Initial Study

San José Senior Living Project

Prepared by the

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

In Consultation with

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

January 2021

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: San Jose Senior Living Project

PROJECT FILE NUMBER: CP20-013

PROJECT DESCRIPTION: Conditional Use Permit to allow the demolition of an approximately 44,488-square foot building and the removal of 23 ordinance-size trees for the construction of an approximately 195,840-square foot assisted living facility with 195 rooms on an approximately 3.57-gross acre site**.** 29 of the units would be for memory care while the remaining 166 units would be for assisted living. Project construction is estimated to take 18 months.

PROJECT LOCATION: northwest corner of Almaden Expressway and Newberry Drive intersection, located at 3315 Almaden Expressway

ASSESSORS PARCEL NO.: 451-09-067 **COUNCIL DISTRICT:** 9

APPLICANT CONTACT INFORMATION: CP-SRM Ventura, LLC (Attn: Aubree Scheideman), 111 N. Post Street, Suite 200, Spokane, WA 99201, (509) 960-7800

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

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

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

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

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

C. **AIR QUALITY**.

Impact AIR-1: Construction activities at the project site would result in significant cancer risk at the maximally affected sensitive receptor

MM AIR-1: Prior to the issuance of any demolition or grading permits, the project applicant shall develop a plan demonstrating that the off-road equipment used on-site to construct the project would

reduce cancer risk at the maximally affected sensitive receptor to less than 10 parts per million. One feasible plan to achieve this reduction would include the following:

- All diesel-powered off-road equipment larger than 25 horsepower and operating on the site for more than two days continuously shall, at a minimum, meet Environmental Protection Agency (EPA) particulate matter emissions standards for Tier 4 engines. EPA Tier 3 engines retrofitted with level 3 diesel particulate filters would also meet this requirement. The use of equipment that is electrically powered or uses non-diesel fuels would be acceptable as well.
- Line power shall be provided to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators.

The plan shall be signed by a qualified air quality consultant and submitted to the Director of Planning, Building and Code Enforcement (PBCE), or the Director's designee, prior to the issuance of any demolition or grading permits.

D. BIOLOGICAL RESOURCES.

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

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

If demolition and construction activities cannot be scheduled between September 1 and January 31 (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified biologist or ornithologist prior to the issuance of any grading permits to ensure that no nests shall be disturbed during project implementation. The nesting bird pre-construction survey shall be conducted within the project boundary, including a 300-foot buffer (500-foot for raptors). The survey shall be conducted by a qualified biologist familiar with the identification of avian species known to occur in the area. The pre-construction survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1 through April 30, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1 through August 31, inclusive).

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

MM BIO-1.2: Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the City's Director of PBCE or the Director's designee. All measures shall be printed on all construction documents, contracts, and project plans.

E. CULTURAL RESOURCES - The project would not have a significant impact on this resource; therefore, no mitigation is required.

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

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

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

I. HAZARDS AND HAZARDOUS MATERIALS.

Impact HAZ-1: Soil excavation and disposal during project construction could expose workers, future occupants, and the environment to levels of contaminants (including benzene, tetrachloroethene, and organochlorine pesticide compounds) exceeding RWQCB Environmental Screening Levels (ESLs).

MM HAZ-1: Prior to the issuance of any grading permits, the project applicant shall enter the Santa Clara County Department of Environmental Health (SCCDEH) Site Cleanup Program (SCP). The regulatory agency may require further testing, remediation, or development of a Site Management Plan (SMP) or similar document to mitigate the elevated soil vapor results. If applicable, an SMP shall be prepared prior to the issuance of a grading permit to reduce or eliminate exposure risk to human health and the environment. Any further work required by the SCCDEH shall be performed by a qualified environmental professional. Evidence of regulatory oversight and copies of any subsequent documents developed under regulatory oversight such as testing results, an SMP or similar document, shall be provided to the Director of PBCE or the Director's designee and the Environmental Compliance Officer of the City of San José's Environmental Services Department.

J. HYDROLOGY AND WATER QUALITY – The project would not have a significant impact on this resource; therefore, no mitigation is required.

