping including the selection and planting of new trees to achieve the following goals: 1. Avoid conflicts with nearby power lines. 2. Avoid potential conflicts between tree roots and developed areas. 3. Avoid use of invasive, non-native trees. 4. Remove existing invasive, non-native trees. 5. Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species. 6. Plant native oak trees and native sycamores on sites which have adequately sized landscape areas and which historically supported these species.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
4. BIOLOGICAL RESOURCES. Would the project:					
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?		X			1, 2
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?			X		1, 2
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?			X		1, 2
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?			X		1, 2
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?			X		1, 2, 8

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?			X		1, 2, 9, 10

Explanation

a) **Less Than Significant with Mitigation Incorporated**. The project site does not contain any mature trees (see additional discussion under e below). However, mature street trees adjacent to the project site may provide nesting habitat for migratory birds, including raptors (birds of prey). Raptors and their nests are protected under the Migratory Bird Treaty Act of 1918 and California Fish and Game Code Sections 3503 and 3503.5. These species could be disturbed during tree removals and construction activities.

Impact BIO-1: Construction activities associated with the project could result in the loss of fertile eggs of nesting raptors or other migratory birds, or nest abandonment.

Mitigation Measures

MM BIO-1 The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive).

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

If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist/biologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the ornithologist/biologist shall submit a report indicating the results of the survey and any designated buffer zones to the

satisfaction of the Director of the Planning, Building, and Code Enforcement or the Director's designee.

With implementation of the identified mitigation measures, the project's impact to nesting birds and raptors would be less-than-significant.

b) **Less Than Significant Impact**. The project is located on a disturbed infill site and does not contain any sensitive natural communities. No sensitive natural communities are located on the project site. The nearest riparian corridors are the Guadalupe River, which is 0.5 miles to the east, and Coyote Creek, more than 0.7 miles to the west.

c) **Less Than Significant Impact**. The project is located on a developed infill site and does not contain any state or federally protected wetlands.

d) **Less Than Significant Impact**. The project is proposed in an urbanize setting surrounded by existing development and has not been found to contain any native resident or wildlife species. However, tree removal or other construction activities could potentially disrupt nesting raptors. With the implementation of MM BIO-1, the proposed project would reduce this potential impact to a less than significant levels. Therefore, the proposed project would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.

e) **Less Than Significant Impact**. A tree survey was completed for the project (HMH, March 2019) and is contained in Appendix B. The results of the tree survey are presented above in Table 7. One of these trees (#2) is located onsite and the other four are street trees.

The four street trees exceed 38 inches in circumference (12 inches in diameter) and are protected by the City's Tree Protection Ordinance. There are no designated heritage trees on the site. The project proposes to remove two trees (#2 and #5). The City requires replacement of all removed trees in accordance with the replacement ratios presented below. Street tree removal and replacement must be conducted in consultation with the City's Department of Transportation.

As a part of the development approval, the project will implement the following standard permit conditions to mitigate for impacts to trees. The project, therefore, would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

Standard Permit Conditions

- Any tree to be removed will be replaced with new trees in accordance with the City's Tree Replacement Ratios, as set forth below.

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

- To compensate for the two trees to be removed, the following tree replacement will be implemented: one tree replaced at a 1:1 ratio and one tree replaced at a 5:1 ratio. The total number of replacement trees required to be planted would be six trees. The species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement. In addition, the removal of the street tree and its replacement must be conducted in consultation with the City's Department of Transportation.

- In the event that a project site does not have sufficient area to accommodate the required tree replacement, one or more of the following may be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage:

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

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

- **Tree Protection Standards**. The applicant shall maintain the trees and other vegetation shown to be retained in this project and as noted on the Approved Plan Set. Maintenance shall include pruning and watering as necessary and protection from construction damage. Prior to the removal of any tree on the site, all trees to be preserved shall be permanently identified by metal numbered tags. Prior to issuance of the Grading Permit or removal of any tree, all trees to be saved shall be protected by chain link fencing, or other fencing type approved by the Director of Planning. Said fencing shall be installed at the dripline of the tree in all cases and shall remain during construction. No storage of construction materials, landscape materials, vehicles or construction activities shall occur within the fenced tree protection area. Any root pruning required for construction purposes shall receive prior review and approval, and shall be supervised by the consulting licensed arborist. Fencing and signage shall be maintained by the applicant to prevent disturbances during the full length of the construction period that could potentially disrupt the habitat or trees.

With implementation of this standard permit condition, the project would comply with the local policies or ordinances protecting biological resources, resulting in a less than significant impact.

f) **Less Than Significant Impact**. The project is located within the SCVHP plan area and is considered a Covered Activity. The project is located on land designated by the SCVHP as Urban-Suburban. The nitrogen deposition fee applies to all projects that create new vehicle trips. A nitrogen deposition fee will be required for each new vehicle trip generated by the project, at the time of development. The project would implement the following standard permit condition in accordance with the SCVHP.

Standard Permit Condition

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

With implementation of this standard permit condition, the project would comply with the HCP resulting in a less than significant impact.

Conclusion: The project would have a less than significant impact on biological resources with implementation of identified mitigation measures and permit conditions.

E. CULTURAL RESOURCES

The following discussion is based on historic evaluations and an archaeological literature review.

A historic report to assess the potential significance of the existing buildings on site was prepared by Archives & Architecture (September 13, 2017), and is contained in Appendix C. A General Plan and Design Guidelines Compliance Review was prepared by TreanorHL (December 2, 2020) to analyze the 2020 project concept design. This report is also contained in Appendix C.

An archaeological literature review was prepared by Holman & Associates for the site (June 26, 2017). *The archaeological literature review may discuss locations of specific archaeological sites and is confidential. For this reason, it is not included in this Initial Study. Qualified personnel, however, may request a copy of the report from the City's Planning Division.*

Existing Setting

Historic Resources

The project site contains several structures on five parcels. A historical evaluation of these structures was conducted by Archives & Architecture (2017) to determine their potential significance as historical resources under CEQA. This evaluation is contained in Appendix C. The evaluation was prepared using the methodology established by the City of San José and is based on the criteria set forth by the National Register of Historic Places (NRHP), California Register of Historical Resources (CRHR), and City of San José's policies and regulations related to historic resources. Specifically, the historic analysis included the following:

- Evaluation of the structures based on the criteria of the NRHP, CRHR and the City of San Jose Evaluation Rating System for listing in the Historic Resources Inventory (resources of lesser significance).

- Preparation of State Historic Resources Evaluation forms (DPR 523) for the structures.

The City of San José adopted the Martha Gardens Specific Plan in 2003 to provide long-term guidance for land use planning in the large mixed-use area south of Highway 280 to Hollywood Avenue between South First and South Seventh Streets. The Martha Gardens Conservation Area is located within this Specific Plan and is bounded by Margaret Street to the north, the alley between S. First Street and S. Second Street to the west, Martha Street to the south and the east side of S. Third Street to the east. The Martha Gardens Conservation Area designation under the San José Municipal Code implements goals of the plan to preserve the historic character of the neighborhood, which is generally identified as the Victorian Neighborhood sub-area. The project site is adjacent to the Martha Gardens Conservation Area and is within the Martha Gardens Specific Plan.

A summary description of the structures on the project site based on the historic report prepared by Archives & Architecture (2017) is provided below.

802 S. First Street: Located at the corner of S. Second and E. Virginia Streets this site contains three building campaigns: 1) two-story main building constructed in 1946; 2) tire service bay building constructed in the late 1950s; and 3) rear addition. The prominent 1946 two story main building is a flat roofed structure with stucco cladding over what appears to be concrete or masonry block. The main

building was identified in the historic evaluation as a very good example of Modern design with Prairie Style influences, as well as characteristic of post-World War II roadside architecture. The building had unique mid-century signage (see photos in Archives & Architecture report in Appendix C). Particularly notable was the rooftop sign at the corner of the site at S. First and E. Virginia Streets with complex neon-lighted tire image. A site visit conducted by TreanorHL in November 2020 identified that the rooftop sign is no longer present on the building. The service bay building and its addition are non-descript masonry structures without architectural embellishment or artistic form-making. They are functional designs with vernacular character and were not designed to carry out the imagery of the 1946 building as the use later expanded to additional sites.

838 S. First Street: Located on the east side of the strip commercial block between E. Virginia and Martha Streets, this site contains a one-story brick and masonry building constructed in 1926. The main façade has a stepped parapet and six storefront bays that have been infilled with masonry block. The exterior of the building was likely resurfaced with stucco in the later part of the twentieth century.

833 S. Second Street: Located on S. Second Street just south of E. Virginia Street, the storage structure is partially enclosed. The site does not appear to contain buildings or structures over 50 years in age and does not reflect any aspects of exceptional design or history; therefore, it does not qualify as a historic resource.

Historic resources include properties eligible for listing on the National Register of Historic Places, the California Register of Historical Resources, or a local register of historical resources (as defined at Public Resources Code §5020.1(k)). According to Public Resources Code §15064.5(b), a project would have a significant effect on a historic resource if it would "cause a substantial adverse change in the significance" of that resource. Specifically, "substantial adverse change in the significance of an historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired." The 2017 historic evaluation for the structures on the project site at 802 S. First Street, 838 S. First Street, and 833 S. Second Street concluded that these structures do not appear to be historic resources under CEQA, as further described in the "Impacts and Mitigation" section below.

Archaeologic Resources

An archaeological literature review was completed for the project site by Holman & Associates (June 26, 2017). On June 16, 2017, a records search was conducted at the Northwest Information Center of the California Historical Resources Information System, an adjunct to Sonoma State University. All recorded archaeological sites within ¼ mile, and all other cultural resources and studies within and adjacent to the project site were reviewed. Additional research was conducted using Holman & Associates' library and an internet search of applicable historic-era maps.

Two Native American archaeological sites have been recorded approximately ¼ mile from the project site. No archaeological sites are recorded for the project site. There have been three prior studies that appear to have included the project area. In 1989, an extensive linear survey from Los Angeles to San Francisco and Sacramento probably included S. First Street, but no specific information is relevant to this study. It is not believed the that archaeological field survey was conducted for the study area. In 2003, a cultural resources literature review was conducted exclusively for the Martha Gardens Specific Plan that incorporated much of the information generated for the 2002 project and that included the current project site (Busby 2003). An archaeological field study was not conducted because this

densely built urban area afforded extremely limited soil visibility, and additional archaeological work was not recommended.

In this general area of San José, Native American sites have been identified on valley terraces typically within a ¼ mile of various historical channels of the Guadalupe River and Coyote Creek. These are often buried by alluvial deposits, and historic-era/recent fills. The current project site is part of a large valley terrace located 0.5 miles east of the Guadalupe River and more than 0.7 miles from west of Coyote Creek. The archaeological report concluded that the project site is sensitive for historic-era archaeological features and deposits.

Regulatory Framework

Federal

National Register of Historic Places

The National Register of Historic Places (NRHP) is the nation's most comprehensive list of historic resources and includes historic resources significant in American history, architecture, archeology, engineering, and culture, at the local, State, and national level. National Register Bulletin Number 15, How to Apply the National Register Criteria for Evaluation, describes the Criteria for Evaluation as being composed of two factors. First, the property must be "associated with an important historic context" and second, the property must retain integrity of those features necessary to convey its significance. A resource is considered eligible for the NRHP if the quality of significance in American history, architecture, archaeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association and:

1. are associated with events that have made a significant contribution to the broad pattern of our history; or

2. are associated with the lives of persons significant to our past; or

3. embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

4. yielded, or may be likely to yield, information important in prehistory or history.

State

California Environmental Quality Act and California Register of Historical Resources

The California Environmental Quality Act (CEQA) requires regulatory compliance for projects involving historic resources throughout the State. Under CEQA, public agencies must consider the effects of their actions on historic resources (Public Resources Code, Section 21084.1). The CEQA Guidelines define a significant resource as any resource listed in or determined to be eligible for listing in the California Register of Historical Resources (California Register) [see Public Resources Code, Section 21084.1 and CEQA Guidelines Section 15064.5 (a) and (b)].

The California Register of Historical Resources (CRHR) was created to identify resources deemed worthy of preservation and was modeled closely after the NRHP. The criteria are nearly identical to those of the NRHP, which includes resources of local, State, and regional and/or national levels of significance. Under California Code of Regulation Section 4852(b) and Public Resources Code Section 5024.1, an historical resource generally must be greater than 50 years old and must be significant at the local, State, or national level under one or more of the following four criteria:

1. It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States.

2. It is associated with the lives of persons important to local, California, or national history.

3. It embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master or important creative individual or possesses high artistic values.

4. It has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California, or the nation.

Properties of local significance that have been designated under a local preservation ordinance (local landmarks register or landmark districts) or that have been identified in a local historical resources inventory may be eligible for listing in the CRHR and are presumed to be historical resources for the purposes of CEQA unless a preponderance of evidence indicates otherwise (Public Resources Code, Section 5024.1g; California Code of Regulations, Title 14, Section 4850).

California Code of Regulations Section 4852(c) addresses the issue of "integrity," which is necessary for eligibility for the CRHR. Integrity is defined as "the authenticity of an historical resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance." Section 4852(c) provides that historical resources eligible for listing in the CRHR must meet one of the criteria for significance defined by 4852(b)(1 through 4), and retain enough of their historic character of appearance to be recognizable as historical resources and to convey the reasons for their significance.

Archaeological Resources and Human Remains

Archaeological sites are protected by policies and regulations under the California Public Resources Code, California Code of Regulations (Title 14 Section 1427), and California Health and Safety Code. California Public Resources Code Sections 5097.9-5097.991 require notification of discoveries of Native American remains and identifies appropriate measures for the treatment and disposition of human remains and grave-related items.

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

Local

Historic Preservation Ordinance

Under the City of San José Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code), preservation of historically or architecturally worthy structures and neighborhoods that impart a distinct aspect to the City of San José and that serve as visible reminders of the historical and cultural heritage of the City of San José, the State, and the nation is promoted. This is encouraged in order to 1) stabilize neighborhoods and areas of the city; 2) enhance, preserve and increase property values; 3) carry out the goals and policies of the City's General Plan; 4) increase cultural, economic, and aesthetic benefits to the City and its residents; 5) preserve, continue, and encourage the development of the City to reflect its historical, architectural, cultural, and aesthetic value or traditions; 6) protect and enhance the City's cultural and aesthetic heritage; and 7) promote and encourage continued private ownership and utilization of such structures.

The landmark designation process requires that findings be made that proposed landmarks have special historical, architectural, cultural, aesthetic, or engineering interest or value of an historical nature, and that designation as a landmark conforms to the goals and polices of the General Plan.

Part 5 of the City of San José Historic Preservation Ordinance includes provisions for the designation of Conservation Areas to recognize, preserve, and enhance the character of qualifying neighborhoods. A "conservation area" means a geographically definable area of urban or rural character with identifiable attributes embodied by: 1) architecture, urban design, development patterns, setting, or geography; and 2) history. Every potential conservation area proposed for designation must qualify as a conservation area pursuant to Section 13.48.610 and meet one or both of the following additional criteria: a) the neighborhood or area has a distinctive character conveying: (1) a sense of cohesiveness through its design, architecture, setting, materials, or natural features; and (2) its history; or b) the neighborhood or area reflects significant geographical or developmental patterns associated with different eras of growth in the city. Because the threshold of significance for this local designation is significantly lower than City Landmark Historic District designation, Conservation Areas are considered historic resources of lesser significance.

The proposed project is adjacent to the designated Martha Gardens Conservation Area (MGCA). MGCA met the criteria for designation for the following reasons:

- it has clear and understandable boundaries that accentuate its sense of community;
- it has fairly consistent lot sizes with reasonably consistent setbacks;
- predominantly vernacular single-family residences are of a homogeneous scale and massing;
- the neighborhood buildings, although of different styles, are from a definable period of significance (mid-1870s to 1940)
- there is a concentration of historic buildings dating from the period of development;

- the present built environment as a whole represents the period of development through the retention of original exterior materials, building form, streetscape rhythm, and setting; and

- recent changes (to individual houses as well as to lots) have not adversely affected the scale and massing of the rhythm of the neighborhood.

General Plan Policies

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

Envision San José 2040 Relevant Cultural Resource Policies	
Policy LU-13.22	Require the submittal of historic reports and surveys prepared as part of the environmental review process. Materials shall be provided to the City in electronic form once they are considered complete and acceptable.
Policy LU-14.1	Preserve the integrity and enhance the fabric of areas or neighborhoods with a cohesive historic character as a means to maintain a connection between the various structures in the area.
Policy LU-14.3	Design new development, alterations, and rehabilitation/remodels in Conservation Areas to be compatible with the character of the Conservation Area. In particular, projects should respect character defining elements of the area that give the area its identity. These defining characteristics could vary from area to area and could include density, scale, architectural consistency, architectural variety, landscape.
Policy LU-14.4	Discourage demolition of any building or structure listed on or eligible for the Historic Resources Inventory as a Structure of Merit by pursuing the alternatives of rehabilitation, re-use on the subject site, and/or relocation of the resource.
Policy LU-14.6	Consider preservation of Structures of Merit and Contributing Structures in Conservation Areas as a key consideration in the development review process. As development proposals are submitted, evaluate the significance of structure, complete non-Historic American Building Survey level documentation, list qualifying structures on the Historic Resources Inventory and consider the feasibility of incorporating structures into the development proposal, particularly those structures that contribute to the fabric of Conservation Areas.
Policy ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
Policy ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
Policy ER-10.3	Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

City of San José Historic Resources Inventory

The Historic Resources Inventory (HRI) is a list of citywide historic resources identified and/or evaluated in surveys (including Contributing Structures and Structures of Merit), properties listed in the NRHP and CRHR, and properties that have been designated as City Landmarks, City Landmark Historic Districts and Conservation Areas in accordance with the City of San José's Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code). For a historic resource to qualify as a City Landmark or City Landmark Historic District, it must have "special historical, architectural, cultural, aesthetic or engineering interest or value of an historic nature" and be one of the following resource types:

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

In addition, the designation must conform to the goals and polices of the General Plan.

Martha Gardens Specific Plan

The Martha Gardens Specific Plan was adopted by the San José City Council December 2003. The Specific Plan establishes the framework for redevelopment in the Martha Gardens area. It draws on existing and historic uses and sketches out a community with emphasis on new housing with family and arts-oriented services and facilities. The Specific Plan contains goals and objectives, land use plan and policies, design guidelines, circulation, community facilities, services and open space, utilities and implementation strategies. The project site is located in the Commercial/Mixed Use and Victorian Preservation Mixed Use land use areas, and South First Street Corridor and Victorian Neighborhood land use policy subareas. These policy subareas have objectives and urban design guidelines that speak to height and massing, setbacks and built-to lines, street frontage treatment, architectural treatment and materials, parking access and treatment, loading and service and private and common open space. The project site is outside the downtown core, thus none of the downtown/historic design guidelines apply.

The proposed project is located within the Martha Gardens Specific Plan area, specifically a portion of the Victorian Preservation Mixed Use land use area and is adjacent to the Martha Gardens Conservation Area. Therefore, the concept project design was assessed by TreanorHL in the General Plan and Design Guidelines Compliance Review report (December 2, 2020) against the objectives and urban design guidelines outlined in the Martha Gardens Specific Plan.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
5. CULTURAL RESOURCES. Would the project:					
a) Cause a substantial adverse change in the significance of a historical resource pursuant to in §15064.5?		X			1, 2, 11

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?		X			1, 2, 12
c) Disturb any human remains, including those interred outside of dedicated cemeteries?			X		1, 2

Explanation

a) **Less Than Significant with Mitigation Incorporated**. Historic resources include properties eligible for listing on the NRHP, the CRHR, or a local register of historical resources (as defined at Public Resources Code §5020.1(k)). According to Public Resources Code §15064.5(b), a project would have a significant effect on a historic resource if it would "cause a substantial adverse change in the significance" of that resource. Specifically, "substantial adverse change in the significance of an historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired."

On-Site Historical Resources

The historic report for existing structures on the project site prepared by Archives and Architecture in 2017 concluded that there do not appear to be any eligible historical resources under CEQA. Below is a summary of the evaluation conclusions.

802 S. First Street: The commercial site reflects mid-century patterns of development during San José's period of Industrialization and Urban Expansion, but does not embody them in a distinctive enough way for the property to be considered an individually significant historic resource. The creation of the commercial facility is associated with a person who was a success entrepreneur, but whose individual business success is not known to have impacted the community in a larger context. The design of the buildings themselves are very good representatives of Mid-Century Modern design, but lack the architectural distinction that cause them to stand out among the creative work found during this important period of modern design development. The property would, therefore, not qualify as a historic resource under any of the criteria of the NRHP or CRHP A, 1, B, 2 or C, 3. When evaluated within the City of San José's rating system, the property scores 51.69 tally points, indicating it is eligible for listing in the Historic Resources Inventory as a Structure of Merit. When assessed under the qualitative criteria for designation as a City Landmark, the property does not appear to meet the minimum requirements for consideration.

838 S. First Street: The commercial site reflects interwar period patterns of development but does not embody them in a distinctive enough way for the property to be considered an individually significant historic resource, and the creation of this commercial facility is not associated with any persons who are known to have impacted the community in a larger context. The design of the building is reflective of the period but lacks the architectural distinction that would cause it to stand out among the creative work found in this historic era. The property would therefore not qualify as a historic resource under any of the criteria of the NRHP or CRHP A, 1, B, 2 or C, 3. When evaluated within the City of San José's rating system,

the property scores 19.1 tally points, indicating it is not eligible for listing in the Historic Resources Inventory. When assessed under the qualitative criteria for designation as a City Landmark, the property does not appear to meet the minimum requirements for consideration.

833 S. Second Street: The site does not appear to contain buildings or structures over 50 years in age and does not reflect any aspects of exceptional design or history; therefore, it does not qualify as a historic resource.

While the historic report identified that the 1946 main building at 802 S. First Street is not a historical resource under CEQA, the building is a good example of Modern design with Prairie Style influences and characteristic of post-World War II roadside architecture and qualifies for listing as a Structure of Merit in the City's Historic Resources Inventory. In accordance with the City's General Plan guidance and discretionary review process, the historic report recommended that the signage the 1946 main building be photo-documented with the images and related information archived at an appropriate repository prior to removal if it cannot be preserved. Therefore, the project is subject to the standard permit condition as referenced below.

Standard Permit Conditions

- Consistent with General Plan Policies LU-14.2 and LU-14.4, prior to issuance of any demolition permit for the building at 802 First Street, which is eligible as a Structure of Merit, the project applicant shall offer the building for preservation to an entity/individual at an off-site location within the City of San José. The advertisement shall include a photograph of the structure, contact information for the project applicant, and contact information for the City's Historic Preservation Officer. The project applicant shall provide evidence to the City's Historic Preservation Officer that the building has been advertised for relocation in a newspaper of general circulation, posted on a website, and posted on the sites for a period between 30 and 60 days. If an entity or individual is interested in relocating the proposed building to a new site, the costs and liability of the relocation will be borne entirely by that entity/individual. The purchasing entity/individual is required to coordinate with the City's Historic Preservation Officer to prepare an approved preservation plan and receive appropriate City permits.

- If an entity/individual is not identified for relocation, the applicant is required to offer the building for donation with preference to a local organization within the County of Santa Clara. If relocation entity/individual or donation organization is not identified, the conditions of salvage and documentation shall be coordinated with the City's Historic Preservation Officer.

- Prior to the issuance of any demolition permit for the building, a qualifying Structure of Merit, photo-documented consisting of selected views of the building for research and archival use shall be taken under the following standards:

    - *Cover sheet* – The documentation shall include a cover sheet identifying the photographer, providing the address of building, common or historic name of the building, date of construction, date of photographs, and description of photographs.
    - *Camera* – A 35mm camera.

- *Lenses* – No soft focus lenses. Lenses may include normal focus length, wide angle and telephoto.
- *Filters* – Photographer's choice. Use of a pola screen is encouraged.
- *Film* – Must use black and white film; tri-X, Plus-X, or T-Max film is recommended.
- *View* – perspective view-front and other elevations. All photographs shall be composed to give primary consideration to the architectural and/or engineering features of the structure with aesthetic considerations necessary, but secondary.
- *Lighting* – Sunlight is usually preferred for exteriors, especially of the front façade. Light overcast days, however, may provide more satisfactory lighting for some structures. A flash may be needed to cast light into porch areas or overhangs.
- *Technical* – All areas of the photograph must be in sharp focus.
- *Digital Form* – All photographs shall be provided in print and digital form.

Off-Site Historical Resources

The Martha Gardens Conservation Area, including 835 S. Second Street (Contributor to the Conservation Area), is adjacent to the project site. Conservation Areas and their contributors are considered "historic structures of lesser significance" in the City's General Plan and do not qualify as historical resources under CEQA. However, as discussed in the General Plan, Conservation Areas represent San José's history and contribute to the City's identity and the Martha Gardens Conservation Area makes up a sizable part of the area covered by the Martha Gardens Specific Plan. Therefore, the proposed project was assessed against the General Plan goals and policies and the objectives and urban design guidelines in the Martha Gardens Specific Plan for additional disclosure. This evaluation was conducted by TreanorHL in their General Plan and Design Guidelines Compliance Review report (December 2, 2020).

The report found the project would be partially compatible with the General Plan and the Martha Gardens Specific Plan. The report concluded that the proposed project would somewhat alter the integrity of setting and feeling of the Martha Gardens Conservation Area through the introduction of an adjacent six-story, mixed-use building and perpendicular alley connection. However, the report also concluded that the proposed project would not alter the setting or feeling of the Conservation Area in such a substantial way that neighborhood or adjacent contributing property would no longer be eligible for local listing. A summary of this evaluation is presented below with regards to General Plan and Specific Plan consistency.

Martha Gardens Specific Plan Consistency

The proposed project is located within the South First Street Corridor and Victorian Neighborhoods sub-areas of the Martha Gardens Specific Plan. For a full description of the design guidelines for these sub-areas, please refer to Appendix C-2.

The proposed project does not fully comply with the existing Martha Gardens Specific Plan Policies 2.4 and 2.5 regarding the height and massing, setbacks and build-to lines, architectural treatment, parking access, and treatment guidelines.