K. LAND USE AND PLANNING – The project would not have a significant impact on this resource; therefore, no mitigation is required.

L. MINERAL RESOURCES

M. NOISE.

Impact NOI-1: Temporary construction activities could involve substantial noise generating activities continuing for more than 12 months.

MM NOI-1.1: Prior to issuance of any demolition or grading permits, a qualified acoustical consultant shall prepare 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 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 construction noise logistics plan shall include, but is not limited to, the following measures, pursuant to General Plan Policy EC-1.7.

- Limit construction hours to between 7:00 AM and 7:00 PM, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction

activities are permitted on the weekends at sites within 500 feet of a residence (San José Municipal Code Section 20.100.450).

- Construct temporary noise barriers, where feasible, around the perimeter of the construction site. The temporary noise barrier fences provide noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receiver and if the barrier is constructed in a manner that eliminates any cracks or gaps.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines shall be strictly prohibited.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise source and noise-sensitive receptors nearest the project site during all project construction.
- A temporary noise control blanket barrier shall be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling.
- Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- The project applicant shall prepare a detailed construction schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
- Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

Prior to issuance of any grading or demolition permits, the project applicant shall submit the construction noise logistics plan to the Director of PBCE or the Director's designee for review and approval.

Impact NOI-2: Mechanical equipment associated with the project's operation could increase the ambient noise level of the surrounding vicinity in exceedance of the City's 55 dBA DNL threshold for new nonresidential land uses (General Plan policy EC-1.3).

MM NOI-2.1: Mechanical equipment shall be selected and designed to reduce noise levels 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 General Plan and 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. A plan set showing the location and type of mechanical equipment shall be accompanied by a signed letter from a qualified acoustical consultant detailing that impacts to residential receptors would not exceed 55 dBA DNL, and be submitted to the Director of PBCE, or the Director's designee, prior to issuance of any building permits.

MM NOI-2.2: In order to reduce the potential for annoyance, and to meet the City's 55 dBA DNL requirement, adjacent land owners shall be notified of the proposed generator testing schedule. Regular testing of the generator shall occur between the hours of 10:00 AM and 4:00 PM and avoid noise-sensitive morning and evening hours.

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.

Impact TR-1: The project would exceed the threshold of significance set forth for vehicle miles traveled (VMT) in the City's Transportation Analysis Policy.

MM TR-1.1: Prior to the issuance of any building permits, the project shall reduce its vehicle miles traveled (VMT) per employee to below the City's significance threshold of 12.21 by implementing the below measures:

- Prior to issuance of building occupancy permits, the project applicant shall install a new sidewalk along the project frontage on Newberry Drive and the project shall work with the City and County to improve the pedestrian/bicycle connections at the intersections of Newberry Drive/Hillsdale Avenue and Almaden Expressway/Newberry Drive. These pedestrian/bicycle connection improvements are as follows:
    - At the intersection of Newberry Drive/Hillside Avenue, the project applicant shall work with the City to construct accessible ramps with truncated domes, provide new signage, refresh striping, install truncated domes at the existing median and convert the Newberry Drive approach to stop control.
    - At the intersection of Almaden Expressway/ Newberry Drive, the project applicant shall work with the City and County to construct accessible ramps with truncated domes, tighten the northwest corner, and refresh striping.
- During operation of the project, the project applicant shall implement transportation demand management (TDM) measures to reduce employee VMT. VMT-reducing TDM measures shall include bicycle parking/end-of-trip facilities, a subsidized transit program, and commute trip reduction marketing and education. A TDM plan with approved measures shall be submitted to the Director of PBCE, or the Director's designee, prior to issuance of a grading permit.

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

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

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

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

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **Tuesday, March 2nd 2021** any person may:

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

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

Rosalynn Hughey, Director
Planning, Building and Code Enforcement

02/08/2021
Date

Deputy

Kara Hawkins
Environmental Project Manager

Circulation period: **February 10th, 2021 to March 2nd, 2021**

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SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE INITIAL STUDY

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

The project proposes to redevelop the 3.6-acre site at 3315 Almaden Expressway with a four-story, 195,840-square foot (sf), 195-unit assisted living facility. This Initial Study evaluates the environmental impacts that might reasonably be anticipated to result from implementation of the proposed project.

1.2 PUBLIC REVIEW PERIOD

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

Kara Hawkins, Environmental Project Manager
Department of Planning, Building and Code Enforcement
City of San José
200 E. Santa Clara Street
San José, CA 95113
Kara.hawkins@sanjoseca.gov

1.3 CONSIDERATION OF THE INITIAL STUDY AND PROJECT

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

1.4 NOTICE OF DETERMINATION

If the project is approved, 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]).

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

San José Senior Living

2.2 LEAD AGENCY CONTACT

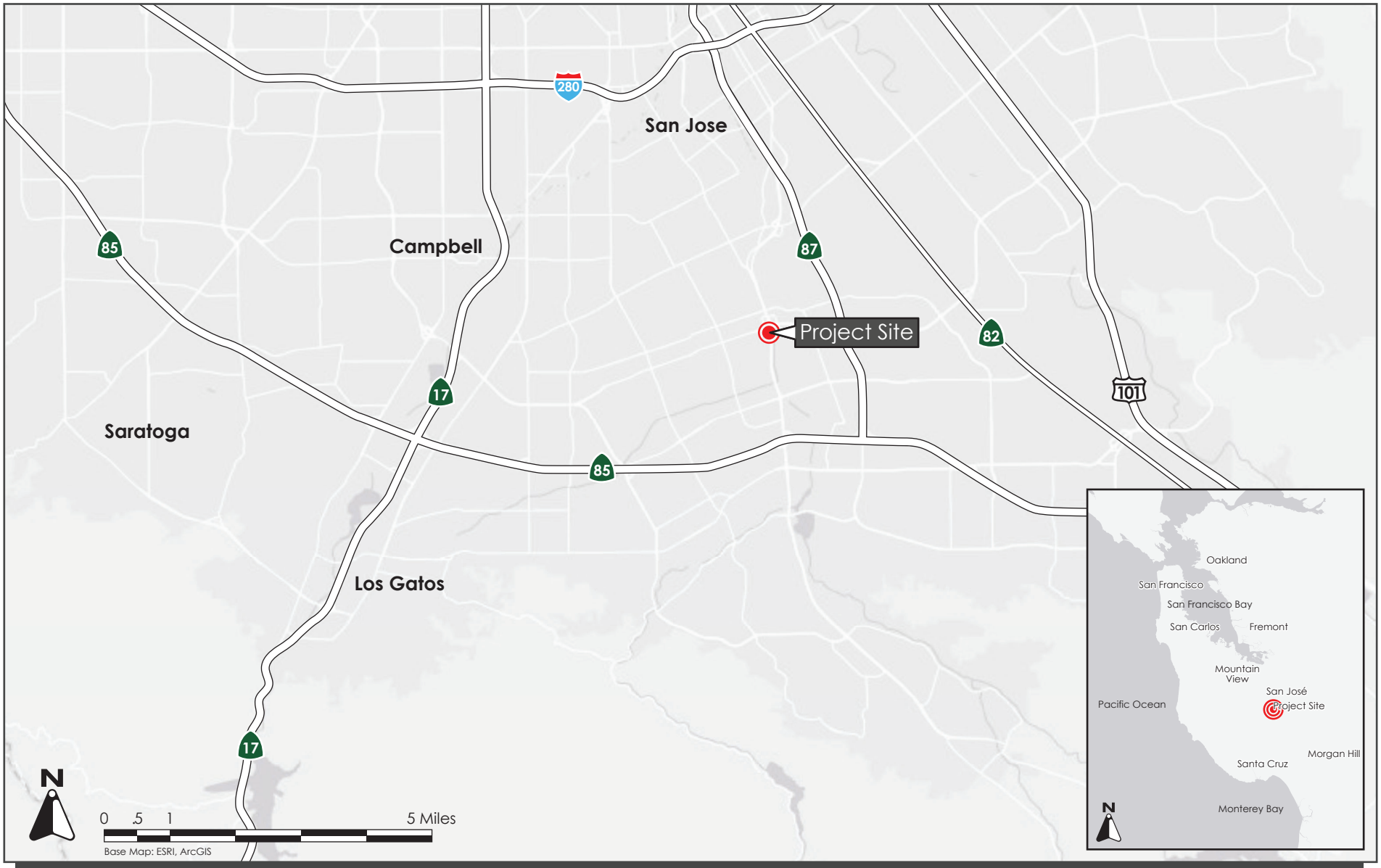
Kara Hawkins, Environmental Project Manager
Department of Planning, Building and Code Enforcement
City of San José
200 E. Santa Clara Street,
San José, CA 95113
Kara.hawkins@sanjoseca.gov
(408) 535-7852