Although the adjacent Martha Gardens Conservation Area is not considered a historical resource under CEQA, the proposed project has the potential for construction-related damage to adjacent properties, which is a conservation area contributor. In order to protect them under

the City's General Plan policies, these effects would be reduced with the implementation of the mitigation identified in *Section M. Noise & Vibration* (see Mitigation Measure MM NSE-1), as well as more specific measures described below.

Impact CR-1: Construction activities could impact the building fabric of adjacent contributing properties to the Conservation Area.

MM CR-1.1 Pre-Condition Survey: The project applicant shall prepare preconstruction documentation of the property at 835 S. Second Street. Prior to construction, a qualified Historic Architect shall undertake an existing visual conditions study of the 835 S. Second Street property. The purpose of the study would be to establish the baseline conditions of the building prior to construction. The documentation shall take the form of detailed written descriptions and visual illustrations and/or photos, including those physical characteristics of the resource that conveys its historic significance. The documentation shall be reviewed and approved by the City's Director of Planning or Designee and the City of San José's Historic Preservation Officer (HPO) prior to the issuance of any grading permits.

MM CR-1.2: Prior to issuance of any grading permits, the project applicant shall prepare and implement a Historical Resources Protection Plan (HRRP) that provides measures and procedures to protect the 835 S. Second Street property from direct or indirect impacts during construction activities (i.e., due to damage from operation of construction equipment, staging, and material storage). The HRRP shall be prepared by a qualified Historic Architect who meets the Secretary of Interior's Professional Qualifications Standards and reviewed and approved by the City's Director of Planning or Designee and the HPO.

The project applicant shall ensure the contractor follows the HRRP throughout construction. At a minimum, the plan shall include, but is not limited to:

- Guidelines for operation of construction equipment adjacent to the historic properties.
- Means and methods to reduce vibrations from excavation and construction.
- Requirements for monitoring and documenting compliance with the plan.
- Education/training of construction workers about the significance of the adjacent historic properties.

General Plan Consistency

The TreanorHL evaluation considered compliance of the project with the applicable land use policies of the General Plan such as LU-14.1 and LU-14.3.

The proposed project only partially complies with the intent of Policy LU-14.3 since the concept design of the building is not compatible in terms of size, scale, proportion, and massing with the adjacent Conservation Area properties. Detailed information on the proposed building

materials for the project was not available. As proposed, the project complies with General Plan Policy LU-14.1, but does not fully comply with the intent of General Plan Policy LU-14.3. To summarize, the project would not impact the historic integrity of location, design, materials, workmanship, and association of the Martha Gardens Conservation Area, but the integrity of setting and feeling could be compromised. However, as concluded in the report, even though the project would somewhat alter the existing setting and feeling of the 835 S. Second Street property and the Conservation Area by introducing an adjacent six-story building, it would not alter the setting and feeling in such a substantial way that the properties within the Conservation Area would no longer be eligible for local listing.

In conclusion, the proposed project includes demolition of multiple buildings at 802 S. First Street, 838 S. First Street, 831 S. Second Street, and 833 S. Second Street. None of these properties appear eligible for listing on the NRHP, CRHR, or as San José City Landmarks; therefore, there would be no direct impacts on historic resources at the project site.

The project involves the construction of a new building adjacent to the locally designated Martha Gardens Conservation Area and 835 S. Second Street, a contributor to the Martha Gardens Conservation Area. Since conservation areas and their contributors are not considered historic resources under CEQA, there would be no indirect impacts to any historic resources adjacent to the project site.

As part of the development permit approval, the project would conform to the standard permit conditions listed below to document for the removal of the structure at 802 S. First Street, which qualifies as a Structure of Merit for the City's Historic Resources Inventory and would implement the mitigation measures above for protection of adjacent buildings during ground-disturbance activities.

b) **Less Than Significant with Mitigation**. The archaeological study for the project site concluded that the project site is sensitive for historic-era archaeological features and deposits.

Impact CR-2: The project may impact historic-era archaeological deposits during excavation and construction activities. This impact would be reduced to a less than significant level with the following mitigation.

Mitigation Measures

MM CR-2.1 **Preliminary Investigation.** Prior to the issuance of any grading permits, a qualified archaeologist shall conduct a mechanical presence/absence exploration to determine if there are any indications of subsurface archaeological deposits. This exploration would be completed after the buildings have been demolished and all of the asphalt removed, but prior to any ground disturbing activities including grading, potholing for utilities, and building foundation removal. If these activities or similar ground-disturbing ones need to be completed prior to presence/absence work, an archaeological monitor on-site shall be required. The project applicant shall notify the Director of Planning, Building, and Code Enforcement or the Director's designee of any finds during the preliminary field investigation, grading, or other construction activities. Any historic or prehistoric materials identified in the project area during the preliminary field investigation and during grading or other

construction. Based on the findings of the subsurface testing, an archaeological resource treatment plan as described in MM CR-2.2 shall be prepared by a qualified archaeologist, if necessary.

MM CR-2.2 **Research Design and Work Plan.** If archaeological deposits or features that appear eligible to the California Register of Historical Resources are identified during any stage of exploration or monitoring, an archaeological research design and work plan shall be prepared to facilitate archaeological excavation and the site or any features discovered evaluated to the California Register. The Plans shall be submitted to the Director of Planning, Building, and Code Enforcement or the Director's designee for review prior to issuance of any grading permits.

MM CR-2.3 **Evaluations and Treatment Plan.** If MM CR-2.2 is applicable, the project applicant shall prepare a treatment plan that reflects permit-level detail pertaining to depths and locations of all ground disturbing activities. The treatment plan shall be prepared and submitted to the Director of Planning, Building, and Code Enforcement or the Director's designee prior to approval of any grading permit.

In addition to the mitigation identified above, as part of the development permit approval, the project will conform to the following standard permit conditions to avoid impacts associated with disturbance to buried archaeological resources during construction.

Standard Permit Conditions

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

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

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

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

c) **Less Than Significant Impact**. Though unlikely, human remains may be encountered during construction activities. Standard permit conditions are identified in b) above to avoid impacts associated with disturbance to human remains.

Conclusion: The project would have a less than significant impact on cultural resources with implementation of mitigation measures and standard permit conditions.

F. ENERGY

Existing Setting

Pacific Gas and Electric Company (PG&E) is San José's energy utility provider, furnishing both natural gas and electricity for residential, commercial, industrial, and municipal uses. PG&E generates or buys electricity from hydroelectric, nuclear, renewable, natural gas, and coal facilities. In 2017, natural gas facilities provided 20 percent of PG&E's electricity delivered to retail customers; nuclear plants provided 27 percent; hydroelectric operations provided 18 percent; renewable energy facilities including solar, geothermal, and biomass provided 33 percent; and two percent was unspecified.[5]

The existing commercial buildings on the project site are vacant and not generating any energy use.

Regulatory Framework

Many federal, State, and local statutes and policies address energy conservation. At the federal level, energy standards set by the U.S. Environmental Protection Agency (EPA) apply to numerous consumer and commercial products (e.g., the EnergyStar™ program). The EPA also sets fuel efficiency standards for automobiles and other modes of transportation.

State

California Renewable Energy Standards

In 2002, California established its Renewables Portfolio Standard (RPS) Program, with the goal of increasing the percentage of renewable energy in the State's electricity mix to 20 percent of retail sales by 2010. In 2006, California's 20 percent by 2010 RPS goal was codified under Senate Bill (SB) 107. Under the provisions of SB 107 (signed into law in 2006), investor-owned utilities were required to generate 20 percent of their retail electricity using qualified renewable energy technologies by the end of 2010. In 2008, Executive Order S-14-08 was signed into law and requires that retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. As described previously, PG&E's (the electricity provider to the project site) 2015 electricity mix was 30 percent renewable.

In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 for retail sellers and publicly owned utilities, requires them to procure 50 percent of the State's electricity from renewable sources by 2030.

California Building Codes

At the State level, the Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6, of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years. Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[6]

[5] PG&E, Delivering low-emission energy. Accessed September 19, 2018. Available at: https://www.pge.com/en_US/about-pge/environment/what-we-are-doing/clean-energy-solutions/clean-energy-solutions.page

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

The California Green Building Standards Code (CalGreen) establishes mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality.

Local

Council Policy 6-32 Private Sector Green Building Policy

At the local level, the City of San José sets green building standards for municipal development. All projects are required to submit a Leadership in Energy and Environmental Design (LEED),[7] GreenPoint,[8] or Build-It-Green checklist as part of their development permit applications. Council Policy 6-32 "Private Sector Green Building Policy," adopted in October 2008, establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. It fosters practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water and other resources in the City of San José. Private developments are required to implement green building practices if they meet the Applicable Projects criteria defined by Council Policy 6-32 and shown in Table 8 below.

Table 8
Private Sector Green Building Policy Applicable Projects

Applicable Project Minimum Green Building Rating	Minimum Green Building Rating
Commercial/Industrial – Tier 1 (Less than 25,000 square feet)	LEED Applicable New Construction Checklist
Commercial/Industrial – Tier 2 (25,000 square feet or greater)	LEED Silver
Residential – Tier 1 (Less than 10 units)	GreenPoint or LEED Checklist
Residential – Tier 2 (10 units or greater)	GreenPoint Rated 50 points or LEED Certified
High Rise Residential (75 feet or higher)	LEED Certified

Source: City of San José. Private Sector Green Building Policy: Policy Number 6-32. October 7, 2008. https://www.sanjoseca.gov/DocumentCenter/Home/View/363

Municipal Code

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

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

Climate Smart San José

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

General Plan Policies

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

Envision San José 2040 Relevant Energy Policies	
Policy MS-1.6	Recognize the interconnected nature of green building systems, and, in the implementation of Green Building Policies, give priority to green building options that provide environmental benefit by reducing water and/or energy use and solid waste.
Policy MS-2.1	Develop and maintain policies, zoning regulations, and guidelines that require energy conservation and use of renewable energy sources
Policy MS-2.4	Promote energy efficient construction industry practices.
Policy MS-2.6	Promote roofing design and surface treatments that reduce the heat island effect of new and existing development and support reduced energy use, reduced air pollution, and a healthy urban forest. Connect businesses and residents with cool roof rebate programs through City outreach efforts.
Policy MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).
Policy MS-14.1	Promote job and housing growth in areas served by public transit and that have community amenities within a 20-minute walking distance.
Policy MS-14.4	Implement the City's Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
6. ENERGY. Would the project:					
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?			X		1, 2, 7
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?			X		1, 2

Explanation

a) **Less Than Significant Impact**. Energy use consumed by the proposed project was estimated in the Air Quality & Greenhouse Gas Assessment prepared by Illingworth & Rodkin (April 2020). This included natural gas and electricity consumption for the proposed mixed-use development. A discussion of the project's effect on energy use is presented below.

Construction Impacts

The anticipated construction schedule assumes that the project would be built out over a period of approximately 20 months. The project would require demolition, site preparation, grading, site construction, paving, and architectural coating. The construction phase would require energy for the manufacture and transportation of building materials, preparation of the site (e.g., excavation, and grading), and the actual construction of the building. Petroleum-based fuels such as diesel fuel and gasoline would be the primary sources of energy for these tasks. The construction energy use has not been determined at this time.

The overall construction schedule and process is already designed to be efficient in order to avoid excess monetary costs. That is because equipment and fuel are not typically used wastefully due to the added expense associated with renting, maintaining, and fueling it. Therefore, the opportunities for future efficiency gains during construction are limited. The proposed project does, however, include several measures that would improve the efficiency of the construction process. Implementation of the BAAQMD BMPs detailed as standard permit conditions in *Section C. Air Quality* would restrict equipment idling times to five minutes or less and would require the applicant to post signs on the project site reminding workers to shut off idle equipment.

With implementation of the BAAQMD BMPs, the short-term energy impacts associated with use of fuel or energy related to construction would be less than significant.

Operational Impacts

Operation of the proposed project would consume energy, in the form of electricity and natural gas, primarily for building heating and cooling, lighting, cooking, and water heating. Table 9 summarizes the estimated energy use of the proposed project.

Table 9
Estimated Annual Energy Use of Proposed Project (2030)

Proposed Project	Electricity Use (kWh)	Natural Gas Use (kBtu)
Mixed-Use Development	1,243,551	2,136,349

Source: Illingworth & Rodkin, Inc., *Air Quality & Greenhouse Gas Assessment*, Attachment 2, Sections 5.2 and 5.3, pages 54-55, April 2020.

The energy use increase is a conservative estimate, because these estimates for energy use do not take into account the efficiency measures incorporated into the project. In addition, the project would be built to the 2019 California Building Code standards and Title 24 energy efficiency standards (or subsequently adopted standards during the one-year construction term), and CALGreen code, which includes insulation and design provisions to minimize wasteful energy consumption, thereby improving the efficiency of the overall project. Although the proposed project does not include on-site renewable energy resources, the proposed project must meet the requirements of Council Policy 6-32.

The proposed project would result in an increase in traffic to the project site of approximately 1,112 net new daily vehicle trips (Appendix F). The total annual vehicle-miles-traveled (VMT) for the project is approximately 2,292,721 assuming an average trip length of 7.93 per resident (refer to *Section Q. Transportation*).[9] Using the U.S. EPA's estimated average fuel economy of 23.2 miles per gallon (mpg), the project would result in the consumption of approximately 98,824 gallons of gasoline per year.[9] In addition, the project is in close proximity to major transit services and is served by VTA bus routes 25, 66, 68, 82, and 304 (refer to *Section Q. Transportation*). In addition, the Virginia light rail station is located approximately half mile west of the project site served by the Santa Teresa-Alum Rock line (901). Therefore, implementation of the proposed project would not result in a substantial increase on automobile-related energy use.

The proposed project would be required to build to the State's CALGreen code, which includes insulation and design provisions to minimize wasteful energy consumption. Although the proposed project does not include on-site renewable energy resources, the proposed building would be built to achieve LEED certification consistent with San José Council Policy 6-32. The project proponent anticipates that LEED certification would be achieved in part by conforming to the City's Green Building Measures.

The proposed project would provide bicycle parking consistent with the requirements of the City of San José Municipal Code. The inclusion of bicycle parking and proximity to transit would incentivize the use of alternative methods of transportation to and from the site. Based

[9] Association of Bay Area Governments. April 2017. *Plan Bay Area 2040 Draft Environmental Impact Report*. Table 2.1-6. 1,112 daily trips (X 260 weekdays) = 289,120 yearly trips (X 7.93 miles) = 2,292,721 annual VMT ÷ 23.2 mpg = 98,824 gallons/year

on the measures required for LEED Certification, the proposed project would comply with existing State energy standards.

Based on the discussion above, the project would not result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources during project construction or operation.

b) **Less Than Significant Impact**. As stated above the project would be required meet Council Policy 6-32 and would be required to comply with existing State energy standards. Therefore, the project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency.

Conclusion: The project would have less than significant impacts related to energy use.

G GEOLOGY AND SOILS

Existing Setting

The City of San José is located in the Santa Clara Valley, a broad alluvial-covered plain lying between the Santa Cruz Mountains to the west and the Diablo Range to the east. The project site is located at an elevation of approximately 104 feet above mean sea level (U.S. Geological Survey, San Jose Quadrangle, California, 1978).

The project is located in the seismically-active San Francisco Bay Area region. Major active fault systems in the area are the San Andreas, Calaveras, Hayward, and Monte Vista-Shannon. Surface fault rupture tends to occur along existing fault traces. The California Geological Survey (formerly Division of Mines and Geology) has produced maps showing Alquist-Priolo Earthquake Fault Zones along faults that pose a potential surface faulting hazard. No Alquist-Priolo zones are mapped in the vicinity of the project. In addition, the Santa Clara County Fault Rupture Hazard Zones map does not identify any fault hazard zones in the project area.

Regulatory Framework

State

California Building Code

The 2019 California Building Standards Code (CBC) was published on July 1, 2019 and took effect on January 1, 2020. The CBC is a compilation of three types of building criteria from three different origins:

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

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

Changes in the 2019 California Building Standards Code provide enhanced clarity and consistency in application. The basis for the majority of these changes resulted from California amendments to the 2018 model building codes. Some of the most significant change include the following:

- Aligns engineering requirements in the building code with major revisions to national standards for structural steel and masonry construction, minor revisions to standards for wood

construction, and support and anchorage requirements of solar panels in accordance with industry standards;

- Clarifies requirements for testing and special inspection of selected building materials during construction; and

- Recognizes and clarifies design requirements for buildings within tsunami inundation zones.

Paleontological Resources Regulations - California Public Resources Code

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. They range from mammoth and dinosaur bones to impressions of ancient animals and plants, trace remains, and microfossils. California Public Resources Code (Section 5097.5) stipulates that the unauthorized removal of a paleontological resource is a misdemeanor. Under the CEQA Guidelines, a project would have a significant impact on paleontological resources if it would disturb or destroy a unique paleontological resource or site or unique geologic feature.

Local

General Plan Policies

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

Envision San José 2040 Relevant Geology and Soil Policies	
Policy EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
Policy EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.
Policy EC-4.2	Development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process. [The City Geologist will issue a Geologic Clearance for approved geotechnical reports.]
Policy EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
Policy EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil

Envision San José 2040 Relevant Geology and Soil Policies	
	disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 30.
Action EC-4.11	Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.
Action EC-4.12	Require review and approval of grading plans and erosion control plans prior to issuance of grading permits by the Director of Public Works.
Policy ES-4.9	Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

Impacts and Mitigation

Thresholds per CEQA Checklist

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

Explanation

ai) **No Impact**. The site is not located within a State of California Earthquake Fault Hazard Zone and no known active faults cross the site. The risk of ground rupture within the site is considered low. The project site is not mapped within an Alquist-Priolo Earthquake Fault Zone. Furthermore, the project will be designed and developed in accordance with the California Building Code guidelines to avoid or minimize potential direct or indirect damage from seismic shaking on the project site as described below.

aii) **Less Than Significant Impact**. Due to its location in a seismically active region, the proposed building and associated structures would likely be subject to strong seismic ground shaking during their design life in the event of a major earthquake on any of the region's active faults. This could pose a risk to proposed structures and infrastructure. Seismic impacts will be minimized by implementation of standard engineering and construction techniques in compliance with the requirements of the California and Uniform Building Codes for Seismic Zone 4.

aiii) **Less Than Significant Impact**. As described above, the project site may be subject to strong ground shaking in the event of a major earthquake. A geotechnical analysis would be required prior to construction to identify potential geotechnical hazards and provide recommendations to minimize these hazards. The project will be designed and constructed in accordance with a design-level geotechnical investigation as a standard permit condition.

Standard Permit Condition

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

aiv) **No Impact**. The project site is located in a topographically flat area and would not be subject to landslides. See also aiii) above.

b) **Less Than Significant Impact**. Development of the project would involve the excavation of approximately 5,787 cubic yards (CY) of material, which could result in a temporary increase in erosion. The project will implement the standard measures identified in *Section I. Hydrology and Water Quality* section of this Initial Study as well as the standard permit conditions below to minimize erosion.

Standard Permit Conditions

- All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.

- Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.

- Ditches shall be installed to divert runoff around excavations and graded areas if necessary.

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

c) **Less Than Significant Impact**. The project may contain soil and geologic hazards that could result in lateral spreading, subsidence, or liquefaction, which could damage proposed structures. Impacts associated with these soil and geotechnical hazards would be minimized by applying appropriate engineering and construction techniques. A geotechnical analysis would be prepared to provide recommendations to minimize these hazards as described in aiii) above. This would reduce any potentially significant geotechnical impacts to a less than significant level.

d) **Less Than Significant Impact**. The project may contain expansive soils, which could damage proposed structures on the site. Impacts associated with expansive soils or other soil hazards would be minimized by applying appropriate engineering and construction techniques. A geotechnical analysis would be prepared to provide recommendations to minimize these hazards as described in the standard permit condition for a iii) above. This would reduce any potentially significant direct or indirect geotechnical impacts to a less than significant level.

e) **No Impact**. The project does not include any septic systems. The proposed project would connect to the City's existing sanitary sewer system.

f) **Less Than Significant Impact**. The project site is located in an area mapped as "high sensitivity at depth" in the 2040 General Plan EIR.[10] The project proposes grading that could potentially disturb paleontological resources. Consistent with General Plan Policy ER-10.3, the following standard permit condition would be implemented by the project to avoid or minimize impacts to paleontological resources during construction. No other unique geological features are found on this developed infill site.

Standard Permit Condition

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

[10] Figure 3.11-1 "Paleontologic Sensitivity of City of San Jose Geologic Units," from the *Draft Program Environmental Impact Report (PEIR) for the Envision San José 2040 General Plan*, June 2011.

professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning or the Director's designee.

Conclusion: The project would have a less than significant impact on geology and soils with implementation of identified standard permit conditions.

H. GREENHOUSE GAS EMISSIONS

Existing Setting

Various gases in the earth's atmosphere, classified as atmospheric greenhouse gases (GHGs), play a critical role in determining the earth's surface temperature. Solar radiation enters the atmosphere from space and a portion of the radiation is absorbed by the earth's surface. The earth emits this radiation back toward space, but the properties of the radiation change from high-frequency solar radiation to lower-frequency infrared radiation. Greenhouse gases, which are transparent to solar radiation, are effective in absorbing infrared radiation. As a result, this radiation that otherwise would have escaped back into space is retained, resulting in a warming of the atmosphere. This phenomenon is known as the greenhouse effect. Among the prominent GHGs contributing to the greenhouse effect, or climate change, are carbon dioxide (CO_2), methane (CH_4), ozone (O_3), water vapor, nitrous oxide (N_2O), and chlorofluorocarbons (CFCs). Human-caused emissions of these GHGs in excess of natural ambient concentrations are responsible for enhancing the greenhouse effect. In California, the transportation sector is the largest emitter of GHGs, followed by electricity generation.

Regulatory Framework

State

Assembly Bill 32 – California Global Warming Solutions Act

Assembly Bill (AB) 32, the Global Warming Solutions Act of 2006, codifies the State of California's GHG emissions target by directing CARB to reduce the state's global warming emissions to 1990 levels by 2020. AB 32 was signed and passed into law by Governor Schwarzenegger on September 27, 2006. Since that time, the CARB, the California Energy Commission (CEC), the California Public Utilities Commission (CPUC), and the Building Standards Commission have all been developing regulations that will help meet the goals of AB 32 and Executive Order S-3-05.[11]

A Scoping Plan for AB 32 was adopted by CARB in December 2008. It contains the State of California's main strategies to reduce GHGs from business as usual (BAU) emissions projected in 2020 back down to 1990 levels. BAU is the projected emissions in 2020, including increases in emissions caused by growth, without any GHG reduction measures. The Scoping Plan has a range of GHG reduction actions, including direct regulations, alternative compliance mechanisms, monetary and non-monetary incentives, voluntary actions, and market-based mechanisms such as a cap-and-trade system. It required CARB and other state agencies to develop and adopt regulations and other initiatives reducing GHGs by 2012.

As directed by AB 32, CARB has also approved a statewide GHG emissions limit. On December 6, 2007, CARB staff resolved an amount of 427 MMT of CO_2e as the total statewide GHG 1990 emissions level and 2020 emissions limit. The limit is a cumulative statewide limit, not a sector-or facility-specific limit. CARB updated the future 2020 BAU annual emissions forecast, in light of the economic downturn, to 545 MMT of CO_2e. Two GHG emissions reduction measures currently enacted that were not previously included in the 2008 Scoping Plan baseline inventory were included, further reducing the baseline inventory to 507 MMT of CO_2e. Thus, an estimated reduction of 80 MMT of CO_2e is necessary to reduce statewide emissions to meet the AB 32 target by 2020.

[11] Note that AB 197 was adopted in September 2016 to provide more legislative oversight of CARB.

Senate Bill 1368

Senate Bill (SB) 1368 is the companion bill of AB 32 and was signed by Governor Schwarzenegger in September 2006. SB 1368 required the CPUC to establish a greenhouse gas emission performance standard. Therefore, on January 25, 2007, the CPUC adopted an interim GHG Emissions Performance Standard in an effort to help mitigate climate change. The Emissions Performance Standard is a facility-based emissions standard requiring that all new long-term commitments for baseload generation to serve California consumers be with power plants that have emissions no greater than a combined cycle gas turbine plant. That level is established at 1,100 pounds of CO_2 per megawatt-hour. "New long-term commitment" refers to new plant investments (new construction), new or renewal contracts with a term of five years or more, or major investments by the utility in its existing baseload power plants. In addition, the CEC established a similar standard for local publicly owned utilities that cannot exceed the greenhouse gas emission rate from a baseload combined-cycle natural gas fired plant. On July 29, 2007, the Office of Administrative Law disapproved the CEC's proposed Greenhouse Gases Emission Performance Standard rulemaking action and subsequently, the CEC revised the proposed regulations. SB 1368 further requires that all electricity provided to California, including imported electricity, must be generated from plants that meet the standards set by the CPUC and CEC.

Senate Bill 375 – California's Regional Transportation and Land Use Planning Efforts

SB 375, signed in August 2008, requires sustainable community strategies (SCS) to be included in regional transportation plans (RTPs) to reduce emissions of GHGs. The MTC and ABAG adopted an SCS in July 2013 that meets GHG reduction targets. The Plan Bay Area is the SCS document for the Bay Area, which is a long-range plan that addresses climate protection, housing, healthy and safe communities, open space and agricultural preservation, equitable access, economic vitality, and transportation system effectiveness within the San Francisco Bay region (MTC 2013). The document is updated every four years so the MTC and ABAG are currently developing the Plan Bay Area 2040.

Regional and Local

Bay Area Air Quality Management District

The BAAQMD is primarily responsible for assuring that the federal and state ambient air quality standards for criteria pollutants are attained and maintained in the Bay Area. The BAAQMD's May 2017 CEQA Air Quality Guidelines update the 2010 CEQA Air Quality Guidelines, addressing the California Supreme Court's 2015 opinion in the *California Building Industry Association vs. Bay Area Air Quality Management District* court case.

In an effort to attain and maintain federal and state ambient air quality standards, the BAAQMD establishes thresholds of significance for construction and operational period emissions for criteria pollutants and their precursors (see Table 2).

2017 Bay Area Clean Air Plan

The BAAQMD, along with other regional agencies such as the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC), develops plans to reduce air pollutant emissions. The most recent clean air plan is the *Bay Area 2017 Clean Air Plan: Spare the*

Air, Cool the Climate (2017 CAP), which was adopted by BAAQMD in April 2017. This is an update to the 2010 CAP, and centers on protecting public health and climate. The 2017 CAP identifies a broad range of control measures. These control measures include specific actions to reduce emissions of air and climate pollutants from the full range of emission sources and is based on the following four key priorities:

- Reduce emissions of criteria air pollutants and toxic air contaminants from all key sources.
- Reduce emissions of "super-GHGs" such as methane, black carbon, and fluorinated gases.
- Decrease demand for fossil fuels (gasoline, diesel, and natural gas).
- Decarbonize our energy system.

City of San José Municipal Code

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

- Green Building Ordinance (Chapter 17.84)
- Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10)
- Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105
- Construction and Demolition Diversion Deposit Program (Chapter 9.10)
- Wood Burning Ordinance (Chapter 9.10)

Council Policy 6-32 Private Sector Green Building Policy

In October 2008, the City Council adopted the Council Policy 6-32 "Private Sector Green Building Policy", which identifies baseline green building standards for new private construction and provides a framework for the implementation of these standards. This Policy requires that applicable projects achieve minimum green building performance levels using the Council adopted standards.

City of San José Greenhouse Gas Reduction Strategy

On December 15, 2015, the San José City Council certified a Supplemental Program Environmental Impact Report to the Envision San José 2040 Final Program Environmental Impact Report and re-adopted the City's GHG Reduction Strategy in the General Plan. The GHG Reduction Strategy is intended to meet the mandates as outlined in the CEQA Guidelines and standards for "qualified plans" as set forth by BAAQMD. Projects that conform to the General Plan Land Use/Transportation Diagram and supporting policies are considered consistent with the City's GHG Reduction Strategy.

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

Climate Smart San José

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

In absence of adopted GHG reduction target for 2030 under SB 32, City of San José requires substantial progress" threshold of 660 MT of CO_{2e}/year or efficiency metric of 2.6 MT CO_{2e}/year/service population.

General Plan Policies

In addition to the above, policies in the General Plan have been adopted for the purpose of avoiding or mitigating greenhouse gas emissions impacts from development projects. Policies applicable to the project are presented below.

Envision San José 2040 Relevant Greenhouse Gas Reduction Policies	
Policy MS-1.2	Continually increase the number and proportion of buildings within San José that make use of green building practices by incorporating those practices into both new construction and retrofit of existing structures.
Policy MS-2.3	Encourage consideration of solar orientation, including building placement, landscaping, design, and construction techniques for new construction to minimize energy consumption.
Policy MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g. design to maximize cross ventilation and interior daylight) and through site design techniques (e.g. orienting buildings on sites to maximize the effectiveness of passive solar design).
Policy MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City
Policy MS-6.5	Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.
Policy MS-6.8	Maximize reuse, recycling, and composting citywide.
Policy MS-14.4	Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
Policy LU-5.4	Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections; and including secure and convenient bike storage.
Policy TR-2.18	Provide bicycle storage facilities as identified in the Bicycle Master Plan.

Envision San José 2040 Relevant Greenhouse Gas Reduction Policies	
Policy CD-2.5	Integrate Green Building Goals and Policies of this Plan into site design to create healthful environments. Consider factors such as shaded parking areas, pedestrian connections, minimization of impervious surfaces, incorporation of stormwater treatment measures, appropriate building orientations, etc.
Policy CD-3.3	Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.
Policy CD-5.1	Design areas to promote pedestrian and bicycle movements and to facilitate interaction between community members and to strengthen the sense of community.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
8. GREENHOUSE GAS EMISSIONS. Would the project:					
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?			X		1, 3
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?			X		1, 3

Explanation

a) **Less Than Significant Impact**. The GHG emissions from the project were evaluated in the air quality assessment prepared by Illingworth & Rodkin, Inc., contained in Appendix A. GHG emissions associated with development of the proposed project would occur over the short-term from construction activities, consisting primarily of emissions from equipment exhaust and worker and vendor trips. There would also be long-term operational emissions associated with vehicular traffic within the project vicinity, energy and water usage, and solid waste disposal. Emissions for the proposed project are discussed below and were analyzed using the methodology recommended in the BAAQMD CEQA Air Quality Guidelines.

CalEEMod was used to predict GHG emissions from operation of the site assuming full buildout of the project. The project land use types and size and other project-specific information were input to the model, as described in *Section C. Air Quality* for operational period emissions.

The project service population efficiency rate is based on the number of future residents and future full-time employees. The number of future residents for this project was estimated by multiplying the total number of units (e.g. 246 units) by a 1.5 persons per household rate. This rate was used as a studio unit rate as the applicant advised that one to two persons per studio unit is generally anticipated. Using the 1.5 person per household studio rate, the number of

futures residents is estimated to be 369 residents. The number of workers was estimated using a rate of approximately one retail worker per 250 square feet of small retail space. Based on the project's proposed 4,622 square feet for retail use, there would be 19 future full-time employees. The estimated total service population would be 388 individuals.

Construction Emissions

GHG emissions associated with construction were computed to be 429 MT of CO_2e for the total construction period. These are the emissions from on-site operation of construction equipment, vendor and hauling truck trips, and worker trips. Neither the City nor BAAQMD have an adopted threshold of significance for construction-related GHG emissions, though BAAQMD recommends quantifying emissions and disclosing that GHG emissions would occur during construction. BAAQMD also encourages the incorporation of best management practices to reduce GHG emissions during construction where feasible and applicable.

Operational Emissions

The CalEEMod model, along with the project vehicle trip generation rates, was used to estimate daily emissions associated with operation of the fully-developed site under the proposed project. As shown in Table 10, the 2022 GHG emissions (the first year when the project is expected to be fully operational) would exceed the per capita 2030 threshold of 2.6 MT of CO2e/year/service population. By the year 2030, project emissions are estimated to meet the 2030 per capita threshold of 2.6 MT of CO2e/year/service population. The difference in emissions generated by the project from 2022 to 2030 shows that year to year project emissions would be reduced over time due to improvements in annual emissions.

Specifically, mobile emissions would be reduced as a result of vehicle fuel efficiency improvements. While the project may generate emissions in excess of 2.6 MT of CO2e/year/service population in one or more interim years between 2023 and 2029, because the proposed project would not exceed the per capita threshold in 2030, the project would meet the GHG reduction target set by SB 32 and not result in a significant GHG emissions impact.

Table 10 Annual Project GHG Emissions (CO_2e) in Metric Tons			
Source Category	**Existing in 2022**	**Proposed Project in 2022**	**Proposed Project in 2030**
Area	<1	<1	13
Energy Consumption	78	78	115
Mobile	159	128	908
Solid Waste Generation	35	35	59
Water Usage	6	6	27
Total	278	247	1,122
Net New Emissions			**844 MT CO_2e/year**
Significance Threshold			***660 MT CO_2e/yr***
Service Population Emissions (MT CO2e/year/service population)		2.9	2.4
Significance Threshold			***2.6 MT of CO2e/year/service population***
Significant (Exceeds both thresholds)?			*No*

b) **Less Than Significant Impact**. The project would not conflict with any applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs, since the proposed project would not substantially increase GHG emissions as described above. Specifically, the proposed project would not conflict or otherwise interfere with the statewide GHG reduction measures identified in CARB's Scoping Plan. The proposed building would be constructed in conformance with CALGreen and the Title 24 Building Code, which require high-efficiency water fixtures and water-efficient irrigation systems.

At the local level, the City of San José sets green building standards for municipal development. Council Policy 6-32 Private Sector Green Building Policy, adopted in October 2008, establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. In addition, Climate Smart San José, adopted in February 2018, promotes policies to reduce air pollution through decarbonizing and sustainability measures.

As previously mentioned, the project is consistent with the General Plan land use designation and the proposed project would comply with Policy 6-32 and California Building Code requirements. In addition, the project would provide bike parking, consistent with the requirements of the City of San José Municipal Code. The inclusion of bicycle parking and proximity to transit would incentivize the use of alternative methods of transportation to and from the site. Therefore, the project is consistent with existing applicable plan and policies for the purpose of reducing GHG emissions.

Conclusion: The project would have a less than significant impact related to GHG emissions.

I. HAZARDS AND HAZARDOUS MATERIALS

Denali, Inc (Denali) and MJO Earthscience Services (MJOES) completed a site investigation to evaluate the soil vapor, soil and groundwater quality conditions at the D'Amico sites located at 838 S. 1st Street, 807, 831 & 833 S. 2nd Street, & 20 E. Virginia Street. The site investigation is contained in Appendix D.

This site investigation was performed in accordance with the Site Investigation Workplans dated June 24, 2020 submitted to the Santa Clara County Department of Environmental Health. (SCDEH). The workplans were approved by the SCDEH on July 13, 2020 as Site Cleanup Program Case #2020-04s. The intent of the site investigation is to assess soil vapor, soil and groundwater contamination from historical site activities that were identified by previous investigations of the property. All samples (soil vapor, soil, and groundwater) were submitted to two accredited analytical laboratories. The site investigation summarizes the sample results and evaluation of them based on available and applicable state and federal environmental and health regulatory standards and guidance. The report also provides recommendations for potential approaches to address soil vapor, soil, and groundwater quality conditions documented during the site investigation.

Existing Setting

The existing property is developed with buildings and pavement. A total of seven buildings are found on the site. The majority of the site was previously occupied by Wheel Works, an automotive-related use, which vacated the site at the end of January 2020. The rear warehouse spaces are currently used for storage of catering supplies.

Previous Investigations

Denali/MJOES have conducted previous investigations at the project site as follows:

- March 2004 Subsurface Investigation: an exploratory subsurface investigation was performed at the Site on March 14, 2004 to collect soil samples from beneath seven auto lifts in the Wheel Works service bays. The purpose of this work was to investigate soil quality beneath the five active and two inactive auto lifts at the Site in order to ascertain if a release of hydraulic fluid had occurred.

- January 2017 Subsurface Investigation: a subsurface soil investigation was performed at the Site in December 2016 and report submitted on January 23, 2017. The 2017 investigation included drilling 50 boreholes at the site, obtaining soil samples at depths of 2 feet and /or 10 feet, and analyzing the samples for gasoline, diesel, motor oil, ethylene glycol, volatile organic compounds, and/or LUFT Metals. The results were reported in wet-weight and compared to then available California Regional Water Quality Control Board, San Francisco Bay Region (RWQCB), Commercial/Industrial Environmental Screening Levels (ESLs). Those original data are included in this report but have been converted to dry-weight results using moisture data collected during this (2020) investigation. The resulting data have been compared to current (2019) Residential ESLs.

2020 Site Investigation and Results

The 2020 investigation was completed in conjunction with concurrent soil vapor and groundwater investigation and included drilling 25 additional boreholes at the site, obtaining soil samples at depths of 2 feet, 4 feet, 6 feet and /or 10 feet, and analyzing the samples for gasoline, diesel, motor oil, ethylene glycol, volatile organic compounds, arsenic and/or LUFT Metals. The results have been converted to dry-weight results using moisture data collected during this (2020) investigation. The resulting data have been compared to current (2019) Residential ESLs. The conclusions and recommendations for each investigation for soils, groundwater, and soil vapor are presented below.

Soil Investigation

There is metal and arsenic contamination beneath the former GAI warehouse (831 S. 2nd St) and storage yard (833 S. 2nd St) extends under the former Wheel Works service bays. The approximate extent of lead-impacted soil is shown Figure 1s. The defined area appears to extend to a depth of about 4 feet, but it may be as deep as 6 feet in some areas. The lead-impacted soil also includes debris soil and soil with elevated levels of arsenic, and nickel. Other contamination is associated with site's suspected underground storage tank (UST) adjacent to the former Wheel Works' offices.

Groundwater Investigation

At well WB1 - Naphthalene, 7 other VOCs, gasoline and diesel were detected in groundwater sample WB1. WB1 is located beside a suspected UST at 20 E. Virginia Street. An UST is known to have been located at this location, but it isn't clear that the tank was removed, hence it is referred to as "suspected." The detected VOCs are mostly related to petroleum products and samples from a vapor probe located beside this UST location also contained naphthalene and other petroleum related contaminants. It appears that leakage from this UST is a likely source of the petroleum products and VOCs detected here.

At well WB2 - Gasoline, diesel, isopropyl benzene, 1,3,5-trimethylbenzene, and 1,2,4-trimethylbenzene were detected at concentrations below residential ESLs in groundwater sample WB2. No other contaminants were detected in the groundwater sample from WB2. The location of WB2 is a small parking area adjacent to S. 1st St. and on the up-gradient (with respect groundwater flow) side of the subject site. This location offers no likely onsite source for the petroleum contaminants detected there. However, this location is down-gradient of a former Regal Station at 827 S. 1st Street that is currently undergoing remediation for fuel releases. That site is a potential source of contaminants found at WB2.

At well WB3 - PCE was detected at a concentration above its Residential ESL in the groundwater sample from WB3. PCE was also detected vapor probes and appears to be migrating northward across the subject site. WB3 is located inside 838 S. 1st St. and is across the street from a suspected former dry cleaner. Historical records show that a cleaner known as "Payless (Thrifty) Cleaners" was located at 817 S. 1st Street in the late 1960s and early 1970s. That site is a potential source of PCE that was potentially used in dry-cleaning.

Contaminant detections in groundwater samples from WB4, WB5, and WB6, are minor and not of health or environmental concern. No contaminants were detected in the groundwater samples from WB7 and WB8.

Soil Vapor Investigation

The results of soil vapor testing report herein show that VOCs are present in soil vapor at concentrations above residential ESLs and that those VOCs may present a threat to future residential occupants unless mitigated. The primary VOC is PCE, but benzene, 1,2-Dibromo-3-chloropropane (DBCP), Naphthalene, and 1,2,4-Trichlorobenzene were also detected above residential ESLs.

Regulatory Framework

Federal

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

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

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA) is a Federal law passed by Congress in 1976 to address the increasing problems from the nation's growing volume of municipal and industrial waste. RCRA creates the framework for the proper management of hazardous and non-hazardous solid waste and is administered by the U.S. EPA. RCRA protects communities and resource conservation by enabling the EPA to develop regulations, guidance, and policies that ensure the safe management and cleanup of solid and hazardous waste, and programs that encourage source reduction and beneficial reuse. The term RCRA is often used interchangeably to refer to the law, regulations, and EPA policy and guidance.

State

California Department of Toxic Substances Control

The California Department of Toxic Substances Control (DTSC) is a State agency that protects State citizens and the environment from exposure to hazardous wastes by enforcing hazardous waste laws and regulations. DTSC enforces action against violators; oversees cleanup of hazardous wastes on contaminated properties; makes decisions on permit applications from companies that want to store, treat or dispose of hazardous waste; and protects consumers against toxic ingredients in everyday products.

California State Water Resources Control Board

The California State Water Resources Control Board (SWRCB) and its nine regional boards are responsible for preserving, enhancing, and restoring the quality of California's water resources and

drinking water for the protection of the environment, public health, and all beneficial uses. Through the 1969 Porter-Cologne Act, the State and Regional Water Boards have been entrusted with broad duties and powers to preserve and enhance all beneficial uses of the state's water resources.

Local

Regional Water Quality Control Board

The San Francisco Bay Regional Water Quality Control Board (RWQCB) is the lead agency responsible for identifying, monitoring and remediating leaking underground storage tanks in the Bay Area. Local jurisdictions may take the lead agency role as a Local Oversight Program (LOP) entity, implementing State as well as local policies.

Santa Clara Department of Environmental Health

The County of Santa Clara Department of Environmental Health reviews California Accidental Release Prevention (CalARP) risk management plans as the Certified Unified Program Agency (CUPA) for the City. The CalARP Program aims to prevent accidental releases of regulated hazardous materials that represent a potential hazard beyond property boundaries. Facilities that are required to participate in the CalARP Program use or store specified quantities of toxic and flammable substances (hazardous materials) that can have off-site consequences if accidentally released. A Risk Management Plan (RMP) is required for such facilities. The intents of the RMP are to provide basic information that may be used by first responders in order to prevent or mitigate damage to the public health and safety and to the environment from a release or threatened release of a hazardous material, and to satisfy federal and state Community Right-to-Know laws.

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating hazardous materials impacts from development projects. All future development allowed by the proposed land use designation would be subject to the hazardous materials policies in the General Plan presented below.

Envision San José 2040 Relevant Hazardous Material Policies	
Policy EC-6.6	Address through environmental review for all proposals for new residential, park and recreation, school, day care, hospital, church or other uses that would place a sensitive population in close proximity to sites on which hazardous materials are or are likely to be located, the likelihood of an accidental release, the risks posed to human health and for sensitive populations, and mitigation measures, if needed, to protect human health.
Policy EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
Policy EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental

Envision San José 2040 Relevant Hazardous Material Policies	
	risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.
Policy EC-7.4	On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-paint and asbestos-containing materials, shall be implemented in accordance with state and federal laws and regulations.
Policy EC-7.5	In development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements.
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.
Policy MS-13.2	Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxics control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
9. HAZARDS AND HAZARDOUS MATERIALS. Would the project:					
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?			X		1, 2, 13

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?		X			1, 2, 13
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X	1, 2, 13
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?			X		1, 2, 13
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?			X		1, 2
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?			X		1, 2
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires				X	1, 2

Explanation

a) **Less Than Significant Impact**. The proposed mixed-use development will not involve the routine transport, use, or disposal of hazardous materials. The residential and retail uses may use small quantities of miscellaneous household cleaning supplies and other chemicals. These materials would be stored and used in accordance with the manufacturer's specifications.

The project would use fuels, lubricants, paints, and solvents during construction activities. The project would prepare and implement a Storm Water Pollution Prevention Plan and appropriate best management practices to minimize the impact on water quality from release of hazardous materials during construction. In addition, the applicant proposes to implement standard protection measures for the temporary onsite storage of fuel and other hazardous materials used during construction.

b) **Less Than Significant with Mitigation Incorporated**. The site investigation and prior investigations have been conducted on site to evaluate the magnitude and extent of on-site constituents of concern (COCs). The following site-specific COCs have been identified as exceeding their respective residential ESLs for soil, groundwater, and/or soil gas.

- Arsenic (exceeds naturally occurring background concentrations), lead, nickel, and total petroleum hydrocarbons as gasoline (TPHg) in soil;
- Naphthalene and tetrachloroethylene (PCE) in groundwater; and
- Benzene, 1,2-dibromo-3-chloropropane, naphthalene, PCE, and 1,2,4-trichlorobenzene in soil gas.

The site investigation recommends several actions to address site-specific contaminants as follows:

- Remove soil containing elevated concentrations of lead that includes arsenic, nickel, and/or particulate debris; and excavate the two known and suspected USTs and removing any soil contamination issues related to the USTs.

- Implement vapor intrusion mitigation, including augmenting air circulation for the parking garage and installing a vapor intrusion mitigation system (VIMS) with horizontal vent piping and a vapor barrier beneath the building foundation for the ground floor commercial units and potentially also the ground floor lobby.

Note that the site investigation does not provide groundwater-specific recommendations, because the naphthalene in groundwater will likely be addressed during excavation of the suspected UST area, and PCE in groundwater appears to be from an off-site source. The vapor intrusion mitigation recommendations will address potential vapor intrusion concerns associated with PCE in groundwater.

In addition, a site management plan (SMP) is required by SCCDEH prior to proceeding with the planned development. The SMP shall include the following:

- The status of project entitlement with the City of San José, a current and detailed project description, and current building design plans in relation to site-specific COCs in known areas of contamination.

- Plans and procedures for soil excavation and confirmation soil sampling, dust control measures, waste management and disposal requirements, potential soil import requirements, and required actions in the event that previously unidentified areas of contamination and/or hazards are encountered during development.

- A conceptual VIMS design. Following SCCDEH concurrence of a conceptual VIMS design, a separate and detailed VIMS Design and Construction Quality Assurance Plan will be required.

HAZ-1 Impact: The site investigation identified site-specific contaminants for soil, groundwater, and/or soil gas.

Mitigation Measures

MM HAZ-1 Prior to the issuance of a grading permit, the project applicant shall notify and provide evidence to the City of San José that they have met or are in compliance with all regulatory requirements from the Santa Clara County Department of Environmental Health (SCCDEH) Site Cleanup Program (SCP). This notification shall include copies of any Site Management Plans, Removal Action Workplans, or subsequent testing documents. This may be in the form of an email or letter sent to the Director of Planning, Building, and Code Enforcement or Director's designee and the Environmental Compliance

Officer of the Environmental Services Department. In addition, permits to remove the active underground storage tank must be obtained from the SCCDEH and San José Fire Department. If after removal of the underground storage tank, the tank shows evidence of leakage or if the tank is in bad condition (pits/holes), a follow-up fuel leak investigation, with mitigation if needed, must be performed under SCCDEH regulatory oversight.

Asbestos & Lead Based Paint in Demolished Buildings

Development of the project would require the demolition of existing buildings on the site. Due to their age, these structures likely contain asbestos building materials and/or lead-based paint. Demolition conducted in conformance with federal, state and local regulations will avoid significant exposure of construction workers and/or the public to asbestos and lead-based paint. As a part of the development permit approval, the project will conform to the following standard permit conditions.

Standard Permit Conditions

- In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials (ACMs) and/or lead-based paint (LBP).

- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.

- All potentially friable asbestos containing materials (ACMs) shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.

- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above. Materials containing more than one-percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

- Based on Cal/OSHA rules and regulations, the following conditions are required to limit impacts to construction workers:

    - Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint.

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

c) **No Impact**. No schools are located within ¼ mile of the project site and therefore, there is no potential for hazardous impacts from the project to any schools.

d) **Less Than Significant Impact**. The project is not located on property that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 (i.e., Cortese List).

e) **Less Than Significant Impact**. The Mineta San José International Airport is located approximately 2.7 miles northwest of the project site. The project is not located within the Santa Clara County Airport Land Use Commission's adopted Airport Influence Area for the airport (adjacent to the west). However, Federal Aviation Regulations, Part 77, "Objects Affecting Navigable Airspace" (referred to as FAR Part 77) set forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of potential structures and minimizing other potential hazards to aircraft such as reflective surfaces, flashing lights, and electronic interference. These regulations require that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above ground. The project site has an approximate ground elevation of 100 feet and the notification surface over the site is 205 feet mean sea level. Thus, any proposed structure above approximately 105 feet above ground requires FAR Part 77 notification. Since the project proposes a structure with a maximum height of approximately 77 feet above ground, notification to the FAA will not be required.

In conclusion, the project would not result in a safety hazard or excessive noise for people residing or working in the project area. See additional discussion in *Section M. Noise and Vibration*.

f) **Less Than Significant Impact**. The proposed mixed-use development would not interfere with any adopted emergency or evacuation plans. The project would not create any barriers to emergency or other vehicle movement in the area and would be designed to incorporate all Fire Code requirements.

g) **No Impact**. The project would not expose people or structures to risk of loss, injury or death from wildland fires since it is located in a highly urbanized area that is not prone to such events. See also *Section S. Wildfire* of this Initial Study.

Conclusion: The project would have a less than significant impact related to hazards and hazardous materials with the incorporation of mitigation measures.

J. HYDROLOGY AND WATER QUALITY

Existing Setting

The project site is essentially flat and lies at an elevation of about 104 feet above mean sea level. The 1.2 acre site is currently developed with seven buildings, primarily occupied by Wheel Works, an auto shop. The current runoff from the site is directed into existing inlets that discharge to the City's drainage system.

The project site does not contain any natural drainages or waterways. The nearest waterway is the Guadalupe River located about 0.5 miles from the site. The Flood Insurance Rate Maps issued by the Federal Emergency Management Agency (FEMA) indicate that the project site is located within Zone D. Zone D is defined as an area of undetermined but possible flood hazard outside the 100-year floodplain. The City does not have any floodplain restrictions for development in Zone D.

Regulatory Framework

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

Federal and State

National Flood Insurance Program

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

Porter-Cologne Water Quality Act

The Porter-Cologne Act delegates authority to the SWRCB to establish regional water quality control boards. The San Francisco Bay Area RWQCB has authority to use planning, permitting, and enforcement to protect beneficial uses of water resources in the project region. Under the Porter-Cologne Water Quality Control Act (California Water Code Sections 13000-14290), the RWQCB is authorized to regulate the discharge of waste that could affect the quality of the state's waters, including projects that do not require a federal permit through the USACE. To meet RWQCB 401 Certification standards, all hydrologic issues related to a project must be addressed, including the following:

- Wetlands
- Watershed hydrograph modification
- Proposed creek or riverine related modifications
- Long-term post-construction water quality

Any construction or demolition activity that results in land disturbance equal to or greater than one acre must comply with the Construction General Permit (CGP), administered by the SWRCB. The CGP requires the installation and maintenance of BMPs to protect water quality until the site is stabilized. The project would require CGP coverage based on area of land disturbed (1.23 acres).

Statewide Construction General Permit

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

Regional and Local

San Francisco Bay Basin Plan

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

Municipal Regional Stormwater Permit

The San Francisco Bay RWQCB has issued a Municipal Regional Stormwater NPDES Permit (MRP) to regulate stormwater discharges from municipalities and local agencies (co-permittees) in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, and the cities of Fairfield, Suisun City, and Vallejo. The City of San José is required to operate under the MRP to discharge stormwater from the City's storm drain system to surface waters. The MRP mandates that the City of San José use its planning and development review authority to require that stormwater management measures are included in new and redevelopment projects to minimize and properly treat stormwater runoff. Provision C.3 of the MRP regulates the following types of development projects:

- Projects that create or replace 10,000 square feet or more of impervious surface.
- Special Land Use Categories that create or replace 5,000 square feet or more of impervious surface.

The MRP requires regulated projects to include Low Impact Development (LID) practices. These include site design features to reduce the amount of runoff requiring treatment and maintain or restore the site's natural hydrologic functions, source control measures to prevent stormwater from pollution, and stormwater treatment features to clean polluted stormwater runoff prior to discharge into the storm drain system. The MRP requires that stormwater treatment measures are properly installed, operated, and maintained.

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

The City of San José's Policy 6-29 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. The City of San José's Policy 6-29 requires all new development and redevelopment projects to implement post-construction BMPs and Treatment Control Measures (TCMs). This policy also establishes specific design standards for post-construction TCM for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

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

The City of San José's Policy No. 8-14 implements the stormwater treatment requirements of Provision C.3 of the MRP. Policy No. 8-14 requires all new and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP).

General Plan Policies

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

Envision San José 2040 Relevant Hydrology and Water Quality Policies	
Policy IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.
Policy MS-3.4	Promote the use of green roofs (i.e., roofs with vegetated cover), landscape-based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.
Policy ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
Policy ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
Policy ER-8.5	Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.
Policy EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls.

Envision San José 2040 Relevant Hydrology and Water Quality Policies	
Policy EC-5.7	Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.
Policy EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.
Policy EC-7.10	Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
10. HYDROLOGY AND WATER QUALITY. Would the project:					
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?			X		1, 2
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?			X		1, 2
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:					
i) Result in substantial erosion or siltation on- or off-site;			X		1, 2
ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite;			X		1, 2
iii) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or			X		1, 2
iv) Impede or redirect flood flows?			X		1, 2
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?			X		1, 2
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?			X		1, 2

Explanation

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

while the site is under construction. The project is subject to Municipal Code Section 20.100.470, which requires the project to incorporate BMPs to control the discharge of storm water pollutants including sediments associated with construction activities including erosion, as outlined in the standard permit conditions in item ci) below. The project is located in an urban environment and operation of the mixed-use project would not utilize materials that would significantly harm the water quality in the area. Furthermore, the project would comply with applicable regulations and laws to ensure proper discharge into the City's stormwater and sanitary infrastructure, would not violate any water quality standards or waste discharge requirements, or degrade surface or groundwater quality as described below.

b) **Less Than Significant Impact**. The project site is located within the Recharge Area of the Santa Clara Valley Basin where groundwater occurs under unconfined conditions.[12] The site is not, however, located within or adjacent to a SCVWD groundwater recharge facility. The project site is fully developed and not effectively recharging groundwater. The project proposes some grading but no major excavation. In addition, the project does not propose any wells or groundwater pumping. Thus, the project would not decrease groundwater supplies or interfere substantially with groundwater recharge (such that the project may impede sustainable groundwater management of the basin) because 1) the project is not located within or adjacent to a groundwater recharge facility, 2) the project is proposed on a fully developed site that is not recharging groundwater, and 3) project construction would not access groundwater beneath the property.

ci) **Less Than Significant Impact**. Construction of the project would require grading activities that could result in a temporary increase in erosion affecting the quality of storm water runoff. This increase in erosion is expected to be minimal, due to the small size and flatness of the site. The City's implementation requirements to protect water quality are described below.

Construction Impacts

Prior to the commencement of any clearing, grading or excavation, the project is required to comply with the State Water Resources Control Board's National Pollutant Discharge Elimination System (NPDES) General Construction Activities Permit, to the satisfaction of the Director of Public Works. The project applicant is required to develop, implement, and maintain a Storm Water Pollution Prevention Plan (SWPPP) to control the discharge of stormwater pollutants including sediments associated with construction activities. Additionally, the project applicant is required to file a Notice of Intent (NOI) with the State Water Resource Control Board (SWRCB) to comply with the General Permit and prepare a SWPPP that includes measures that would be included in the project to minimize and control construction and post-construction runoff. The SWPPP shall be posted at the project site and will be updated to reflect current site conditions.

The project shall incorporate Best Management Practices (BMPs) into the project to control the discharge of stormwater pollutants including sediments associated with construction activities. Examples of BMPs are contained in the publication *Blueprint for a Clean Bay*[13], and include preventing spills and leaks, cleaning up spills immediately after they happen,

[12] Santa Clara Valley Water District. *Groundwater Management*. Accessed December 2019. https://www.valleywater.org/your-water/where-your-water-comes-from/groundwater/groundwater-management.
[13] Bay Area Stormwater Management Agencies Association.

storing materials under cover, and covering and maintaining dumpsters. Prior to the issuance of a grading permit, the project applicant may be required to submit an Erosion Control Plan to the Department of Public Works. The Erosion Control Plan may include BMPs as specified in ABAG's *Manual of Standards Erosion & Sediment Control Measures* for reducing impacts on the City's storm drainage system from construction activities. .

All projects in the City, including the proposed project are required to comply with the City of San José Grading Ordinance, including erosion and dust control during site preparation, as well as the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction. The following specific BMPs are required to be implemented by all projects in the City as standard permit conditions to prevent stormwater pollution and minimize potential sedimentation during construction.

The project would increase impervious surfaces on the site and slightly modify the drainage pattern on the site. Consistent with the regulations and policies described above, the project will follow all standard permit conditions. The following measures are based on RWQCB BMPs and have been included in the project to reduce construction and development-related water quality impacts. These BMPs would be implemented prior to and during earthmoving activities onsite and would continue until the construction is complete and during the post-construction period as appropriate.

Standard Permit Conditions

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.

- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.

- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.

- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.

- All trucks hauling soil, sand, and other loose materials shall be required to cover all trucks or maintain at least two feet of freeboard.

- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).

- Vegetation in disturbed areas shall be replanted as quickly as possible.

- All unpaved entrances to the site shall be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system may also be employed at the request of the City.

- The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

Post-Construction Impacts

The project is required to comply with applicable provisions of the following City Council Policies: Council Policy 6-29 Post-Construction Urban Runoff Management and Council Policy 8-14 Post-Construction Hydromodification Management. For Council Policy 6-29 Post-Construction Urban Runoff Management, the project will be required to implement BMPs, which includes site design measures, source controls, and numerically-sized LID stormwater treatment measures to minimize stormwater pollutant discharges. The project site is not located in a Hydromodification Management (HM) area. However, details of specific Site Design, Pollutant Source Control, and Stormwater Treatment Control Measures demonstrating compliance with Provision C.3 of the MRP (NPDES Permit Number CAS612008), will be included in the project design, to the satisfaction of the Director of Planning, Building and Code Enforcement.

In conclusion, the project would not substantially alter existing drainage patterns or cause alteration of streams or rivers by conforming with the requirements of Council Policy 6-29 and 8-14. The project would not result in substantial erosion or siltation on or off site by complying with the State's Construction Stormwater Permit and the City's Grading Ordinance.

cii) **Less Than Significant Impact**. The project would not increase the amount of impervious area on the project site compared to existing developed conditions, since the site is currently completely developed. The project would implement a stormwater control plan to manage runoff from the site. Runoff will be collected in a storm drain system and conveyed within a proposed storm drain system prior to entering into the City's storm drainage system.

An existing 21-inch concrete (non-reinforced) storm drain main is located within E. Virginia Street along the project frontage. No other existing storm drain systems are currently present along the S. First and Second Street project frontages. New storm drain laterals would be built and connect to the existing storm drainage system in E. Virginia Street. As a result, the proposed project would have a less than significant impact associated with flooding on- or off-site due to increased surface runoff.

ciii) **Less Than Significant Impact**. The project proposes to connect to the City's existing storm drainage system. The project is not expected to contribute runoff that would exceed the capacity of existing or planned stormwater drainage systems or result in substantial additional sources of polluted runoff. See also ci) above.

civ) **Less Than Significant Impact**. The project is located outside the 100-year floodplain, as mapped by FEMA, as the site is within Flood Zone D, and would not significantly impede or redirect flood flows.

d) **Less Than Significant Impact**. As described above, the project is not located within a 100-year floodplain or flood hazard zone. In addition, the project site is not located in an area subject

to significant seiche or tsunami risk. However, the project is identified within the Anderson Dam flood inundation zone as mapped by the Santa Clara Valley Water District (Anderson Dam Flood Inundation Maps, 2016). The actual extent and depth of inundation in the event of a failure would depend on the volume of storage in the dam at the time of failure.

The risks of failure are reduced by several regulatory inspection programs, and risks to people and property in the inundation area are reduced by local hazard mitigation planning. The California Department of Water Resources (DWR), Division of Safety of Dams is responsible for regular inspection of dams in California. DWR and local agencies (e.g., SCVWD) are responsible for minimizing the risks of dam failure, thus diminishing the potential for the release of pollutants due to project inundation.

e) **Less Than Significant Impact**. The project consists of development on an approximately 1.2 gross acre infill site. Construction of the project would require grading activities. As described above, grading and construction activities could result in a temporary increase in erosion affecting the quality of storm water runoff. However, construction and operation of the project would not result in significant water quality or groundwater quality impacts since the proposed project would be required to comply with the City of San José Grading Ordinance and implement standard BMPs during construction. Therefore, the project would not result in impacts that would conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.

Conclusion: The project would have a less than significant impact on hydrology and water quality with implementation of identified standard permit conditions.

K. LAND USE AND PLANNING

Existing Setting

The project site is designated *Mixed Use Residential* and *Mixed Use Commercial* in the City's Envision San José 2040 General Plan Land Use/Transportation Diagram. The property is currently zoned CN – Commercial Neighborhood and CP – Commercial Pedestrian. The site currently contains seven vacant buildings, previously occupied primarily by Wheel Works.

The project is located in a neighborhood of mixed residential and commercial uses. Commercial uses line S. First Street in the immediate project area, dominated by automotive-related businesses and small shops. E. Virginia is also dominated by commercial uses in the project vicinity. S. Second Street east and south of the project site is generally lined with residential uses, many of Victorian architectural style. Uses in the project area are identified in the aerial photo in Figure 3.

The project is located about 2.7 miles northwest of the Mineta San José International Airport. The project appears to be located just outside the Santa Clara County Airport Land Use Commission's adopted Airport Influence Area for the airport. This is further described in *Section H. Hazards and Hazardous Materials* of this Initial Study.

Regulatory Framework

General Plan Policies

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

Envision San José 2040 Relevant Land Use and Planning Policies	
Policy CD-1.1	Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
Policy CD-1.8	Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity through the City
Policy CD-4.9	For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
Policy LU-1.2	Create safe, attractive, and accessible pedestrian connections between developments and to adjacent public streets to minimize vehicular miles traveled.
Policy LU-1.6	With new development or expansion and improvement of existing development or uses, incorporate measures to comply with current Federal, State, and local standards.
Policy LU-9.7	Ensure that new residential development does not impact the viability of adjacent employment uses that are consistent with the Envision General Plan Land Use / Transportation Diagram.

Envision San José 2040 Relevant Land Use and Planning Policies	
Policy VN-1.7	Use new development within neighborhoods to enhance the public realm, provide for direct and convenient pedestrian access, and visually connect to the surrounding neighborhood. As opportunities arise, improve existing development to meet these objectives as well.
Policy VN-1.11	Protect residential neighborhoods from the encroachment of incompatible activities or land uses which may have a negative impact on the residential living environment.
Policy VN-1.12	Design new public and private development to build upon the vital character and desirable qualities of existing neighborhoods

Martha Gardens Specific Plan

The project site is located within the boundaries of the Martha Gardens Specific Plan, which establishes the framework for the redevelopment of the area south of Highway 280 between S. First and S. Seventh Streets. Drawing on existing and historic uses in the area, this Plan imagines a new community with emphasis on new housing with family and art-oriented services and facilities. The neighborhood is envisioned as a lively mix of residential, commercial, recreation, education and arts uses with safe and pleasant pedestrian environments, parks and community facilities, and preserved historic buildings. Due to the site's proximity to Downtown San José and major existing and future transportation systems, it has long been expected that the Martha Gardens area would eventually redevelop with uses related to the Downtown and other job centers.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
11. LAND USE AND PLANNING. Would the project:					
a) Physically divide an established community?				X	1, 2
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?			X		1, 3, 18

Explanation

a) **No Impact**. The project site is located in an urbanized area surrounded primarily by one and two-story commercial and residential development. However, the project site is surrounded by South Second Street to the east, South First Street to the west, and East Virginia Street to the north. Truck access and emergency vehicle access would be provided via an alleyway on Martha Street. The alleyway, which runs parallel to First and Second Streets, currently connects Martha Street to Virginia Street. The alleyway would remain but would no longer connect to Virginia Street as a result of the project. The project would reconfigure the north end of the alleyway so that it curves to the east and intersects Second Street instead of Virginia Street. Access to and from Martha Street would not be affected by the project.

While the project proposes to construct a six-story mixed-use building that would be higher than the immediately adjacent properties, the project would not necessitate new roadways or major physical factors that would physically divide a community. The project would be subject to further review for development permits to ensure compliance with design standards.

b) **Less Than Significant Impact**. The project site has the zoning designations of CP – Commercial Pedestrian and CN – Commercial Neighborhood Zoning Districts. The CP Zoning District is intended to support pedestrian-oriented retail activity at a scale compatible with surrounding residential neighborhoods. The CP Commercial Pedestrian District also encourages mixed residential/ commercial development where appropriate and is designed to support the commercial goals and policies of the General Plan urban design policies. The CN Zoning District is intended to provide for neighborhood serving commercial uses without an emphasis on pedestrian orientation except within the context of a single development. Development supported by this district includes neighborhood centers, multi-tenant commercial development along city connector and main streets, and small corner commercial establishments.

Furthermore, while not a document for the purpose of protecting the environment, the Martha Garden Specific Plan identified goals and objectives for neighborhood conformance. The Martha Gardens Specific Plan identifies land use designations for the project site as *Commercial/Mixed Use* and *Victorian Preservation Mixed Use*. The project is intended to implement the objectives of the Martha Gardens Specific Plan by replacing existing auto-oriented and storage uses with new ground-floor commercial space and residential uses to help revitalize the area.

The proposed project is an application for a General Plan Amendment (GPA) to the Envision San José 2040 General Plan to change the land use designations from *Mixed-Used Commercial* and *Mixed-Use Neighborhood* to *Transit Residential*, a Planned Development (PD) Rezoning to rezone the site from CP – Commercial Pedestrian and CN – Commercial Neighborhood Zoning Districts to A(PD) Planned Development District. A General Plan text amendment (GPT) is also proposed to modify the Martha Gardens Specific Plan to allow the proposed heights, floor area ratio (FAR), and setback. All this would facilitate for the proposed development of a mixed-use project. With the approval of the General Plan amendment, text amendment, and rezoning, the project would be consistent with the General Plan and zoning designations. If the GPA amendments or rezoning are not accepted, the project cannot be approved as proposed.

In terms of physical impacts on the environment, this IS analyzes the environmental impacts of the project within each resource section of the document and provides measures and conditions to reduce the physical impacts of the project, including cultural resources impacts, based on the proposed GPA and GPT. Therefore, the project would have a less than significant impact related to conflicts with land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.

Conclusion: The project would have a less than significant impact on land use and planning.

L. MINERAL RESOURCES

Existing Setting

Under the Surface Mining and Reclamation Act of 1975 (SMARA), the State Mining and Geology Board has designated only the Communications Hill Area of San José as containing mineral deposits of regional significance for aggregate (Sector EE).

There are no mineral resources in the project area. Neither the State Geologist nor the State Mining and Geology Board has classified any other areas in San José as containing mineral deposits that are of statewide significance or for which the significance requires further evaluation. Other than the Communications Hill area cited above, San José does not have mineral deposits subject to SMARA. The project site lies outside of the Communications Hill area.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
12. MINERAL RESOURCES. Would the project:					
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X	1, 2
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X	1, 2

Explanation

a), b) **No Impact**. The project site is located three miles north of the Communications Hill area, the only area in San José containing mineral deposits subject to SMARA. Therefore, the project will not result in a significant impact from the loss of availability of a known mineral resource.

Conclusion: The project will have no impact on mineral resources.

M. NOISE & VIBRATION

A noise and vibration assessment has been prepared for the project by Illingworth & Rodkin, Inc. (April 2020), which is contained in Appendix E. The following discussion summarizes the results of this assessment.

Existing Setting

Noise Fundamentals

Noise is measured in decibels (dB) and is typically characterized using the A-weighted sound level or dBA. This scale gives greater weight to the frequencies to which the human ear is most sensitive. The City's Envision San José 2040 General Plan applies the Day-Night Level (DNL) descriptor in evaluating noise conditions. The DNL represents the average noise level over a 24-hour period and penalizes noise occurring between the hours of 10 PM and 7 AM by 10 dB.

Vibration Fundamentals

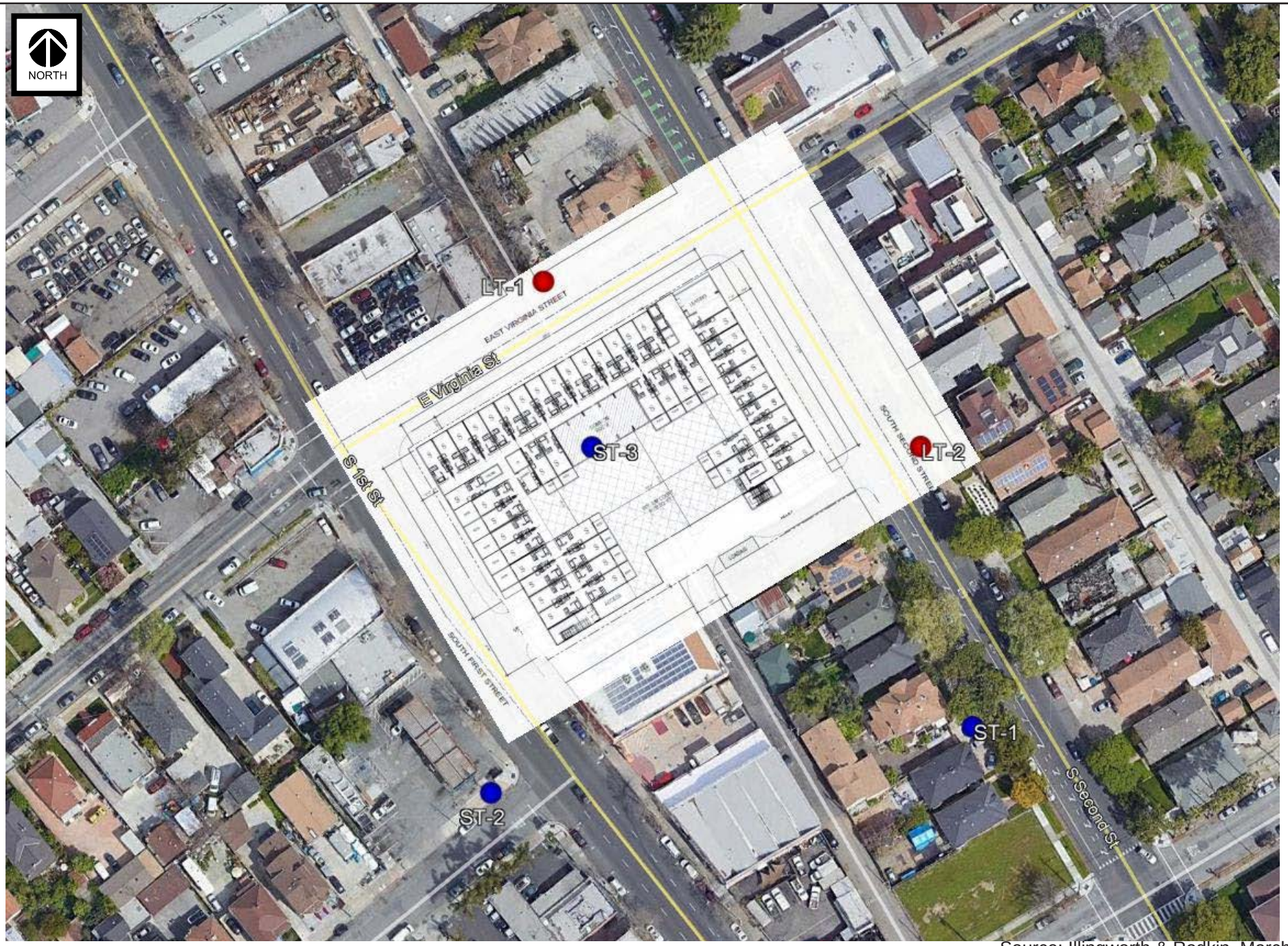
Several different methods are typically used to quantify vibration amplitude. One method, used by the City, is Peak Particle Velocity (PPV). The PPV is defined as the maximum instantaneous positive or negative peak of the vibration wave. For this analysis, the PPV descriptor with units of mm/sec or in/sec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

Existing Noise Environment

Existing commercial land uses are located adjacent to the site to the south along South First Street, to the west of the site, opposite South First Street, and to the north of the site, opposite East Virginia Street. Single-family residences are located adjacent to the site to the south along South Second Street and to the east of the site, opposite South Second Street.

A noise monitoring survey was performed in the project vicinity from Wednesday, July 12, 2017 through Friday, July 14, 2017. The monitoring survey included two long-term (LT-1 and LT-2) noise measurements and three short-term (ST-1 through ST-3) noise measurements. The locations of the noise measurements are presented in Figure 12. The existing noise at the project site is primarily from vehicular traffic on the surrounding roadways and aircraft associated with Mineta San José International Airport operations.

Long-term noise measurement LT-1 was made approximately 35 feet north of the centerline of East Virginia Street at the corner of the mid-block alley. During the measurement, fan noise from the mechanical equipment outside the nearby commercial building was audible in the absence of local traffic noise. The fan noise ranged from about 59 to 60 dBA at a distance of approximately 50 feet. This mechanical equipment noise was continuous during daytime and nighttime hours. Traffic noise typically drops during nighttime hours with lower traffic volumes. However, a review of the data at LT-1 shows that noise levels did not drop below about 59 dBA, which indicates that the noise levels at night were influenced by this mechanical equipment noise.



Source: Illingworth & Rodkin, March 2020

Noise Measurement Locations

Figure 12

S. First Street/E. Virginia Street Mixed-Use
Initial Study

Hourly average noise levels at this location typically ranged from 63 to 68 dBA L_{eq} during the day, and from 59 to 64 dBA L_{eq} at night. The day-night average noise level based on traffic noise only was calculated by filtering out the fan noise from the nearby building. When assuming the traffic noise would fluctuate similarly to the noise levels measured at LT-2, the estimated day-night average noise level on Thursday, July 13, 2017 was 69 dBA DNL.

LT-2 was made in front of 838 South Second Street, approximately 35 feet east of the centerline of the roadway. Hourly average noise levels at this location typically ranged from 61 to 76 dBA L_{eq} during the day, and from 56 to 64 dBA L_{eq} at night. The day-night average noise level on Thursday, July 13, 2017 was also 69 dBA DNL.

Short-term noise measurements were made over periods of ten-minutes, concurrent with the long-term noise data, on Wednesday, July 13, 2017, between 12:30 p.m. and 1:40 p.m. in order to complete the noise survey. All short-term measurement results are summarized in Table 11.

Table 11
Summary of Short-Term Noise Measurement Data

Noise Measurement Location (Date, Time)	**L_{max}**	**$L_{(1)}$**	**$L_{(10)}$**	**$L_{(50)}$**	**$L_{(90)}$**	**$L_{eq(10\text{-}min)}$**
ST-1: ~45 feet west of South Second Street (7/12/2017, 12:30-12:40 p.m.)	72	67	62	56	53	59
ST-2: ~55 feet west of South First Street (7/12/2017, 12:50-1:00 p.m.)	83	79	72	65	59	68
ST-3: ~95 feet south of East Virginia Street (7/12/2017, 1:20-1:30 p.m.)	73	68	61	59	57	60

State

California Building Code

The 2019 California Building Code (CBC) requires interior noise levels attributable to exterior environmental noise sources to be limited to a level not exceeding 45 dBA DNL/CNEL in any habitable room. The State of California established exterior sound transmission control standards for new non-residential buildings as set forth in the California Green Building Standards Code (Section 5.507.4.1 and 5.507.4.2). These sections identify the standards, such as Sound Transmission Class ratings,[14] that project building materials and assemblies need to comply with based on the noise environment.

[14] Sound Transmission Class (STC) is a single figure rating designed to give an estimate of the sound insulation properties of a partition. Numerically, STC represents the number of decibels of speech sound reduction from one side of the partition to the other.

Local

General Plan

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

EXTERIOR NOISE EXPOSURE (DNL IN DECIBELS DBA) FROM GENERAL PLAN TABLE EC-1: Land Use Compatibility Guidelines for Community Noise in San José						
Land Use Category	**Exterior DNL Value In Decibels**					
	55	**60**	**65**	**70**	**75**	**80**
1. Residential, Hotels and Motels, Hospitals and Residential Care						
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
3. Schools, Libraries, Museums, Meeting Halls, and Churches						
4. Office Buildings, Business Commercial, and Professional Offices						
5. Sports Arenas, Outdoor Spectator Sports						
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters						
	Normally Acceptable: Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.					
	Conditionally Acceptable: Specified land use may be permitted only after detailed analysis of the noise reduction requirements and noise mitigation features included in the design.					
	Unacceptable: New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies. (Development will only be considered when technically feasible mitigation is identified that is also compatible with relevant design guidelines.)					

Additionally, policies in the General Plan have been adopted for the purpose of avoiding or mitigating noise and vibration impacts from development projects. Policies applicable to the project are presented below.

Envision San José 2040 Relevant Noise and Vibration Policies	
Policy EC-1.1	Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include: Interior Noise Levels • The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to

Envision San José 2040 Relevant Noise and Vibration Policies	
	demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected *Envision General Plan* traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan. Exterior Noise Levels • The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (refer to Table EC-1 in the General Plan. Residential uses are considered "normally acceptable" with exterior noise exposures of up to 60 dBA DNL and "conditionally compatible" where the exterior noise exposure is between 60 and 75 dBA DNL such that the specified land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features are included in the design.
Policy EC-1.2	Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Land Use Categories 1, 2, 3 and 6 in Table EC-1 in the General Plan by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would: • Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable"; or • Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.
Policy EC-1.3	Mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to existing or planned noise-sensitive residential and public/quasi-public land uses.
Policy EC-1.6	Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City's Municipal Code.
Policy EC-1.7	Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would: • Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.
Policy EC-2.3	Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or buildings that are documented to be structurally weakened, a continuous vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Avoid use of impact pile drivers

Envision San José 2040 Relevant Noise and Vibration Policies	
	within 125 feet of any buildings, and within 300 feet of a historical building, or building in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

San José Municipal Code

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

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

Chapter 20.100.450 of the Municipal Code establishes allowable hours of construction within 500 feet of a residential unit between 7:00 AM and 7:00 PM Monday through Friday unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
13. NOISE. Would the project result in					
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?			X		15
b) Generation of excessive groundborne vibration or groundborne noise levels?		X			15
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?			X		15

Explanation

Significance Criteria

The following criteria were used to evaluate the significance of environmental noise resulting from the project:

- A significant noise impact would be identified if the project would generate a substantial temporary or permanent noise level increase over ambient noise levels at existing noise-sensitive receptors surrounding the project site and that would exceed applicable noise standards presented in the General Plan or Municipal Code at existing noise-sensitive receptors surrounding the project site.

    - A significant noise impact would be identified if construction-related noise would temporarily increase ambient noise levels at sensitive receptors. The City of San José considers large or complex projects involving substantial noise-generating activities and lasting more than 12 months significant when within 500 feet of residential land uses or within 200 feet of commercial land uses or offices.

    - A significant permanent noise level increase would occur if project-generated traffic would result in: a) a noise level increase of 5 dBA DNL or greater, with a future noise level of less than 60 dBA DNL, or b) a noise level increase of 3 dBA DNL or greater, with a future noise level of 60 dBA DNL or greater.

    - A significant noise impact would be identified if the project would expose persons to or generate noise levels that would exceed applicable noise standards presented in the General Plan.

- A significant impact would be identified if the construction of the project would generate excessive vibration levels surrounding receptors. Groundborne vibration levels exceeding 0.2 in/sec PPV would have the potential to result in cosmetic damage to normal buildings. For sensitive historic structures, a continuous vibration limit of 0.08 in/sec PPV is used to determine the impact significance.

- A significant noise impact would be identified if the project would expose people residing or working in the project area to excessive aircraft noise levels.

a) **Less Than Significant Impact**. The following addresses the temporary and permanent increase in ambient noise levels in the vicinity of the project in excess of applicable standards. The noise and vibration effects associated with the project are described below based on the results of the noise and vibration study (see Appendix E).

Project-Generated Noise Impacts During Operations

Truck Loading and Unloading. Truck deliveries for the ground-level retail uses on the project site would also have the potential to generate noise. The site plan indicates a loading zone in the alley to the south of the building, along the shared property line of the nearest existing residence. While delivery times and frequency of these events were not provided at the time of

this study, it is assumed that these activities, including maintenance activities would occur up to twice a week during daytime hours.

Typical noise levels generated by loading and unloading of truck deliveries would be similar to noise levels generated by truck movements at the existing land uses currently on the project site; though, the frequency of truck deliveries at the proposed project site is expected to be less frequent than the existing uses. However, due to the location of the proposed loading zone along the southern project boundary shared with an existing residence, disturbance from truck delivery noise could potentially increase compared to existing conditions. Due to the size of the proposed retail use, smaller vender delivery trucks are expected at the project site. Low speed truck noise results from a combination of engine, exhaust, and tire noise, as well as the intermittent sounds of back-up alarms and releases of compressed air associated with truck/trailer air brakes. Vender trucks typically generate maximum noise levels of 60 to 65 dBA L_{max} at 50 feet, with backup alarms reaching maximum noise levels up to 75 dBA L_{max} at 50 feet. Truck maneuvering activities would typically occur for a period of less than 5 minutes in any one hour, assuming the truck is shut off while the cargo is being unloaded. Under this assumption, the hourly average noise level would typically be 54 dBA L_{eq}. On the worst, one truck delivery would occur. Assuming truck deliveries would be limited to daytime hours only, the day-night average noise level would be 40 dBA DNL.

Truck deliveries occurring at the proposed project site are not expected to generate levels exceeding 55 dBA DNL or existing ambient conditions at the nearby residences; therefore, this represents a less than significant impact.

Mechanical Equipment Noise. The City's General Plan does not include policies specifically addressing mechanical noise generated by residential mixed-use land uses. However, the mechanical noise should be addressed with respect to the City's Municipal Code threshold of 55 dBA DNL to minimize disturbance to the existing residences surrounding the project site.

Residential mixed-use buildings typically require various mechanical equipment, such as air conditioners, exhaust fans, and air handling equipment for ventilation of the buildings. The site plan shows about 205 mechanical units on the roof of the proposed building. An additional 46 units are shown on the portion of the roof located on the sixth floor, which is located along the eastern building façade. The site plan also shows two potential locations for a transformer, both of which would be located on the ground level to the south of the building, approximately 30 to 40 feet from the nearest adjacent residence. At this stage of design, however, mechanical equipment for the proposed building have not been selected, and specific noise level information is therefore unknown at this time.

Noise levels produced by a typical residential heat pump are approximately 56 dBA at 3 feet during operation. Noise levels produced by a typical residential air conditioning condenser are approximately 66 dBA at 3 feet during operation. These types of units cycle on and off continuously. The nearest cluster of mechanical units to the adjacent residential property to the south includes eight units, which would be located about 20 feet from the edge of the sixth-floor roof. Assuming all eight units would operate simultaneously during daytime and nighttime hours, the day-night average noise level estimated at 3 feet would be 76 dBA DNL. Transformers up to 1,000 kVA typically generate noise levels up to 64 dBA, as measured at 1 meter (3.28 feet). Assuming the transformer runs continuously during daytime and nighttime

hours, the unattenuated day-night average noise level would be 70 dBA DNL at a distance of 1 meter (3.28 feet).

At the property line of the nearest ground-level resident, the day-night average noise level for the HVAC units would be 43 dBA DNL. For all other units, the noise sources would be farther from the surrounding residential land uses and would be expected to be below 55 dBA DNL. For the transformer located 30 to 40 feet from the nearest residence to the south, the unattenuated day-night average noise level would range from 48 to 50 dBA DNL. All other surrounding land uses would be farther from the transformers. Therefore, noise due to the transformer running continuously would not exceed the City's 55 dBA DNL threshold at surrounding residential land uses.

Standard Permit Condition

- As a project condition of approval, the project applicant shall select and design mechanical equipment to reduce excessive noise levels at the surrounding uses to meet the City's 55 dBA DNL noise level requirement at the nearby noise-sensitive land uses. A qualified acoustical consultant shall be retained to review mechanical noise as these systems are selected to determine specific noise reduction measures necessary to reduce noise to comply with the City's Municipal Code noise level requirements. Noise reduction measures could include, but are not limited to, selection of equipment that emits low noise levels and installation of noise barriers, such as enclosures and parapet walls, to block the line-of-sight between the noise source and the nearest receptors. Other alternate measures may be optimal, such as locating equipment in less noise-sensitive areas, such as along the building façades farthest from adjacent neighbors, where feasible.

Noise from Project Traffic. According to Policy EC-1.2 of the City's General Plan, a significant permanent noise increase would occur if the project would increase noise levels at noise-sensitive receptors by 3 dBA DNL or more where ambient noise levels exceed the "normally acceptable" noise level standard. Where ambient noise levels are at or below the "normally acceptable" noise level standard, noise level increases of 5 dBA DNL or more would be considered significant. The City's General Plan defines the "normally acceptable" outdoor noise level standard for the residential land uses to be 60 dBA DNL. Existing ambient levels, based on the measurements made in the project vicinity, exceed 60 dBA DNL. Therefore, a significant impact would occur if traffic due to the proposed project would permanently increase ambient levels by 3 dBA DNL. For reference, a 3 dBA DNL noise increase would be expected if the project would double existing traffic volumes along a roadway.

Policy EC-1.2 is meant to control the noise level increase generated by a new development at existing off-site receptors. CEQA is meant to protect the existing off-site receptors subject to impacts potentially generated at proposed project sites. Since the off-site traffic noise source is the dominant source at most project sites, noise level increases controlled by Policy EC-1.2 would be determined by the traffic volume increase.[15]

The traffic study included peak hour turning movements for the existing traffic volumes at three intersections: East Virginia Street/South First Street, East Virginia Street/South Second

[15] For example, the mechanical equipment noise from the project would be insignificant in comparison.

Street, and Martha Street/South First Street. Additionally, the traffic study included project trips, which would be 69 during the peak AM hour and 89 during the peak PM hour. When combined, the existing plus project scenario was calculated. For the purposes of a credible worst-case assessment, it was assumed that an increase of 1 to 2% in traffic volumes could occur along the surrounding roadways over the next 15 to 20 years. By comparing the existing plus project traffic scenario to the existing scenario, the project's contribution to the overall noise level increase was determined to be less than 1 dBA DNL along each roadway segment in the project vicinity. Therefore, the project would not result in a doubling of traffic volumes. The proposed project would not result in a permanent noise increase of 3 dBA DNL or more. This is a less than significant impact.

Project-Generated Noise Impacts During Construction

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

Policy EC-1.7 of the City's General Plan requires that all construction operations within the City to use best available noise suppression devices and techniques and to limit construction hours near residential uses per the Municipal Code allowable hours, which are between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday when construction occurs within 500 feet of a residential land use. Further, the City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would involve substantial noise-generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.

Existing residences along South Second Street range from within 10 feet of the project's southern boundary to 75 feet from the eastern boundary. At these residences, existing ambient levels range from 61 to 76 dBA L_{eq} during daytime hours. Existing commercial building located along South First Street would range from within 10 feet south of the site to 80 feet west of the site, while existing commercial uses along East Virginia Street would be approximately 60 feet from the northern boundary of the site. These land uses have existing ambient daytime levels ranging from 63 to 68 dBA L_{eq} during daytime hours.

The typical range of maximum instantaneous noise levels for the proposed project would be 70 to 90 dBA L_{max} at a distance of 50 feet. Table 12 shows the average noise level ranges, by construction phase. Hourly average noise levels generated by construction are about 65 to 88 dBA L_{eq} for a residential development measured at a distance of 50 feet from the center of a busy construction site. Construction-generated noise levels drop off at a rate of about 6 dBA per doubling of the distance between the source and receptor. Shielding by buildings or terrain often result in lower construction noise levels at distant receptors.

A detailed list of equipment expected to be used for the proposed project construction and phasing information were not available at the time of this study. However, the noise levels

provided in Table 12 were used to estimate the range of construction noise levels expected at the nearby existing land uses. The estimates were calculated by measuring from the center of the project site to the property line of the nearby receptors. The estimated results are summarized in Table 13. These levels do not assume reductions due to intervening buildings.

As shown in Table 13, ambient levels at the surrounding uses would potentially be exceeded by 5 dBA L_{eq} or more at various times throughout construction. Assuming project construction would last for a period of more than one year and considering that the project site is within 500 feet of existing residences and within 200 feet of existing commercial uses, Policy EC-1.7 of the City's General Plan would consider this temporary construction impact to be significant.

Table 12
Typical Ranges of Construction Noise Levels at 50 Feet, L_{eq} (dBA)

	Domestic Housing		Office Building, Hotel, Hospital, School, Public Works		Industrial Parking Garage, Religious Amusement & Recreations, Store, Service Station		Public Works Roads & Highways, Sewers, and Trenches	
	I	II	I	II	I	II	I	II
Ground Clearing	83	83	84	84	84	83	84	84
Excavation	88	75	89	79	89	71	88	78
Foundations	81	81	78	78	77	77	88	88
Erection	81	65	87	75	84	72	79	78
Finishing	88	72	89	75	89	74	84	84

I - All pertinent equipment present at site.
II - Minimum required equipment present at site.
Source: U.S.E.P.A., Legal Compilation on Noise, Vol. 1, p. 2-104, 1973.

Table 13
Estimated Construction Noise Levels at Nearby Land Uses

Proposed Project Construction	Estimated Noise Levels at Nearby Land Uses, dBA L_{eq}			
	South Adjacent Residences and Commercial (110-115 feet)	East Residences (215 feet)	West Commercial (210 feet)	North Commercial (130 feet)
Ground Clearing	76 dBA L_{eq}	70 dBA L_{eq}	71 dBA L_{eq}	75 dBA L_{eq}
Excavation	68-81 dBA L_{eq}	62-75 dBA L_{eq}	63-76 dBA L_{eq}	67-80 dBA L_{eq}
Foundations	74 dBA L_{eq}	68 dBA L_{eq}	69 dBA L_{eq}	73 dBA L_{eq}
Erection	58-74 dBA L_{eq}	52-68 dBA L_{eq}	53-69 dBA L_{eq}	57-73 dBA L_{eq}
Finishing	65-81 dBA L_{eq}	59-75 dBA L_{eq}	60-76 dBA L_{eq}	64-80 dBA L_{eq}

Due to its proximity to existing residences, the project construction noise could impact nearby these sensitive residential receptors.

Reasonable regulation of the hours of construction, as well as regulation of the arrival and operation of heavy equipment and the delivery of construction material, are necessary to protect the health and safety of persons, promote the general welfare of the community, and maintain

the quality of life. Construction activities will be conducted in accordance with the provisions of the City's General Plan and the Municipal Code, which limits temporary construction work within 500 feet of residential land uses to between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday unless permission is granted with a development permit or other planning approval by the City. Construction is prohibited on weekends at sites located within 500 feet of residential units. Further, the City shall require the construction crew to adhere to the following construction best management practices as project conditions of approval to reduce construction noise levels emanating from the site and minimize disruption and annoyance at existing noise-sensitive receptors in the project vicinity.

Standard Permit Conditions

- Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistic plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any grading or demolition permits. As a part of the noise logistic plan, construction activities for the proposed project shall include, but are not limited to, the following best management practices:

    - Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence (San José Municipal Code Section 20.100.450).

    - Construct temporary noise barriers, where feasible, to screen mobile and stationary construction equipment. The temporary noise barrier fences provide noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receiver and if the barrier is constructed in a manner that eliminates any cracks or gaps.

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

    - Unnecessary idling of internal combustion engines shall be strictly prohibited.

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

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

- Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise source and noise-sensitive receptors nearest the project site during all project construction.

- A temporary noise control blanket barrier shall be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling.

- If impact pile driving is proposed, foundation pile holes shall be predrilled to minimize the number of impacts required to seat the pile. Pre-drilling foundation pile holes is a standard construction noise control technique. Pre-drilling reduces the number of blows required to seat the pile.

- Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors.

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

- The project applicant shall prepare a detailed construction schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.

- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.

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

With incorporation of the permit conditions above, temporary construction impact would be less-than-significant.

b) **Less Than Significant with Mitigation Incorporated**. The construction of the project may generate perceptible vibration when heavy equipment or impact tools (e.g. jackhammers, hoe rams) are used. Construction activities would include site preparation work, foundation work, and new building framing and finishing. While a list of construction equipment was not available for the proposed project, pile driving equipment, which can cause excessive vibration, is not expected to be required for the proposed project.

According to Policy EC-2.3 of the City of San José General Plan, a vibration limit of 0.08 in/sec PPV shall be used to minimize the potential for cosmetic damage to sensitive historical structures, and a vibration limit of 0.20 in/sec PPV shall be used to minimize damage at buildings of normal conventional construction.

Table 14 presents typical vibration levels that could be expected from construction equipment at a distance of 25 feet. Project construction activities, such as drilling, the use of jackhammers, rock drills and other high-power or vibratory tools, and rolling stock equipment (tracked vehicles, compactors, etc.), may generate substantial vibration in the immediate vicinity. Jackhammers typically generate vibration levels of 0.035 in/sec PPV, and drilling typically generates vibration levels of 0.09 in/sec PPV at a distance of 25 feet. Vibration levels would vary depending on soil conditions, construction methods, and equipment used. Table 14 also summarizes the distances to the 0.08 in/sec PPV threshold for historical buildings and to the 0.2 in/sec PPV threshold for all other buildings.

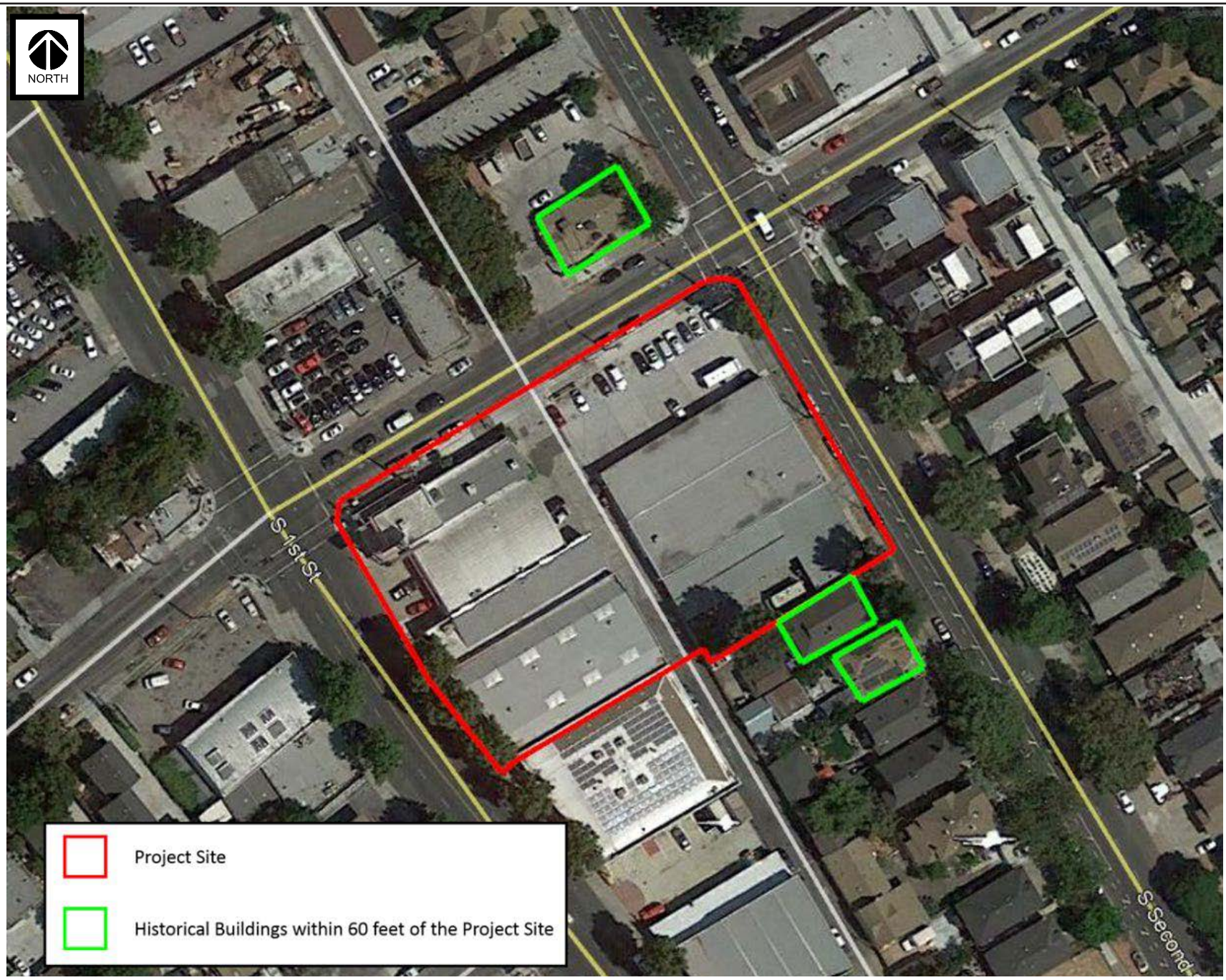
Table 14
Vibration Source Levels for Construction Equipment

Equipment		PPV at 25 feet. (in/sec)	Minimum Distance to Meet 0.08 in/sec PPV (feet)	Minimum Distance to Meet 0.2 in/sec PPV (feet)
Clam shovel drop		0.202	58	26
Hydromill (slurry wall)	in soil	0.008	3	1
	in rock	0.017	6	2
Vibratory Roller		0.210	60	27
Hoe Ram		0.089	28	12
Large bulldozer		0.089	28	12
Caisson drilling		0.089	28	12
Loaded trucks		0.076	24	10
Jackhammer		0.035	12	5
Small bulldozer		0.003	1	<1

Source: Transit Noise and Vibration Impact Assessment, United States Department of Transportation, Office of Planning and Environment, Federal Transit Administration, May 2006, as modified by Illingworth & Rodkin, Inc., May 2019.

Based on the inventory of historically documented buildings in the City of San José,[16] three buildings located 60 feet or less from the boundaries of the project site have been identified as buildings potentially impacted by the construction of the project. Figure 13 shows these buildings, with respect to the project. The historical building adjacent to the project site along the southern property line is within five feet of the project site.

[16] San José Historic Resources Inventory, 2016. https://www.sanjoseca.gov/home/showdocument?id=24021



Source: Illingworth & Rodkin, May 2019

Nearby Historical Buildings Surrounding the Project Site

S. First Street/E. Virginia Street Mixed-Use Initial Study

Figure 13

Due to the proximity of this building to the project site, the structure would be exposed to excessive vibration levels. Construction equipment vibration would be in excess of the City's 0.08 in/sec PPV vibration threshold. The other residential structure identified in Figure 12 south of the project site is approximately 40 feet from the project's boundary. At this distance, vibration levels would vary but some equipment would generate vibration levels exceeding the 0.08 in/sec PPV threshold when used near the southern boundary. Additionally, use of heavy equipment along the northern boundary of the project site would generate vibration levels exceeding 0.08 in/sec PPV at the building façade north of the project site, opposite East Virginia Street.

An existing commercial structure is located adjacent to the site, within 10 feet of the southern boundary. At this distance, vibration levels from vibratory rollers would be up to 0.58 in/sec PPV, and clam shovel drops would generate levels up to 0.55 in/sec PPV, exceeding the City's 0.2 in/sec PPV threshold for non-historical buildings. The City's threshold would also potentially be exceeded with the use of hoe rams, large bulldozers, caisson drills, and loaded trucks that are used near the southern boundary of the project site.

The existing residences located to the east of the project site, opposite South Second Street, some of which are historic, would be approximately 85 feet from the project's eastern boundary. At this distance, vibration levels would be up to 0.06 in/sec PPV. The commercial buildings to the east, opposite South First Street, and to the north, opposite East Virginia Street, would be approximately 55 to 75 feet from the project site. At these distances, vibration levels would be up to 0.09 in/sec PPV.

A study completed by the US Bureau of Mines analyzed the effects of blast-induced vibration on buildings in USBM RI 8507.[17] The findings of this study have been applied to buildings effected by construction-generated vibrations.[18] Threshold damage, which is described as cosmetic damage in this report, would entail hairline cracking in plaster, the opening of old cracks, the loosening of paint or the dislodging of loose objects. Minor damage would include hairline cracking in masonry or the loosening of plaster, and major structural damage would include wide cracking or shifting of foundation or bearing walls. Maximum vibration levels of 1.2 in/sec PPV would result in approximately 20% of threshold damage or cosmetic damage, while no minor or major damage was observed with maximum vibration levels of 1.2 in/sec PPV.

Typical construction equipment would have the potential to produce vibration levels of 0.08 in/sec PPV or more at the historic buildings identified in Table 14. Due to the sensitive nature of these buildings, cosmetic or minor damage would potentially occur. Heavy vibration-generating construction equipment, such as clam shovel drops or vibratory rollers, would have the potential to produce vibration levels of 0.2 in/sec PPV or more at buildings of normal conventional construction located within 25 feet of the project site (i.e., adjacent buildings to the south). Project-generated vibration levels would fall below the General Plan threshold of 0.2 in/sec PPV at other surrounding conventional buildings located 30 feet or more from the project site. Neither cosmetic, minor, or major damage would occur at conventional buildings located 30 feet or more from the project site.

[17] Siskind, D.E., M.S. Stagg, J.W. Kopp, and C.H. Dowding, Structure Response and Damage Produced by Ground Vibration form Surface Mine Blasting, RI 8507, Bureau of Mines Report of Investigations, U.S. Department of the Interior Bureau of Mines, Washington, D.C., 1980.
[18] Dowding, C.H., Construction Vibrations, Prentice Hall, Upper Saddle River, 1996.

At these locations, and in other surrounding areas where vibration would not be expected to cause cosmetic damage, vibration levels may still be perceptible. However, as with any type of construction, this would be anticipated and would not be considered significant, given the intermittent and short duration of the phases that have the highest potential of producing vibration (use of jackhammers and other high-power tools). By use of administrative controls, such as notifying neighbors of scheduled construction activities and scheduling construction activities with the highest potential to produce perceptible vibration during hours with the least potential to affect nearby businesses, perceptible vibration can be kept to a minimum.

In summary, the construction of the project would generate vibration levels exceeding the General Plan threshold of 0.08 in/sec PPV or more at historic buildings within 60 feet of the project site and of 0.2 in/sec PPV or more at buildings of normal conventional construction located within 25 feet of the project site. Such vibration levels would be capable of cosmetically damaging the adjacent buildings. These impacts would be reduced to a less than significant level with mitigation identified below as well as recommendations identified for construction effects of the project on adjacent historic resources identified in *Section E. Cultural Resources*.

Impact NSE-1: Construction of the project would generate vibration levels exceeding the General Plan threshold of 0.08 in/sec PPV or more at historic buildings within 60 feet of the project site and of 0.2 in/sec PPV or more at buildings of normal conventional construction located within 25 feet of the project site.

Mitigation Measures

MM NSE 1 The project applicant shall prepare and implement a construction vibration monitoring plan to document conditions prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. The construction vibration monitoring plan shall include, but not be limited to, the following measures:

- The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations.

- A list of all heavy construction equipment to be used for this project and the anticipated time duration of using the equipment that is known to produce high vibration levels (clam shovel drops, vibratory rollers, hoe rams, large bulldozers, caisson drillings, loaded trucks, jackhammers, etc.) shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building, and Code Enforcement by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort required for continuous vibration monitoring. Phase demolition, earth-moving, and ground impacting operations so as not to occur during the same time period.

- Where possible, use of the heavy vibration-generating construction equipment shall be prohibited within 20 feet of any adjacent building.

- Document conditions at all structures located within 30 feet of construction prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. Specifically:

    - Vibration limits shall be applied to vibration-sensitive structures located within 30 feet of all construction activities identified as sources of high vibration levels.

    - Performance of a photo survey, elevation survey, and crack monitoring survey for each structure of normal construction within 30 feet of all construction activities identified as sources of high vibration levels. Surveys shall be performed prior to any construction activity, in regular intervals during construction, and after project completion of vibration generating construction activities, and shall include internal and external crack monitoring in the structures, settlement, and distress, and shall document the condition of the foundations, walls and other structural elements in the interior and exterior of said structures.

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

- At a minimum, vibration monitoring shall be conducted during demolition and excavation activities.

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

- Conduct a post-construction survey on structures where either monitoring has indicated high vibration levels or complaints of damage has been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities.

- The construction vibration plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any demolition permits and grading permits. The associated monitoring reports shall be submitted after substantial completion of each phase identified in the project schedule to the Director of Planning,

Building, and Code Enforcement or Director's designee. An explanation of all events that exceeded vibration limits shall be included together with proper documentation of any exceedance event.

Implementation of this mitigation measure would reduce the vibration impact to a less than significant level.

c) **Less Than Significant Impact**. Norman Y. Mineta San José International Airport is a public-use airport located approximately 2.7 miles northwest of the project site. The project site lies within the 60 dBA CNEL 2027 noise contour of the airport, according to the Norman Y. Mineta San José International Airport Master Plan Update Project[19] report (February 2010). This means that future exterior noise levels due to aircraft from Norman Y. Mineta San José International Airport would potentially exceed 60 dBA CNEL/DNL. However, according to Policy EC-1.11 of the City's General Plan, the required safe and compatible threshold for exterior noise levels would be at or below 65 dBA CNEL/DNL for aircrafts. Therefore, the proposed project would be compatible with the City's exterior noise standards for aircraft noise.

Assuming standard construction materials for aircraft noise ranging from 60 to 65 dBA DNL, the future interior noise levels resulting from aircraft would range from 45 to 50 dBA DNL. Therefore, to meet the 45 dBA DNL threshold for residential land uses, the proposed project would require a suitable form of forced-air mechanical ventilation so that windows can be kept closed at the occupant's discretion for the residential component. Assuming the implementation of forced-air mechanical ventilation, the proposed project would be compatible with the City's interior noise standards for aircraft noise. This represents a less than significant impact.

Conclusion: The project would have a less than significant impact related to noise and vibration with incorporation of identified mitigation measures and standard permit conditions.

Non-CEQA Effects

In December 2015, the California Supreme Court issued an opinion in the California Building Industry Association vs. Bay Area Air Quality Management District (*CBIA vs. BAAQMD*) case that CEQA is primarily concerned with the impacts of a project on the environment, not the effects of the existing environment on a project. In light of this ruling, the effect of existing ambient noise on future users or residents of the project would not be considered an impact under CEQA. However, General Plan Policy EC-1.1 requires that existing ambient noise levels be analyzed for new residences, hotels, motels, residential care facilities, hospitals, and other institutional facilities, and that noise attenuation be incorporated into the project in order to reduce interior and exterior noise levels to acceptable limits.

The exterior noise threshold established in the City's General Plan for new residential projects and for the residential component of mixed-use development is 60 dBA DNL at usable outdoor activity areas, excluding balconies and porches. For commercial uses, the City's "normally acceptable" threshold for outdoor activity areas is 70 dBA DNL. The City requires that interior noise levels be maintained at 45

[19] City of San José, "Norman Y. Mineta San José International Airport Master Plan Update Project: Eighth Addendum to the Environmental Impact Report," City of San José Public Project File No. PP 10-024, February 10, 2010.

dBA DNL or less for residential land uses, and the Cal Green Code applies to the non-residential components of the proposed mixed-use project.

According to the site plan, the proposed residences would be located on floors two through six. The retail component would be located on the first floor along the western façade of the building, adjacent to East Virginia Street and South First Street.

The future noise environment at the project site would continue to result primarily from vehicular traffic along the surrounding roadways. To estimate future traffic noise levels, a review of the traffic volumes contained in the *Envision San José 2040 General Plan Comprehensive EIR* was made. This review indicated that there would not be a measurable increase in traffic noise by the year 2040, which is likely due to the area being mostly built out. The net trips generated by the proposed project would be 69 during the peak AM hour and 89 during the peak PM hour, according to the traffic study. These project trips would be minimal compared to the existing and future traffic volumes along the surrounding roadways. Therefore, the project would not result a measurable traffic noise increase. For the purposes of a credible worst-case assessment, it was assumed that an increase of 1 to 2% in traffic volumes could occur along the surrounding roadways over the next 15 to 20 years. These projections assume a standard rate of growth in the City but are conservative for built-out areas where growth is not forecasted. As a result, future noise levels at the project site are conservatively estimated to increase by approximately 1 dBA over existing conditions. This future noise increase would result in future noise levels of 70 dBA DNL at a distance of 35 feet from the centerlines of East Virginia Street (LT-1) and South Second Street (LT-2). Additionally, the future noise levels predicted 75 feet from the centerline of South First Street would be 73 dBA DNL in the year 2040 according to the General Plan EIR.

Future Exterior Noise Environment within Project Site

A podium-level courtyard would be considered a residential common outdoor use area at the proposed project building. The courtyard would be surrounded by the building to the north, to the east, and to the west, shielding the outdoor use area from traffic along East Virginia Street, South First Street, and South Second Street. With building façades of up to 76.5 feet tall, the courtyard would be exposed to future exterior noise levels below 60 dBA DNL.

The outdoor use area associated with the residential component of the proposed project would not be exposed to noise levels that exceed the City's exterior noise level limit of 60 dBA DNL. The future noise environment would be compatible with the City's General Plan threshold. Commercial outdoor use areas are not proposed by the project.

Future Interior Noise Environment

The State of California and the City of San José requires that interior noise levels be maintained at 45 dBA DNL or less for residential land uses and that all non-residential land uses follow the requirements of the Cal Green Code.

Residential Uses. The residential units would be located along the northern and eastern building façades, which are adjacent to East Virginia Street and South Second Street, respectively. The units along the northern building façade would have setbacks from the centerline of East Virginia Street of approximately 40 feet. At this distance, the units along the northern façade would be exposed to future exterior noise levels up to 69 dBA DNL. The eastern façade would be set back from the centerline of

South Second Street by approximately 50 feet, and at this distance, the units along the eastern façade would be exposed to future exterior noise levels up to 69 dBA DNL.

Standard residential construction provides approximately 15 dBA of exterior-to-interior noise reduction, assuming the windows are partially open for ventilation. Standard construction with the windows closed provides approximately 20 to 25 dBA of noise reduction in interior spaces. Where exterior noise levels range from 60 to 65 dBA DNL, the inclusion of adequate forced-air mechanical ventilation is often the method selected to reduce interior noise levels to acceptable levels by closing the windows to control noise. Where noise levels exceed 65 dBA DNL, forced-air mechanical ventilation systems and sound-rated construction methods are normally required. Such methods or materials may include a combination of smaller window and door sizes as a percentage of the total building façade facing the noise source, sound-rated windows and doors, sound rated exterior wall assemblies, and mechanical ventilation so windows may be kept closed at the occupant's discretion.

Assuming windows to be partially open for ventilation, the interior noise levels for the proposed project would be up to 54 dBA DNL at the units along the northern and eastern façades of proposed building. This would exceed the 45 dBA DNL threshold for interior noise.

Commercial Retail Uses. The performance method enforced in the Cal Green Code requires that interior noise levels be maintained at 50 dBA $L_{eq(1\text{-}hr)}$ or less during hours of operation at the proposed commercial retail.

The proposed retail uses would be located on the first floor of the proposed building, along the northern and western façades. The setbacks of the retail uses from the centerline of East Virginia Street would be approximately 40 feet, while the setbacks from the centerline of South First Street would be approximately 45 feet. At these distances, the retail uses would be exposed to future exterior noise levels ranging from 64 to 70 dBA $L_{eq(1\text{-}hr)}$ during daytime hours, and a day-night average noise level of 69 dBA DNL along the northern façade and of 75 dBA DNL along the western façade.

Standard construction materials for commercial uses would provide at least 20 to 25 dBA of noise reduction in interior spaces. The inclusion of adequate forced-air mechanical ventilation systems is normally required so windows may be kept closed at the occupant's discretion. The standard construction materials in combination with forced-air mechanical ventilation would satisfy the daytime threshold of 50 dBA $L_{eq(1\text{-}hr)}$.

Condition of Approval

The following noise insulation features shall be incorporated into the proposed project to reduce interior noise levels to 45 dBA DNL or less:

- Preliminary calculations indicate that the residential units along the northern and eastern façades of proposed building would require windows and doors with a minimum rating of 28 STC to meet the interior noise threshold of 45 dBA DNL.

- Provide a suitable form of forced-air mechanical ventilation, as determined by the local building official, for all residential units on the project site, so that windows can be kept closed at the occupant's discretion to control interior noise and achieve the interior noise standards.

- A qualified acoustical specialist shall prepare a detailed analysis of interior residential noise levels resulting from all exterior sources during the design phase pursuant to requirements set forth in the State Building Code. The study will also establish appropriate criteria for noise levels inside the commercial spaces affected by environmental noise. The study will review the final site plan, building elevations, and floor plans prior to construction and recommend building treatments to reduce residential interior noise levels to 45 dBA DNL or lower. Treatments would include, but are not limited to, sound-rated windows and doors, sound-rated wall and window constructions, acoustical caulking, protected ventilation openings, etc. The specific determination of what noise insulation treatments are necessary shall be conducted on a unit-by-unit basis during final design of the project. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City, along with the building plans and approved design, prior to issuance of a building permit.

The implementation of these noise insulation features would reduce interior noise levels to 45 dBA DNL or less.

N. POPULATION AND HOUSING

Setting

Based on information from the Department of Finance, the City of San José's population was estimated to be 1,046,058 in May 2019 and had an estimated total of 335,887 housing units, with an average of 3.20 persons per household. [20] ABAG projects that the City's population will reach 1,445,000 with 472,000 households by 2040.

A project can induce substantial population growth by: 1) proposing new housing beyond projected or planned development levels, 2) generating demand for housing as a result of new businesses, 3) extending roads or other infrastructure to previously undeveloped areas, or 4) removing obstacles to population growth (e.g., expanding capacity of a wastewater treatment plant beyond that necessary to serve planned growth). The General Plan EIR concluded that the potential for direct growth inducing impacts from buildout of the General Plan would be minimal because planned growth would consist entirely of development within the City's existing Urban Growth Boundary and Urban Service Area.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
14. POPULATION AND HOUSING. Would the project:					
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?			X		1, 2
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?				X	1, 2

Explanation

a) **Less Than Significant Impact**. The project proposes up to 246 units with total future population at the proposed project site estimated at 787 individuals (based on 3.2 persons per household).[21] The development is proposed to accommodate the growing demand for housing within San José. The development is consistent with the project site's General Plan land use designation and, therefore, would not add growth beyond what was anticipated from buildout of the General Plan.

[20] Source: http://www.dof.ca.gov/Forecasting/Demographics/Estimates/e-5/

[21] See footnote above. This is likely an overestimation since the proposed units would all be studios.

b) **No Impact**. The project consists of the development of a mixed-use development on an infill site with no existing housing. The project would not displace existing housing or require the construction of replacement housing.

Conclusion: The project would have a less than significant impact on population and housing.

O. PUBLIC SERVICES

Existing Setting

Fire Protection: Fire protection services are provided to the project site by the San José Fire Department (SJFD). The closest fire station to the project site is Station #3, located about 0.2 miles southeast of the site at 98 Martha Street.

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

Parks: The nearest park to the project site is Discovery Meadow, located within walking distance less than 0.6 miles northwest of the site. The City of San José has adopted the Parkland Dedication Ordinance and Park Impact Ordinance, which require residential developers to dedicate public park land or pay in-lieu fees (or both) to compensate for the increase in demand for neighborhood parks.

Schools: Schools in the project area are located within the San José Unified School District, and presented below.

Schools in Project Area		
Elementary	**Middle**	**High**
Willow Glen Elementary 1425 Lincoln Ave San José, CA 95125	Willow Glen Middle School 2105 Cottle Ave San José, CA 95125	Willow Glen High School 2001 Cottle Ave San José, CA 95125

State law (Government Code §65996) identifies the payment of school impact fees as an acceptable method of offsetting a project's impact on school facilities. In San José, developers can either negotiate directly with the affected school district or make a payment per square foot of multi-family units and new commercial uses, prior to issuance of a building permit. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code.

Libraries: The San José Public Library System consists of one main library and 18 branch libraries. The nearest branches to the project site are the Biblioteca Latinamericana Branch Library, about 0.15 miles south of the site, and the Dr. Martin Luther King, Jr. Library, about one mile north of the site.

Regulatory Framework

California Government Code Section 65996

California Government Code Section 65996 stipulates that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to issuance of a building permit. The legislation states that payments of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA [§65996(b)]. The school district is responsible for implementing the specific methods of school impact mitigation under the Government Code. The CEQA documents must identify that school impact fees and the school districts' methods of implementing measures specified by Government Code 65996 would adequately mitigate project-related increases in student enrollment.

Quimby Act – California Code Sections 66475-66478

The Quimby Act (California Government Code Sections 66475-66478) was approved by the California legislature to preserve open space and parkland in the State. The Quimby Act authorizes local governments to establish ordinances requiring developers of new subdivisions to dedicate parks, pay an in-lieu fee, or perform a combination of the two. As described below, the City has adopted a Parkland Dedication Ordinance and a Park Impact Ordinance, consistent with the Quimby Act.

Parkland Dedication Ordinance and Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25), requiring new residential development to either dedicate sufficient land to serve new residents or pay fees to offset the increased costs of providing new park facilities for new development. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities onsite. For projects exceeding 50 units, the City decides whether the project will dedicate land for a new public park site or provide a fee in-lieu of land dedication. The acreage of parkland required is based on the minimum acreage dedication formula outlined in the PDO.

General Plan Policies

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

Envision San José 2040 Relevant Public Service Policies	
Policy CD-5.5	Include design elements during the development review process that address security, aesthetics, and safety. Safety issues include, but are not limited to, minimum clearances around buildings, fire protection measures such as peak load water requirements, construction techniques, and minimum standards for vehicular and pedestrian facilities and other standards set forth in local, state, and federal regulations.
Policy FS-5.6	When reviewing major land use or policy changes, consider the availability of police and fire protection, parks and recreation and library services to the affected area as well as the potential impacts of the project on existing service levels.
Policy ES-2.2	Construct and maintain architecturally attractive, durable, resource-efficient, and environmentally healthful library facilities to minimize operating costs, foster learning, and express in built form the significant civic functions and spaces that libraries provide for the San José community. Library design should anticipate and build in flexibility to accommodate evolving community needs and evolving methods for providing the community with access to information sources. Provide at least 0.59 SF of space per capita in library facilities.
Policy ES-3.1	Provide rapid and timely Level of Service (LOS) response time to all emergencies: 1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.

Envision San José 2040 Relevant Public Service Policies	
Policy ES-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.
Policy ES-3.11	Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects. PR-1.1 Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
Policy PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
Policy PR-1.2	Provide 7.5 acres per 1,000 population of citywide /regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
Policy PR-1.12	Regularly update and utilize San José's Parkland Dedication Ordinance/Parkland Impact Ordinance (PDO/PIO) to implement quality facilities.
Policy PR-2.4	To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds.
Policy PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
15. PUBLIC SERVICES. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:					
a) Fire protection?			X		1, 2
b) Police protection?			X		1, 2
c) Schools?			X		1, 2
d) Parks?			X		1, 2
e) Other public facilities?			X		1, 2

Explanation

a) **Less Than Significant Impact**. The project proposes to redevelop the site, which would intensify the use of the site and generate additional occupants in the area. This would result in an incremental increase in the demand for fire protection services. The project site, however, is currently served by the SJFD and the amount of proposed development represents a small fraction of the total growth identified in the General Plan. The project, by itself, would not preclude the SJFD from meeting their service goals and would not require the construction of new or expanded fire facilities. In addition, the proposed project would be constructed in accordance with current building and Fire codes and would be required to be maintained in accordance with applicable City policies to promote public and property safety. Therefore, the proposed mixed-use development would not significantly impact fire protection services or require the construction of new or remodeled facilities.

b) **Less Than Significant Impact**. The project proposes to redevelop the site, which would intensify the use of the site and generate additional occupants in the area. This would result in an incremental increase in the demand for police protection services. The project site, however, is currently served by the SJPD and the amount of proposed development represents a small fraction of the total growth identified in the General Plan. The project, by itself, would not preclude the SJPD from meeting their service goals and would not require the construction of new or expanded fire facilities. In addition, the proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies to promote public and property safety.

Finally, the project applicant will consult with the SJPD during final project design to assure appropriate security measures are incorporated. Therefore, the proposed mixed-use development would not significantly impact police protection services or require the construction of new or remodeled facilities.

c) **Less Than Significant Impact**. The residential component of the proposed mixed-use development could generate additional new students. The residential and commercial components of the project would be subject to developer fees to accommodate the incremental demand on school services, including the state-mandated school district impact fee, to compensate for any impacts to school services.

d) **Less Than Significant Impact**. The residential component of the proposed mixed-use development could generate some additional park users. While future residents, employees, and patrons of the site may utilize nearby parks, they are unlikely to place a major physical burden on these facilities. The City's Parkland Dedication Ordinance and Park Impact Ordinance require residential developers to dedicate public park land or pay in-lieu fees (or both) to compensate for the increase in demand for neighborhood parks.

e) **Less Than Significant Impact.** The General Plan FEIR concluded that development allowed under the General Plan would be adequately served by existing and planned library facilities. The residential component of the proposed mixed-use development could have an incremental increase in the demand for other public services, including library services.

Conclusion: The project would have a less than significant impact on public services.

P. RECREATION

Existing Setting

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

The nearest park to the project site is Discovery Meadow, located within walking distance less than 0.6 miles northwest of the site. The City of San José has adopted the Parkland Dedication Ordinance and Park Impact Ordinance, which require residential developers to dedicate public park land or pay in-lieu fees (or both) to compensate for the increase in demand for neighborhood parks.

Regulatory Framework

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

General Plan Policies

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

Envision San José 2040 Relevant Recreation Policies	
Policy PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
Policy PR-1.2	Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
Policy PR-1.3	Provide 500 SF per 1,000 population of community center space.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
16. RECREATION. Would the project:					
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?			X		1, 2

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?			X		1, 2

Explanation

a), b) **Less Than Significant Impact**. The project proposes up to 246 residential units with total future population at the proposed project site estimated at 787 individuals (based on 3.2 persons per household).[22] This would incrementally increase the demands on nearby recreational facilities. The City of San José has adopted the Parkland Dedication Ordinance and Park Impact Ordinance, which require residential developers to dedicate public park land or pay in-lieu fees (or both) to compensate for the increase in demand for neighborhood parks. The project would be required to comply with the City's park ordinances, which would offset impacts to park/recreation facilities.

Conclusion: The project would have a less than significant impact on recreational facilities.

[22] See footnote 21. This is likely an overestimation since the proposed units would all be studios.

Q. TRANSPORTATION

The following discussion is based on a transportation analysis prepared for the project by Hexagon Transportation Consultants (April 20, 2020). This study is contained in Appendix F. The transportation analysis was conducted to determine the potential transportation impacts related of the project based on the standards and methodologies set forth by the City of San José and included an evaluation of vehicle miles traveled (VMT) and a local transportation analysis (LTA).

Furthermore, this section is based on a Long Range Transportation Analysis completed for the 2020 General Plan Amendments in August 2020 by Hexagon Transportation Consultants, Inc. A copy of this report is attached as Appendix G to this Initial Study.

Existing Setting

Existing Roadway Network

Regional access to the study area is provided by State Route 87 and Interstate 280. Local access to the study area is provided via First Street, Second Street, Virginia Street and Martha Street. These facilities are shown in Figure 14 and described below.

SR 87 is a north-south freeway providing regional access to the project site via its connections to SR 85 and US 101 in the south, and I-280 and US 101 in the north. These facilities allow for regional access from East Bay and Peninsula cities, as well as Gilroy and Morgan Hill to San José. SR 87 is oriented in a northwest/southwest direction with four mixed-flow lanes and two HOV lanes in the vicinity of the site. SR 87 provides access to the project study area via its interchange with I-280.

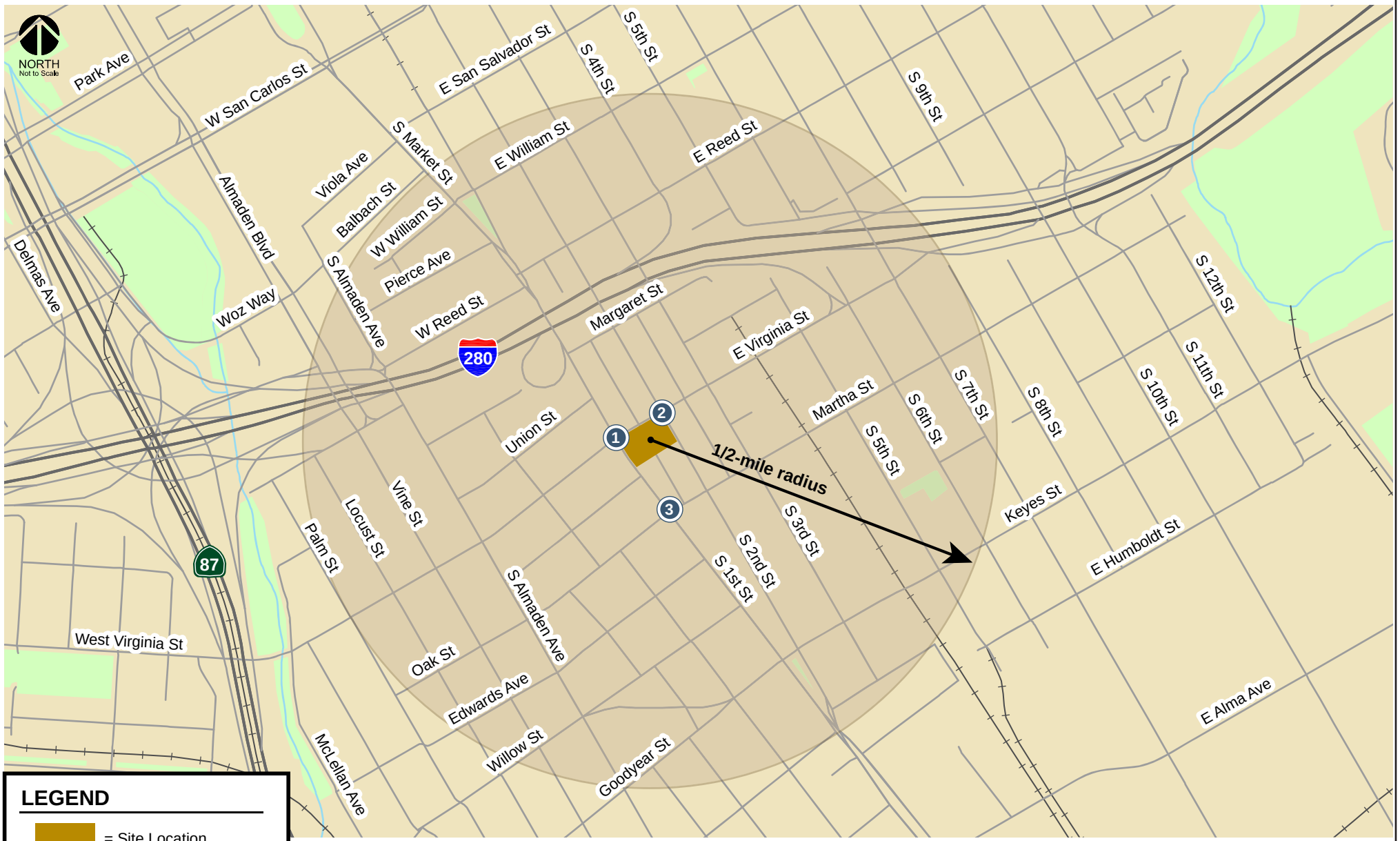
I-280 extends from US 101 in San José to I-80 in San Francisco. It is generally an east-west oriented eight-lane freeway in the vicinity of downtown San José. I-280 access to and from the project site is provided via ramps at 1st Street, 4th Street, 6th Street, 7th Street and Vine Street/Almaden Avenue.

First Street is a north-south four-lane street within the project vicinity south of Reed Street and is a one-way northbound one-lane street north of Reed Street. First Street has a posted speed limit of 35 mph and parking on both sides of the street. There are no bicycle facilities on First Street within the study area, although Sharrows (shared lane markings) do exist north of San Salvador Street. First Street provides access to the project site.

Second Street is a one-way southbound two-lane street within the project vicinity with buffered bike lanes between San Carlos Street and Keyes Street. Second Street has a posted speed limit of 30 mph and parking on both sides of the street. Second Street provides access to the project site.

Virginia Street is an east-west two-lane street that extends from Drake Street to 7th Street as it transitions into the I-280 southbound on ramp. Virginia Street has a posted speed limit of 25 mph and parking on both sides of the street. Sharrows are present on Virginia Street west of 3rd Street. Virginia Street provides access to the project site via First Street and Second Street.

Martha Street is an east-west two-lane street that extends from First Street to 12th Street. West of First Street, Martha Street transitions into Oak Street. Martha Street has a posted speed limit of 25 mph and parking on both sides of the street. Martha Street provides access to the project site via First Street. There are no bicycle facilities on Martha Street or Oak Street.



Source: Hexagon Transportation Consultants, April 2019

Site Location and Study Intersections

S. First Street/E. Virginia Street Mixed-Use
Initial Study

Figure
14

Existing Pedestrian, Bicycle and Transit Facilities

Pedestrian Facilities. A complete network of sidewalks and crosswalks is found along all the roadways in the study area. Crosswalks with pedestrian signal heads are located at all the signalized intersections in the study area. Crosswalks are also provided at some of the nearby unsignalized intersections. At the unsignalized intersection of Second Street and Martha Street, all legs except the north leg have crosswalks. ADA compliant curb ramps with truncated domes are provided at all the street corners in the vicinity of the project site. Truncated domes are the standard design requirement for detectable warnings which enable people with visual disabilities to determine the boundary between the sidewalk and the street. The existing pedestrian facilities provide good connectivity between the project site and the surrounding land uses and transit stops.

Bicycle Facilities. Bicycle facilities are divided into three classes of relative significance. Class I bikeways are bike paths that are physically separated from motor vehicles and offer two-way bicycle travel on a separate path. Class II bikeways are striped bike lanes on roadways that are marked by signage and pavement markings. Class III bikeways are bike routes and only have signs and/or "sharrows" (bike route/shared lane markings) to help guide bicyclists on recommended routes to certain locations.

The Guadalupe River/Los Alamitos Creek multi-use trail system (Class I bikeway) runs through the City of San José along the Guadalupe River and separates bicyclists from motor vehicle traffic. The Guadalupe River trail is a continuous Class I bikeway (paved path) from W Virginia Street in the south to Alviso Marina County Park. There is another section of the trail a few blocks south of W Virginia Street from Willow Street to Curtner Avenue, which provides access to trails that lead to Almaden Valley in southern San José. This shared trail system runs adjacent to SR 87 near the project vicinity, with trail access provided approximately ½ mile west of the project site at Virginia Street. The trail system is available for use by pedestrians and bicyclists all year.

The existing on-street bicycle facilities in the project vicinity are described below:

- Vine Street and Almaden Avenue have striped bike lanes s/o Grant Street and n/o of Woz Way.
- Woz Way has striped bike lanes and Balbach Street is a Class III bike route (sharrows).
- 2nd Street has buffered bike lanes north of Keyes Street.
- 3rd Street has buffered bike lanes north of Humboldt Street.
- San Carlos and San Salvador Street are Class III bike routes.
- 4th Street has buffered bike lanes north of Reed Street.
- 7th Street has buffered bike lanes between Alma Avenue and the SJSU campus.
- Virginia Street has sharrows (Class III bike route) west of 3rd Street.
- Keyes Street has striped bike lanes east of 1st Street.
- Goodyear Street has sharrows west of 1st Street.
- Graham Avenue has striped bike lanes between Willow Street and Goodyear Street.
- Willow Street has sharrows west of Graham Avenue.

Public Transit Services. Existing transit services near the project site are provided by the Santa Clara Valley Transportation Authority (VTA) and Caltrain.

The VTA currently operates the 42.2-mile light rail line system extending from south San José through downtown to the northern areas of San José, Santa Clara, Milpitas, Mountain View and Sunnyvale. The service operates nearly 24 hours a day with 15-minute headways during much of the day. The Virginia LRT Station is located approximately a half mile west of the project site on Virginia Street and is served by the Santa Teresa-Alum Rock LRT Line (Line 901). The 901 Line serves the San José Diridon Station, which provides Caltrain service. The closest bus stops are located on First Street, just north and south of Virginia Street at the northwest corner of the project site. These bus stops are served by local bus routes 66, 68, 82 and 304. Local bus route 25 stops on Keyes Street at First Street, which is approximately 1,200 feet south of the project site.

Commuter rail service between San Francisco and Gilroy is provided by Caltrain. Caltrain operates a total of 92 weekday trains. The Diridon Station is served by the Santa Teresa-Alum Rock LRT Line (Line 901). Local bus route 68 also provides direct access to the Diridon Station and stops adjacent to the project site at the First Street/Virginia Street intersection.

Regulatory Framework

Final Plan Bay Area 2040

The Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG) adopted the Final Plan Bay Area 2040 in July 2017. The Final Plan Bay Area 2040 is an updated long-range Regional Transportation Plan and Sustainable Communities Strategy for the nine-county San Francisco Bay Area. This plan focuses on the following strategies:

- Forecasting transportation needs through the year 2040.
- Preserving the character of our diverse communities.
- Adapting to the challenges of future population growth.

This effort grew out of the California Sustainable Communities and Climate Protection Act of 2008 (California Senate Bill 375, Steinberg), which requires each of the state's 18 metropolitan areas – including the Bay Area – to reduce greenhouse gas emissions from cars and light trucks. Plan Bay Area 2040 is a limited and focused update of the region's previous integrated transportation and land use plan, Plan Bay Area, adopted in 2013.

Santa Clara County Congestion Management Program

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

Council Policy 5-1 Transportation Analysis

In alignment with SB 743 and the City's goals in the Envision San José 2040 General Plan, the City has adopted a new "Transportation Analysis Policy" (Council Policy 5-1) to replace the former Transportation Level of Service Policy (Council Policy 5-3). The new policy establishes the thresholds for transportation impacts under CEQA based on VMT rather than intersection level of service (LOS). VMT is the total miles of travel by personal motorized vehicles from a project in a day. The intent of this change in policy is to shift the focus of transportation analysis under CEQA from vehicle delay and roadway capacity to a reduction in vehicle emissions and the creation of multimodal networks that support integrated land uses.[23] According to the policy, an employment facility (e.g., office, R & D) or a residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional VMT per employee, or the existing average citywide or regional per capita VMT respectively. For industrial projects (e.g., warehouse, manufacturing, distribution), the impact would be less than significant if the project VMT is equal to or less than existing average regional per capita VMT per employee. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible.

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

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

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

General Plan Policies

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

[23] The new policy took effect on March 29, 2018.

Envision San José 2040 Relevant Transportation Policies	
Policy TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).
Policy TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
Policy TR-1.4	Through the entitlement process for new development, projects shall be required to fund or construct needed transportation improvements for all transportation modes giving first consideration to improvement of bicycling, walking and transit facilities and services that encourage reduced vehicle travel demand. • Development proposals shall be reviewed for their impacts on all transportation modes through the study of Vehicle Miles Traveled (VMT), Envision San José 2040 General Plan policies, and other measures enumerated in the City Council Transportation Analysis Policy and its Local Transportation Analysis. Projects shall fund or construct proportional fair share mitigations and improvements to address their impacts on the transportation systems. • The City Council may consider adoption of a statement of overriding considerations, as part of an EIR, for projects unable to mitigate their VMT impacts to a less than significant level. At the discretion of the City Council, based on CEQA Guidelines Section 15021, projects that include overriding benefits, in accordance with Public Resources Code Section 21081 and are consistent with the General Plan and the Transportation Analysis Policy 5-1 may be considered for approval. The City Council will only consider a statement of overriding considerations for (i) market-rate housing located within General Plan Urban Villages; (ii) commercial or industrial projects; and (iii) 100% deed-restricted affordable housing as defined in General Plan Policy IP-5.12. Such projects shall fund or construct multimodal improvements, which may include improvements to transit, bicycle, or pedestrian facilities, consistent with the City Council Transportation Analysis Policy 5-1. • Area Development Policy. An "area development policy" may be adopted by the City Council to establish special transportation standards that identifies development impacts and mitigation measures for a specific geographic area. These policies may take other names or forms to accomplish the same purpose.
Policy TR-1.5	Design, construct, operate, and maintain public streets to enable safe, comfortable, and attractive access and travel for motorists and for pedestrians, bicyclists, and transit users of all ages, abilities, and preferences.
Policy TR-1.6	Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.
Policy TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
Policy TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

Envision San José 2040 Relevant Transportation Policies	
Policy TR-5.3	Development projects' effects on the transportation network will be evaluated during the entitlement process and will be required to fund or construct improvements in proportion to their impacts on the transportation system. Improvements will prioritize multimodal improvements that reduce VMT over automobile network improvements. • Downtown. Downtown San José exemplifies low-VMT with integrated land use and transportation development. In recognition of the unique position of the Downtown as the transit hub of Santa Clara County, and as the center for financial, business, institutional and cultural activities, Downtown projects shall support the long-term development of a world class urban transportation network.
Policy TR-8.4	Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.
Policy TR-9.1	Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.
Policy CD-3.3	Within new development, create a pedestrian friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS		Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
17.	TRANSPORTATION. Would the project:					
a)	Conflict with program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?			X		1, 2, 16
b)	Would the project conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?			X		1, 2, 16
c)	Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?			X		1, 2
d)	Result in inadequate emergency access?			X		1, 2, 16

Explanation

a) **Less Than Significant Impact**. The results of the transportation study related to bicycle, pedestrian, and transit facilities are summarized below. Roadway operations are described as part of the LTA for the project described later in this section.

Bicycle, Pedestrian, and Transit Facilities

Bike and Pedestrian Facilities. The site plan indicates that the existing sidewalks and curbs along First Street, Second Street and Virginia Street would be reconstructed along the entire project frontage. The new 10-foot wide sidewalk on Virginia Street would provide pedestrian

access to the residential lobby and elevators, and the new 10-foot wide sidewalk on First Street would provide access to the retail uses. The new sidewalk on Second Street would also be 10 feet wide. The proposed sidewalk widths do not meet the 15-foot sidewalk width standard outlined in the Martha Gardens Specific Plan. The project should construct new ADA compliant curb ramps with truncated domes at the northwest and northeast corners of the project site. Truncated domes are the standard design requirement for detectable warnings, which enable people with visual disabilities to determine the boundary between the sidewalk and the street.

Marked crosswalks are provided with pedestrian signal heads across all legs of the signalized intersections in the surrounding area. Some unsignalized intersections in the study area, including Second Street and Martha Street, have marked crosswalks. The continuous network of sidewalks and crosswalks in the study area has good connectivity and would provide residents and retail customers with safe routes to bus stops and other points of interest in the study area.

Protected bike lanes exist on Second Street, and Virginia Street contains shared lane markings (Sharrows). The site plan shows an at-grade bike room on Virginia Street, adjacent to the residential lobby and elevators. The bike room would provide a total of 63 bicycle parking spaces. Providing convenient and secure bike parking would help to encourage bicycling by residents of the project. In addition, a new bikeshare station is located within walking distance (800 feet) of the project site on Oak Street between First Street and State Street.

The project would not remove any bicycle facilities, nor would it conflict with any adopted plans or policies for new bicycle facilities. The City's General Plan identifies both walk and bicycle commute mode split targets as 15 percent or more for the year 2040. This level of pedestrian and bicycle mode share is a reasonable goal for this project, particularly if transit is utilized in combination with bicycle commuting.

Transit Services. The closest bus stops are located on First Street, just north and south of Virginia Street at the northwest corner of the project site. The Virginia LRT Station is located approximately a half mile west of the project site on Virginia Street.

Due to the project site's proximity to transit stops, it is reasonable to assume that some residents would utilize the transit services provided. The City's General Plan identifies the transit commute mode split target as 20 percent or more for the year 2040. The transportation study indicated that the increased transit demand generated by the proposed project could be accommodated by the current available ridership capacity of the transit services in the study area.

In conclusion, based on the discussion above the project would not conflict with any program plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities.

b) **Less Than Significant Impact**. As described above, City Council Policy 5-1 establishes the thresholds for transportation impacts under CEQA based on VMT. The project would be consistent with CEQA Guidelines Section 15064.3 (b), which calls for evaluation of a project's transportation impacts based on VMT, since this was the metric used for the transportation analysis.

Because the retail component of the project would meet the screening criteria set forth in the City's *Transportation Analysis Handbook* (less than 100,000 s.f.), a VMT impact analysis is not required for the proposed retail use. Therefore, the VMT analysis below is only for the residential component of the proposal.

The San José VMT Evaluation tool was used to estimate the project VMT, based on the project location (APN), type of development, project description, and proposed trip reduction measures. Based on the VMT Evaluation Tool and the project's location (APN 472-17-006), the existing VMT for residential uses in the project vicinity is 8.19 per capita, and the current citywide average VMT for residential uses is 11.91 per capita. Thus, the VMT levels of existing residential uses in the project vicinity are less than the citywide average VMT levels. The project VMT estimated by the evaluation tool is 7.93 VMT per capita, which is well below the threshold of 10.12 VMT per capita.

c) **Less Than Significant Impact**. The project would not substantially increase hazards due to a geometric design feature or incompatible uses. As proposed, the project would remove four existing driveways and construct one new driveway. The project would construct one 26-foot wide full-access driveway on First Street. The existing alleyway, which runs parallel to First and Second Streets, currently connects Martha Street to Virginia Street. The project would reconfigure the north end of the alleyway so that it curves to the east and intersects Second Street instead of Virginia Street. Access to and from Martha Street would not be affected by the project. During the development review process, vehicle circulation on the project site is reviewed by City staff to assure that the project complies with the City's regulations and policies.

d) **Less Than Significant Impact**. The City of San José Fire Department requires that all portions of the buildings be within 150 feet of a fire department access road and requires a minimum of 6 feet clearance from the property line along all sides of the buildings. According to the project site plan, the project would meet the 6-foot clearance requirement and the 150-foot fire access requirement. Based on the current plans, the project would provide adequate emergency vehicle access.

Long Range Transportation Impact Analysis for General Plan Amendments

General Plan Amendments (GPAs) in the City of San José require a long-range transportation analysis of potential impacts on the citywide transportation system in the horizon year of the General Plan. The General Plan horizon year is when the development anticipated in the General Plan is built out. There are two types of GPA transportation analysis: 1) a site-specific long-range transportation analysis for individual GPAs that exceed 250 peak-hour trips; and 2) a cumulative long-range transportation analysis of the combined effect of all GPAs proposed with each annual GPA cycle.

In 2011, the City certified the Envision San José 2040 General Plan Final Environmental Impact Report (General Plan FEIR) and adopted the Envision San José 2040 General Plan (General Plan). The General Plan FEIR and supporting Transportation Impact Analysis (TIA) identified programmatic long-range transportation impacts based on planned land uses and the planned transportation system within the City projected to the horizon of the General Plan in year 2035.

In 2016, a subsequent TIA was prepared for the *General Plan Four-Year Review* that evaluated minor adjustments to planned job growth in the adopted General Plan and updated the projection of regional growth to the year 2040. The existing conditions for transportation were updated to reflect the actual development that occurred since the adoption of the General Plan and its base year of 2008 to the year 2015. The *General Plan Four-Year Review* TIA evaluated the effects of the updated existing conditions in 2015 plus future planned growth, and future conditions projected to the Year 2040, that established the baseline for the evaluation of transportation impacts of GPAs considered for approval during and after the Four-Year Review.

In 2017, the Santa Clara Valley Transportation Authority (VTA) published the BART Phase II EIR that included updated regional transportation projects based on 2015 existing roadway conditions. The City acquired this new model to use as the basis for the transportation analysis in the *Downtown Strategy 2040 EIR*, which evaluated an increase of 4,000 households and 10,000 jobs in Downtown San José by transferring General Plan growth capacity from other areas within the City. Once again, the model was validated with current traffic data to update the existing transportation conditions.

The cumulative long-range transportation impacts of the proposed 2020 GPAs were evaluated in the Long Range Transportation Analysis prepared by Hexagon Transportation Consultants, Inc. located in Appendix G of this Initial Study. This analysis evaluated both the site-specific long-range transportation impacts for GPAs that exceeded 250 peak-hour trips per day and the cumulative impacts of the seven privately-initiated GPAs in the 2020 GPA cycle.

Each of the proposed GPAs would result in changes to the assumed number of households and/or jobs on each site when compared to the current General Plan land use and intensity assumptions for each site in the TIA for the General Plan FEIR and the General Plan Four-Year Review TIA. Like the analysis in the General Plan FEIR and subsequent Four-Year Review, the 2020 GPA TIA assumed development in either the middle range of the density allowed under each proposed General Plan land use designation or assumed a density consistent with the density of surrounding development with a similar land use designation. The City uses the middle range or typical range based on surrounding development densities, as opposed to the maximum intensities potentially allowed under each proposed General Plan land use designations, because build out under the maximum density allowed for all General Plan land designations would exceed the total citywide planned growth capacity allocated in the General Plan. Furthermore, maximum build-out at the highest end of the density range does not represent typical development patterns or the average amount of development built on each site. General Plan land use designations allow a wide range of development intensities and types of land uses to accommodate growth; however, development projects are not typically proposed at the maximum densities due to existing development patterns, site and parking constraints, Federal Aviation Administration regulations, maximum allowable height provisions and other development regulations in the San José Municipal Code Title 20 (Zoning), market conditions, and other factors.

The results of the analysis for the proposed GPAs are then compared to the results of the 2017 updated General Plan Four-Year Review TIA evaluation of the General Plan through 2040 to determine if the proposed 2020 GPAs would result in any new or substantially more severe transportation impacts than those impacts that were already analyzed for the General Plan, as amended by the City Council in December 2017. None of the proposed GPAs would change the total number of jobs and households citywide that were assumed with buildout of the Envision San José 2040 General Plan.

The analysis consists of land use changes to the current adopted General Plan land uses. The analysis does not propose any changes to the citywide transportation system. The GPA long-range analysis

focuses on the potential changes on the citywide transportation system in the horizon year of the *Envision San José 2040 General Plan* when the capacities for housing and jobs are fully developed. The analysis includes evaluation of increased vehicle miles traveled, increased traffic volume on specified roadway segments, impacts to travel speeds on transit priority corridors, and impacts to pedestrian, bicycle, and transit facilities. Impacts are evaluated based on the same Measures of Effectiveness (MOEs) and significance criteria utilized in the Envision San José 2040 General Plan TIA. Traffic conditions were evaluated for the following traffic scenarios using the City's Travel Demand Forecasting (TDF) model:

- **Projected Year 2015 Conditions:** The Projected Year 2015 Conditions represent a projection of transportation conditions in 2015 using the City's General Plan TDF model. The roadway network also reflects the Year 2015 roadway network and transportation system.

- **Current 2040 General Plan Conditions:** Future traffic due to the current General Plan land uses (i.e., including the adopted General Plan Four-Year Review Land Use adjustments and adopted 2019 General Plan Amendments) is added to regional growth that can be reasonably expected to occur by 2040. Current 2040 General Plan conditions include the current roadway network as well as all transportation system improvements as identified in the current General Plan.

- **Cumulative 2040 General Plan Amendment Conditions:** Current 2040 General Plan conditions with the proposed land use amendments at all seven proposed GPA sites. Transportation conditions for the Cumulative 2040 GPA conditions were evaluated relative to the currently adopted 2040 General Plan Conditions to determine any long-range traffic impacts.

- **Proposed 2040 General Plan Amendment Conditions:** Current 2040 General Plan conditions with the proposed land use amendments at each of the proposed GPA sites for which a site-specific analysis is required. Transportation conditions for the Proposed 2040 GPA conditions were evaluated relative to the currently adopted 2040 General Plan Conditions to determine any long-range traffic impacts.

Significance Impact Criteria

The City of San José adopted policies and goals in General Plan to reduce the drive alone mode share to no more than 40 percent of all daily commute trips, and to reduce the VMT per service population by 40 percent from existing (year 2015) conditions. To meet these goals by the General Plan horizon year and to satisfy CEQA requirements, the City developed a set of MOEs and associated significance thresholds to evaluate long-range transportation impacts resulting from land use adjustments. Table 15 summarizes the significance thresholds associated with vehicular modes of transportation as defined in the City of San José *Transportation Analysis Handbook* (Thresholds of Significance for General Plan Amendments, Table 11 of Handbook) for the evaluation of long-range traffic impacts resulting from proposed land use adjustments and used in this analysis.

In addition to the MOEs described above, the effects of the proposed land use adjustments on transit, bicycle, and pedestrian facilities were evaluated. A significant long-range transportation impact would occur if the adjustments would:

- Disrupt existing, or interfere with, planned transit services or facilities;
- Disrupt existing, or interfere with, planned bicycle facilities;
- Conflict or create inconsistencies with adopted bicycle plans, guidelines, policies, or standards;
- Not provide secure and safe bicycle parking in adequate proportion to anticipated demand;
- Disrupt existing, or interfere with, planned pedestrian facilities;
- Not provide accessible pedestrian facilities that meet current ADA best practices; or
- Create inconsistencies with adopted pedestrian plans, guidelines, policies, or standards.

Table 15
MOE Significance Thresholds

MOE	Citywide Threshold
VMT/Service Population	Any increase over current 2040 General Plan conditions
Mode Share (Drive Alone %)	Any increase in journey-to-work drive alone mode share over current 2040 General Plan conditions
Transit Corridor Travel Speeds	Decrease in average travel speed on a transit corridor below current 2040 General Plan conditions in the AM peak one-hour period when: 1. The average speed drops below 15 mph or decreases by 25% or more, or 2. The average speed drops by 1 mph or more for the transit corridor with average speed below 15 mph under current 2040 General Plan conditions.

Source: *City of San José Transportation Analysis Handbook*, April 2018

The proposed project would only change the land use/transportation diagram from *Mixed-Used Commercial* and *Mixed-Use Neighborhood* to *Transit Residential*. The project would not result in any direct physical changes to the environment, but could result in future development that would result in physical changes to the environment. The City would review plans for redevelopment of the project site for consistency with City's General Plan policies and applicable design guidelines at the Planning permit phase to ensure that hazards due to a design feature would not occur.

The 1.19-acre site is located between First Street and Second Street, just south of Virginia Street. Figure 2 shows the location of the site. The adopted GP land use designations for the site is *Mixed-Use Commercial* and *Mixed-Use Neighborhood* and the proposed amendment involves changing the adopted land use to *Transit Residential*. The proposed amendment would result in 178 additional households and 12 additional jobs on the site. Based on the TDF modeling results, the proposed amendment would not result in a substantial net increase of peak-hour trips generated by GPT18-009/PDC17-022 and a site-specific GPA traffic analysis is not required

Cumulative Long-Range Transportation Impacts

The long-range cumulative traffic impacts resulting from the proposed 2020 GPAs were determined based on the MOEs significance thresholds for vehicle modes of travel and the impact criteria for transit, bicycle and pedestrian described in Chapter 3 of the Hexagon report. The results of the GPA long-range analysis are summarized below.

Vehicle Miles Traveled Per Service Population

The San José General Plan TDF model was used to project daily VMT per service population, where service population is defined as the number of residents plus the number of employees citywide. This approach focuses on the VMT generated by new population and employment growth. VMT is calculated as the number of vehicle trips multiplied by the length of the trips in miles.

As shown in Table 16, below, the citywide daily VMT and the VMT per service population would decrease due to the proposed land use amendments when compared to the current General Plan. This is because 1) the total number of jobs and households would not change citywide as a result of the GPAs (only shifting of households and jobs would occur) and 2) the addition of households to areas with more jobs and transit options. Vehicle trips citywide would be reduced due to the reallocation of jobs and housing within and surrounding the downtown area which provides for greater opportunities for multi-modal travel. The availability of current and planned transit, bicycle, and pedestrian facilities in the area of the GPA sites will result in an increase in trips made by transit and other non-vehicular modes.

Table 16
Daily Vehicle Miles Traveled Per Service Population

	Base Year (2015)	**2040 General Plan (Baseline)**	**2040 General Plan Plus GPAs**
Citywide Daily VMT	17,505,088	28,035,508	27,995,252
Citywide Service Population	1,392,946	2,054,758	2,054,758
- Total Households	319,870	429,350	429,350
- Total Residents	1,016,043	1,303,108	1,303,108
- Total Jobs	376,903	751,650	751,650
Daily VMT Per Service Population	12.57	13.64	13.62
Increase in VMT/Service Population Over General Plan Conditions			**-0.02**
Significant Impact?			**No**

Findings: Compared to the current General Plan, the proposed land use adjustments would not result in an increase in citywide VMT per service population. Therefore, cumulatively, the proposed 2020 GPAs would result in a less than significant impact on citywide daily VMT per service population. It is important to note that the VMT per service population is based on raw model output and does not reflect the implementation of adopted General Plan policies and goals that would further reduce VMT by increased use of non-auto modes of travel.

Journey-to-Work Mode Share

The San José General Plan TDF model was used to calculate citywide journey-to-work mode share percentages. Journey-to-work mode share is the distribution of all daily work trips by travel mode, including drive alone, carpool with two persons, carpool with three persons or more, transit (rail and bus), bike, and walk trips. Although work trips may occur at any time of the day, most of the work trips occur during typical peak commute periods (6:00 – 10:00 AM and 3:00 – 7:00 PM). As defined in the City of San José Transportation Analysis Handbook, any increase in the journey-to-work drive alone mode share percentage over the current General Plan conditions due to the proposed land use

amendments is considered a significant impact. Table 17 below, summarizes the citywide journey-to-work mode share analysis results. When compared to the current Envision San José 2040 General Plan, the percentage of journey-to-work drive alone trips would decrease slightly and the percentage of transit and bike trips would increase slightly as a result of the proposed GPAs.

Table 17
Journey-to-Work Mode Share

Mode	Base Year (2015)		2040 General Plan (Baseline)		2040 General Plan Plus GPAs	
	Trips	**%**	**Trips**	**%**	**Trips**	**%**
Drive Alone	753,264	76.69	1,092,462	71.70	1,090,766	71.61
Carpool 2	85,496	9.04	137,781	9.04	137,904	9.05
Carpool 3+	28,526	3.02%	54,781	3.60	54,696	3.59
Transit	48,181	5.10	182,827	12.00	183,931	12.08
Bicycle	14,120	1.49	26,337	1.73	26,412	1.73
Walk	15,666	1.66	29,451	1.93	29,514	1.94
Increase in Drive Alone Percentage over General Plan Conditions						**-0.09**
Significant Impact?						**No**

Findings: The proposed land use adjustments will not result in an increase of drive alone trips when compared to the current General Plan conditions. Therefore, cumulatively, the proposed 2020 GPAs would result in a less than significant impact on citywide journey-to-work mode.

Average Vehicle Speeds in Transit Priority Corridors

The San José General Plan TDF model was used to calculate the average vehicle travel speeds during the AM peak hour for the City's 14 transit corridors that were evaluated in the Envision San José 2040 General Plan TIA. A transit corridor is a segment of roadway identified as a Grand Boulevard in the Envision San José 2040 General Plan Land Use/Transportation Diagram. Grand Boulevards serve as major transportation corridors and, in most cases, are primary routes for VTA's LRT, BRT, local buses, and other public transit vehicles. The travel speeds are calculated by dividing the segment distance by the vehicle travel time. As defined in the City of San José *Transportation Analysis Handbook* (Thresholds of Significance for General Plan Amendments, Table 11), land use amendments that result in a decrease in average travel speed on a transit corridor in the AM peak one-hour period when the average speed drops below 15 miles per hour (mph) or decreases by 25 percent (%) or more, or the average speed drops by one mph or more for a transit corridor with average speed below 15 mph when compared to the current GP conditions is considered a significant impact.

Table 18 presents the average vehicle speeds on the City's 14 transit priority corridors (i.e., Grand Boulevard segments) during the AM peak-hour of traffic. When compared to travel speeds under current General Plan conditions, the change in traffic resulting from the proposed land use amendments would have minimal effect on the travel speeds in the transit corridors. The TDF model estimates a decrease in travel speeds of 0.1 mph or less (or a change of 0.4% or less) on one corridor due to the proposed GPAs. Travel speeds on the remaining corridors would improve slightly or remain unchanged when compared to the current General Plan. Therefore, cumulatively, the proposed 2020 GPAs would result in a less than significant impact on the AM peak-hour average vehicle speeds on the transit priority corridors.

Table 18 AM Peak-Hour Vehicle Speeds (mph) for San José Transit Priority Corridors					
Transit Priority Corridor	**Base Year (2015)**	**2040 General Plan (Baseline)**	**2040 General Plan GPAs**		
	Speed (mph)	**Speed (mph)**	**Speed (mph)**	**% Change**	**Absolute Change**
2nd Street from San Carlos Street to St. James Street	16.6	15.3	15.3	0.0%	0.0
Alum Rock Avenue from Capital Avenue to US 101	21.3	16.6	16.7	0.6%	0.1
Camden Avenue from SR17 to Meridian Avenue	23.1	16.3	16.5	1.2%	0.2
Capital Avenue from South Milpitas Boulevard to Capitol Expressway	27.1	22.6	22.6	0.0%	0.0
Capital Expressway from Capital Avenue to Meridian Avenue	33.0	26.7	26.6	-0.4%	-0.1
East Santa Clara Street from US 101 to Delmas Avenue	20.4	15.3	15.8	3.3%	0.5
Meridian Avenue from Park Avenue to Blossom Hill Road	24.9	20.0	20.0	0.0%	0.0
Monterey Road from Keyes Street to Metcalf Road	27.4	19.3	19.4	0.5%	0.1
North 1st Street from SR 237 to Keyes Street	21.3	13.6	13.8	1.5%	0.2
San Carlos Street from Bascom Avenue to SR 87	24.8	19.8	20.8	1.0%	0.2
Stevens Creek Boulevard from Bascom Avenue to Tantau Avenue	24.3	18.8	18.8	0.0%	0.0
Tasman Drive from Lick Mill Boulevard to McCarthy Boulevard	22.7	13.8	14.0	1.4%	0.2
The Alameda from Alameda Way to Delmas Avenue	20.5	13.8	14.0	1.4%	0.2
West San Carlos Street from SR 87 to 2nd Street	20.0	18.8	18.8	0.0%	0.0

Findings: The proposed land use adjustments would not result in a decrease in travel speeds greater than 1 mph or 25 percent on any of the 14 transit priority corridors when compared to current General Plan conditions. Therefore, cumulatively, the proposed 2020 GPAs would result in a less than significant impact on the AM peak-hour average vehicle speeds on the transit priority corridors.

Impacts on Transit, Bicycle, and Pedestrian Circulation

Transit Services or Facilities

Planned transit services and facilities include additional rail service via the future Bay Area Rapid Transit (BART) extension, light rail transit (LRT) extensions, new bus rapid transit (BRT) services, and the proposed California High Speed Rail (HSR) project. The proposed GPAs land use adjustments would not result in a change to the existing and planned roadway network that would result in an adverse effect on existing or planned transit facilities. Therefore, the proposed 2020 GPA's land use adjustments would not substantially disrupt existing or interfere with planned transit services or facilities.

Bicycle Facilities

The adopted Envision San José 2040 GP supports the goals outlined in the City's Better Bike Plan 2025 and contains policies to encourage bicycle trips (Policies TR-1.1, TR-1.2,TR-1.4 through TR-1.9, TR 2.1 through TR 2.11, TR-7.1, TN-1.1 through TN-1.5, TN-2.1 through TN-2.7, and TN-3.1 through 3.6; Implementing Actions TR-1.12 thorughTR-1.15, TR-2.12 through TR-2.21, TR-7.2, TR-7.3, TN-1.6, TN-2.8 through 2.10, and TN-3.7; Performance Measures TN-2.11, TN-2.12). The proposed GPA land use adjustments would not result in a change to the existing and planned roadway network that would affect existing or planned bicycle facilities. Therefore, the proposed 2020 GPA land use adjustments would not substantially disrupt existing or interfere with planned bicycle facilities; conflict or create inconsistencies with adopted bicycle plans, guidelines, policies, or standards; and provide insecure and unsafe bicycle parking in adequate proportion to anticipated demand.

Pedestrian Facilities

The adopted Envision San José 2040 GP contains goals and policies (Policies TR-1.1, TR-1.2,TR-1.4 through TR-1.9, TR-2.1 through TR-2.11, TR-7.1, TN-1.1 through TN-1.5, TN-2.1 through TN-2.7, and TN-3.1 through 3.6; Implementing Actions TR-1.12 through TR-1.15, TR-2.12 through TR-2.21, TR-7.2, TR-7.3, TN-1.6, TN-2.8 through 2.10, and TN-3.7; Performance Measures TN-2.11, TN-2.12) to improve pedestrian walking environment, increase pedestrian safety, and create a land use context to support non-motorized travel. The proposed GPAs land use adjustments would not result in a change to the existing and planned roadway network that would affect existing or planned pedestrian facilities. Therefore, the proposed 2020 GPAs land use adjustments would not substantially disrupt existing or interfere with planned pedestrian facilities; create inconsistencies with adopted pedestrian plans, guidelines, policies, or standards; and provide accessible pedestrian facilities that would not meet current ADA best practice.

Non-CEQA Effects

Senate Bill 743, the revised 2019 CEQA Guidelines, and Council Policy 5-1 promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses. Due to these requirements, the vehicle miles traveled (VMT) metric promotes those statutory purposes better than level of service and was determined to be the significance metric under CEQA. An LTA was prepared for the project to address transportation operational issues of the project, and the effects of the project on transportation, access, circulation, and safety elements in the project area. These operational issues are provided for informational purposes only.

The project would increase traffic to/from the site. Vehicle trips that would be generated by the project were estimated using the trip generation rates published in the Institute of Transportation Engineers (ITE) Trip Generation Manual,10th Edition (2017). With the trip reductions, the project would generate 1,112 new daily vehicle trips, with 69 new trips occurring during the AM peak hour and 89 new trips occurring during the PM peak hour. Using the inbound/ outbound splits contained in the ITE *Trip Generation Manual*, the project would produce 18 new inbound and 51 new outbound trips during the AM peak hour, and 53 new inbound and 36 new outbound trips during the PM peak hour (see Table 19).

Table 19
Project Trip Generation Estimates

				AM Peak Hour				PM Peak Hour			
Land Use	**Size**	**Daily Rate**	**Daily Trips**	**Pk-Hr Rate**	**In**	**Out**	**Total**	**Pk-Hr Rate**	**In**	**Out**	**Total**
Proposed Uses											
Apartments[1]	250 DU	5.44	1,360	0.36	23	67	90	0.44	67	43	110
Residential & Retail Internal Capture (15%)[3]			*(27)*		*(1)*	*0*	*(1)*		*(1)*	*(2)*	*(3)*
Location-Based Vehicle Mode Share (22%)[4]			*(293)*		*(5)*	*(15)*	*(20)*		*(15)*	*(9)*	*(24)*
Project-Specific Trip Reduction (3%)[5]			*(31)*		*(1)*	*(1)*	*(2)*		*(2)*	*(1)*	*(3)*
Residential Subtotal			1,009		16	51	67		49	31	80
Retail[2]	4,700 s.f.	37.75	177	0.94	2	2	4	3.81	9	9	18
Residential & Retail Internal Capture (15%)[3]			*(27)*		*0*	*(1)*	*(1)*		*(2)*	*(1)*	*(1)*
Location-Based Vehicle Mode Share (17%)[4]			*(26)*		*0*	*(1)*	*(1)*		*(2)*	*(1)*	*(3)*
Retail Pass-By External Trip Reduction[6]			*(21)*		*0*	*0*	*0*		*(2)*	*(2)*	*(4)*
Retail Subtotal:			103		2	0	2		4	5	9
Net New Trips:		**1,112**			**18**	**51**	**69**		**53**	**36**	**89**

Notes:
[1] Trip generation based on average rates contained in the *ITE Trip Generation Manual, 10th Edition,* for Multifamily Housing Mid-Rise (Land Use 221) located in a General Urban/Suburban setting. Rates are expressed in trips per dwelling unit (DU).
[2] Trip generation based on average rates contained in the *ITE Trip Generation Manual, 10th Edition*, for Shopping Center (Land Use 820). Rates are expressed in trips per 1,000 square feet (s.f.)
[3] A 15% residential/retail internal mixed-use trip reduction was applied to the project per the 2014 Santa Clara VTA TIA Guidelines. The 15% reduction was first applied to the smaller generator (retail). The same number of trips were subtracted from the larger generator (residential) to account for both trip ends.
[4] A 22% reduction for the residential use and a 17% reduction for the retail use were applied based on the location-based vehicle modes share percentage outputs (Table 6 of *TA Handbook*) produced from the San José Travel Demand Model for the place type Urban High Transit.
[5] a 3% reduction for the residential component of the project was applied based on the external trip adjustment obtained from the City's VMT Evaluation Tool. The VMT Evaluation Tool shows no external trip adjustment for the retail component of the project.
[6] The PM peak hour pass-by trip reduction percentage (34%) was based on the ITE Trip Generation Handbook (Third Edition). There is no AM peak hour pass-by trip reduction. The daily pass-by trip reduction percentage (17%) was calculated based on the average of the AM and PM pass-by reduction percentages.

An intersection LOS analysis was performed for the following three intersections:

1. First Street and Virginia Street
2. Second Street and Virginia Street
3. First Street and Martha Street

The City of San José has defined significant intersection impacts as set forth below:

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

1. The level of service at the intersection degrades form an acceptable LOS D or better under background conditions to an unacceptable LOS E or F under background plus project conditions, or

2. The level of service at the intersection is an unacceptable LOS E or F under background conditions and the addition of project trips cause both the critical-movement delay at the intersection to increase by four (4) or more seconds and the volume-to-capacity ratio (V/C) to increase by one percent (.01) or more.

An exception to rule #2 above applies when the addition of project trips reduces the amount of average delay for critical movements (i.e., the change in average delay for critical movements is negative). In this case, the threshold of significance is an increase in the critical V/C value by .01 or more. A significant impact by City of San José standards is said to be satisfactorily mitigated when measures are implemented that would restore intersection level of service to background conditions or better.

The results of the intersection level of service analysis are presented in Table 20 below. As shown in Table 16, none of the three signalized study intersections would be significantly impacted by the project based on the City of San José significant impact criteria.

Table 20
Intersection Level of Service Summary

ID	Intersection	Peak Hour	Existing		Background		Background + Project			
			Avg. Delay (sec)	LOS	Avg. Delay (sec)	LOS	Avg. Delay (sec)	LOS	Incr. in Crit. Delay	Incr. in Crit. V/C
1	First St and Virginia St	AM	11.1	B	11.2	B	11.1	B	-0.1	0.010
		PM	15.1	B	15.6	B	15.4	B	-0.1	0.003
2	Second St and Virginia St	AM	7.7	A	7.7	A	7.7	A	0.0	0.004
		PM	8.2	A	8.5	A	8.6	A	0.1	0.004
3	First St and Martha St	AM	9.4	A	9.3	A	9.7	A	0.6	0.007
		PM	8.0	A	7.7	A	9.4	A	2.2	0.021

Conclusion: The project would have a less than significant impact on transportation.

R. TRIBAL CULTURAL RESOURCES

Environmental Setting

Assembly Bill (AB) 52, effective July of 2015, established a new category of resources for consideration by public agencies when approving discretionary projects under CEQA, called Tribal Cultural Resources (TCRs). AB 52 requires lead agencies to provide notice of projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified. Where a project may have a significant impact on a tribal cultural resource, consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource or when it is concluded that mutual agreement cannot be reached. Under AB 52, TCRs are defined as follows:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are also either:
    - Included or determined to be eligible for inclusion in the California Register of Historic Resources,[24] or
    - Included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k).
- Resources determined by the lead agency to be TCRs.

AB 52 notification and consultation applies to projects for which a Notice of Intent or Notice of Availability is issued after the effective date of AB 52 in 2015. Notification and consultation are not required for projects covered by a prior EIR or Mitigated Negative Declaration (MND) that either predates AB 52 or that has already complied with AB 52.

Regulatory Framework

The Native American Heritage Commission

The Native American Heritage Commission (NAHC) was created by statute in 1976, is a nine-member body appointed by the Governor to identify and catalog cultural resources (i.e., places of special religious or social significance to Native Americans and known graves and cemeteries of Native Americans on private lands) in California. The Commission is responsible for preserving and ensuring accessibility of sacred sites and burials, the disposition of Native American human remains and burial items, maintaining an inventory of Native American sacred sites located on public lands, and reviewing current administrative and statutory protections related to these sacred sites.

[24] See Public Resources Code section 5024.1. The State Historical Resources Commission oversees the administration of the CRHR and is a nine-member state review board that is appointed by the Governor, with responsibilities for the identification, registration, and preservation of California's cultural heritage. The CRHR "shall include historical resources determined by the commission, according adopted procedures, to be significant and to meet the criteria in subdivision (c) (Public Resources Code, Section 5024.1 (a)(b)).

Assembly Bill 52

The intent of AB 52 is to provide a process and scope that clarifies California tribal government's involvement in the CEQA process, including specific requirements and timing for lead agencies to consult with tribes on avoiding or mitigating impacts to tribal cultural resources. See additional discussion above in the "Environmental Setting."

General Plan

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

Envision San José 2040 Relevant Tribal Cultural Resources Policies	
Policy ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
Policy ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced
Policy ER-10.3	Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
18. TRIBAL CULTURAL RESOURCES. Would the project:					
a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and, and that is: i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.			X		1, 2

a) i, ii **Less Than Significant Impact**. Tribal cultural resources consider the value of a resource to tribal cultural tradition, heritage, and identity, in order to establish potential mitigation and to recognize that California Native American tribes have expertise concerning their tribal history and practices. No tribal cultural resources have been listed or determined eligible for listing in the California Register or a local register of historical resources.

AB 52 requires lead agencies to conduct formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the lead agency. At the time of preparation of this Initial Study, no Native American tribes have sent written requests for notification of projects to the City of San José except for those in Coyote Valley (approximately 10 miles south of the site) and downtown San José (about 1,000 feet north of the site). In addition, the City has sent out referral and consultation requests to all applicable tribal representatives within the City of San José for all General Plan Amendments in June 2020 and has not received as further consultation request.

Conclusion: The project would have a less than significant impact on tribal resources.

S. UTILITIES AND SERVICE SYSTEMS

Setting

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

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

Regulatory Framework

State

Assembly Bill 939

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

California Green Building Standards Code

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

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

Local

San José Zero Waste Strategic Plan/Green Vision

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

Council Policy 8-13 Green Building Policy

Council Policy 8-13 "Green Building Policy" for private sector new construction encourages building owners, architects, developers, and contractors to incorporate sustainable building goals early in the building design process. This policy establishes baseline green building standards for new private construction projects and provides a framework for the implementation of these standards. The Policy is also intended to enhance the public health, safety, and welfare of the City's residents, workers, and visitors by encouraging design, construction, and maintenance practices that minimize the use and waste of energy, water, and other resources in the City.

General Plan Policies

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

Envision San José 2040 Relevant Utilities and Service System Policies	
Policy MS-1.4	Foster awareness in San José's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.
Policy MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
Policy MS-3.2	Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.
Policy MS-3.3	Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
Policy MS-19.3	Expand the use of recycled water to benefit the community and the environment.
Policy MS-19.4	Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.
Action EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.
Policy IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
Policy IN-3.5	Require development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D", to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.
Policy IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.

Envision San José 2040 Relevant Utilities and Service System Policies	
Policy IN-3.10	Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES) permit.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
19. UTILITIES AND SERVICE SYSTEMS. Would the project:					
a) Require or result in the relocation or construction of new or expanded water, or wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?			X		1, 2
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?			X		1, 2
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?			X		1, 2
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?			X		1, 2
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?			X		1, 2

Explanation

a) **Less Than Significant Impact**. The project would incrementally increase demands on utility services. Given the small scale of the project (140 units and about 5,000 square feet of retail uses), the increase in utility demand is expected to be minor, since it represents a small fraction of the total growth identified in the City's General Plan (the project does not propose any changes to the land use designations on the site).

Water service to the site would be supplied by the San Jose Water Company (SJWC), a private entity that obtains water from a variety of groundwater and surface water sources. The project applicant would be required to acquire a "will serve" letter from SJWC to assure adequate water is available to serve the proposed mixed uses.

The City of San José owns and maintains the sanitary sewer drain system in the project area. An existing 10" verified clay pipe (VCP) sanitary sewer main extends along the S. First Street project frontage and an existing 8" VCP sanitary sewer main is located along the S. Second Street project frontage. In addition, an existing 6" VCP sanitary sewer main is located along E. Virginia Street, which extends westerly from the existing connection at the intersection of E.

Virginia and S. Second Street. The project proposes to construct a sanitary sewer lateral that would tie into the City's existing sewer mains.

As described in *Section J. Hydrology and Water Quality*, the project would not significantly impact storm drainage facilities. While the project would result in an increase in the amount of impervious surfaces on the site; the resulting increase in runoff from the site would be managed and treated in accordance with City policies, which includes implementation of a stormwater control plan.

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

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

b) **Less Than Significant Impact**. As described above, the project applicant would be required to acquire a "will serve" letter from SJWC to assure adequate water is available to serve the proposed mixed uses from existing entitlements and resources (during normal, dry and multiple dry years).

c) **Less Than Significant Impact**. Wastewater from the City of San José is treated at the RWF. The RWF has the capacity to provide tertiary treatment of up to 167 million gallons of wastewater per day (mgd) but is limited to a 120 mgd dry weather effluent flow by the State and Regional Water Quality Control Boards. Based on the General Plan EIR, the City's average dry weather flow is approximately 69.8 million gallons per day and the City's capacity allocation is approximately 108.6 mgd, leaving the City with approximately 38.8 mgd of excess treatment capacity. Given the small scale of the proposed project, it is not expected to exceed the City's allocated capacity at the RWF; therefore, development of the project would have a less than significant impact on wastewater treatment capacity.

d) **Less Than Significant Impact**. The project would not generate substantial solid waste that would adversely affect any landfills. The City's General Plan EIR concluded that growth identified in the General Plan would not exceed the capacity of existing landfills serving the City of San José. The project does not propose changes to the land use designations on the site and was included in the growth evaluated in the General Plan EIR. The GPA only proposes to change the FAR and height restrictions in the Martha Gardens Specific Plan for the site.

The increase in solid waste generation from development of the project would be avoided through implementation of the City's Zero Waste Strategic Plan, which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022. The Waste Strategic Plan in combination with existing regulations and programs, would ensure that the project would not result in significant impacts on solid waste generation, disposal capacity, or otherwise impair the attainment of solid waste reduction goals. Furthermore, with the implementation of City

policies to reduce waste the project would comply with all federal, state, and local statutes and regulations related to solid waste.

e) **Less Than Significant Impact**. Final project design would be required to comply with all federal, State, and local statutes and regulations related to solid waste disposal.

Conclusion: The project would have a less than significant impact on utilities and service systems.

T. WILDFIRE

Existing Setting

The project site, located in an urbanized part of the City, is surrounded by residential and commercial development and is not located within a Very-High Fire Hazard Severity Zone (VHFHSZ) for wildland fires, as designated by the California Department of Forestry and Fire Protection (Cal Fire, Fire Hazard Severity Maps, 2007, 2008).

Regulatory Framework

State

Public Resources Code Section 4201 – 4204

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

Government Code Section 51175 – 51189

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

California Fire Code

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

Local

General Plan Policies

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

Envision San José 2040 Relevant Wildfire Policies	
Policy EC-8.1	Minimize development in very high fire hazard zone areas. Plan and construct permitted development so as to reduce exposure to fire hazards and to facilitate fire suppression efforts in the event of a wildfire.
Policy EC-8.2	Avoid actions which increase fire risk, such as increasing public access roads in very high fire hazard areas, because of the great environmental damage and economic loss associated with a large wildfire.

Envision San José 2040 Relevant Wildfire Policies	
Policy EC-8.3	For development proposed on parcels located within a very high fire hazard severity zone or wildland-urban interface area, implement requirements for building materials and assemblies to provide a reasonable level of exterior wildfire exposure protection in accordance with City-adopted requirements in the California Building Code.
Policy EC-8.4	Require use of defensible space vegetation management best practices to protect structures at and near the urban/wildland interface.

Impacts and Mitigation

ENVIRONMENTAL IMPACTS	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
20. WILDFIRE. If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:					
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?			X		1, 2, 3
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?			X		1, 2, 3, 17
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?			X		1, 2, 3, 17
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?			X		1, 2, 3, 17

Explanation

a) **Less Than Significant Impact**. The project would not substantially impair an adopted emergency response plan or emergency evacuation plan. As stated above in *Section J. Hazards and Hazardous Materials*, the project would not create any barriers to emergency or other vehicle movement in the area and final design would incorporate all Fire Code requirements.

b) **Less Than Significant Impact**. The project would not exacerbate wildfire risks due to slope, prevailing winds, and other factors due to the project's urbanized location away from natural areas susceptible to wildfire. The project site is not located within an area of moderate, high, or very high Fire Hazard Severity for the Local Responsibility Area nor does it contain any areas of moderate, high, or very high Fire Hazard Severity for the State Responsibility Area.

c) **Less Than Significant Impact**. Due to the project's urbanized location and lack of interface with any natural areas susceptible to wildfire, the project would not require the installation or maintenance of associated fire suppression or related infrastructure.

d) **Less Than Significant Impact**. See above discussion. The project would not expose people or structures to significant wildfire risks given its highly urban location away from natural areas susceptible to wildfire.

Conclusion: The project would result in a less than significant impact related to wildfire.

U. MANDATORY FINDINGS OF SIGNIFICANCE

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
21. MANDATORY FINDINGS OF SIGNIFICANCE.					
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?		X			1-18
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?			X		1-18
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?		X			1-18

Explanation

a) **Less Than Significant with Mitigation Incorporated**. Based on the analysis provided in this Initial Study, the proposed project would not have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory. Mitigation measures and standard permit conditions are identified for potential impacts of the project on special status species and potential disturbance to cultural resources to reduce these effects to a less than significant level.

b) **Less Than Significant Impact**. Based on the analysis provided in this Initial Study, the proposed project will not significantly contribute to cumulative impacts, because the mixed-use development represents an infill project on a small site surrounded by existing urban development.

The project would emit criteria air pollutants and GHG emissions and contribute to the overall regional and global emissions of such pollutants. By their very nature, GHG emissions are largely a cumulative impact. As discussed in *Section C. Air Quality* and *Section H. Greenhouse Gas Emissions*, the project would have a less than significant impact related to criteria air pollutants and GHG emissions. For these reasons, the project would have a less than significant cumulative impact on air quality overall.

The project would result in potential impacts in the following areas: 1) impacts to air quality from emission of TACs during construction, 2) impacts on biological resources during construction from disturbance to nesting birds, 3) potential impacts to buried archaeological resources during excavation, 4) noise impacts from outdoor mechanical equipment, and 5) vibration impacts to nearby buildings during construction. The project's hazardous materials impacts are specific to the project site and would not contribute to cumulative impacts elsewhere. These impacts would be minimized by implementation of identified mitigation measures and standard permit conditions and would not significantly contribute to cumulative impacts in these areas.

The infill project is not expected to result in cumulative impacts. In addition to an analysis of long-range transportation impacts of individual GPAs, the City also evaluates the cumulative long-range transportation impacts of all proposed GPAs in each annual GPA cycle. The purpose of this analysis is to evaluate the combined effect of all proposed GPAs on the three Measures of Effectiveness (MOE) thresholds used to evaluate long-range transportation impacts citywide at build out of the 2040 General Plan. The GPA long range transportation analysis found that compared to the current General Plan, the proposed land use adjustments would not result in an increase in citywide VMT per service population. Therefore, cumulatively, the proposed 2020 GPAs would result in a less than significant impact on citywide daily VMT per service population. It is important to note that the VMT per service population is based on raw model output and does not reflect the implementation of adopted General Plan policies and goals that would further reduce VMT by increased use of non-auto modes of travel.

c) **Less Than Significant with Mitigation Incorporated**. Based on the analysis provided in this Initial Study, the proposed project would not result in environmental effects that would cause substantial adverse effects on human beings, either directly or indirectly, with implementation of identified mitigation measures and standard permit conditions.

Conclusion: The project would have a less than significant impact on the CEQA mandatory findings of significance with the incorporation of mitigation measures, standard permit conditions, and General Plan policies identified in this document.

Chapter 4. References

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BIBLIOGRAPHY

Archives & Architecture, *Historic Report, S. 1st & E. Virginia Mixed-Use Project*, revised September 2017.

Bay Area Air Quality Management District, *BAAQMD CEQA Guidelines*, revised May 2017.

Bay Area Air Quality Management District, *Bay Area 2017 Clean Air Plan: Spare the Air, Cool the Climate*, April 2017.

California Department of Conservation, *Santa Clara County Important Farmlands Map*, accessed online.

Hexagon Transportation Consultants, Inc., *802 First Street Residential Draft Transportation Analysis,* April 2020.

HMH, Arborist Report, March 2019.

Holman & Associates, *Results of a Cultural Resources Literature Search for First and East Virginia Streets in San Jose, Santa Clara County, California,* June 26, 2017.

IFC International, *Final Santa Clara Valley Habitat Plan*, August 2012.

Illingworth & Rodkin, *S. First Street & E. Virginia Street Mixed-Use Air Quality & Greenhouse Gas Emissions Assessment, San José, California,* April 2020.

Illingworth & Rodkin, *S. First Street & E. Virginia Street Mixed-Use Noise and Vibration Assessment,* April 2020.

MJO Earthscience Services, Inc., *Phase II Site Investigation, S. 1st & S 2nd Streets at E. Virginia Street,* January 23, 2017.

San José, City of, *San José 2040 Envision San José General Plan*, adopted November 2012 and updated through 2018.

San José, City of, *Martha Gardens Specific Plan*, December 2003.

TreanorHL, *S. 1st and E. Virginia Streets Project San Jose, California General Plan and Design Guidelines Compliance Review*, December 2, 2020.

CHECKLIST SOURCES

1. CEQA Guidelines and professional expertise of consultant
2. Project plan and site review
3. 2040 Envision San José General Plan
4. 2014 Santa Clara County Important Farmlands Map
5. BAAQMD 2017 CAP
6. BAAQMD CEQA Guidelines, 2017
7. Air Quality Assessment, 2020
8. Arborist Report, 2019
9. Santa Clara Valley Habitat Plan
10. Santa Clara Valley Habitat Agency Geobrowser
11. Historic Evaluations, 2017 & 2020
12. Archaeological Review, 2017
13. Site Investigation, 2020
14. FEMA FIRM Maps
15. Noise & Vibration Assessment, 2020
16. Traffic Analysis, 2020
17. Cal Fire, Fire Hazard Severity Maps, 2007 & 2008
18. Martha Gardens Specific Plan, 2003