2.3 PROJECT APPLICANT

Aubree Scheideman
CP-SRM Ventura, LLC
111 N. Post Street, Suite 200
Spokane, WA 99201
aubree@srmdevelopment.com
(509) 960-7800

2.4 PROJECT LOCATION

The approximately 3.6-acre project site is located at 3315 Almaden Expressway, just west of the Hillsdale Avenue/southbound Almaden Expressway off/on-ramp. Regional, vicinity, and aerial maps of the project site can be seen in Figure 2.4-1, Figure 2.4-2, and Figure 2.4-3, respectively.



REGIONAL MAP | FIGURE 2.4-1

FIGURE 2.4-2

VICINITY MAP

FIGURE 2.4-3

AERIAL PHOTOGRAPH AND SURROUNDING LAND USES

2.5 ASSESSOR'S PARCEL NUMBER

451-09-067

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

General Plan Designation: Neighborhood/Community Commercial (NCC)
Zoning: Commercial Pedestrian (CP)

2.7 HABITAT PLAN DESIGNATION

Private Development Areas:	Area 4: Urban Development Equal to or Greater than two acres Covered
Land Cover:	Urban-Suburban
Land Cover Fee Zone:	Urban Areas (No Land Cover Fee)

2.8 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

The discretionary actions for the project include, but are not limited to, the following:

- Conditional Use Permit
- Encroachment Permit

Ministerial permits from the City, such as grading permits and building permits, would also be required.

SECTION 3.0 PROJECT DESCRIPTION

The 3.6-acre project site is within the Almaden Expressway/Hillsdale Avenue Urban Village (V64), which is planned for an increase of 400 jobs and 296 dwelling units. The project would require a Conditional Use Permit under the existing zoning to demolish the existing 44,488-sf single-story, multi-tenant office building and surface parking lot and construct a four-story (up to 55 feet tall), 195,840-sf assisted living facility. The assisted living facility would offer housing for seniors who are independent and require help with day-to-day activities or memory care assistance, but do not require intensive medical or nursing care. A proposed site plan can be seen in Figure 3.0-1 and proposed southern and eastern building elevations can be seen in Figure 3.0-2.

The proposed facility would have a total of 195 units, 166 of which would be assisted living units with the remaining 29 units for memory care. It is anticipated that the units would have capacity for 230 adult residents. The building would have a total of approximately 17,465 sf of indoor amenity space including a living area, dining area, bistro, theater, activity room, fitness center, and salon. The proposed building would be situated around 8,800 sf of outdoor common amenity space, which would include courtyards, garden areas, seating areas, dining areas, barbeque areas, and landscaping.

The facility would employ a total of approximately 92 employees, spread over three shifts. Day and swing shifts would employ an estimated 49 employees during peak times and full capacity. During overnight hours there would be approximately six employees.

3.1 GREEN BUILDING MEASURES

Consistent with the City's Private Sector Green Building Policy, the project is required to be designed and constructed to achieve, at a minimum, the United States Green Building Council's (USGBC) Leadership in Energy and Environmental Design (LEED) Rating System Silver level of certification with a goal of reaching LEED Gold or Platinum. The project proposes to meet this green building standard by incorporating green building measures such as:

- Plants grouped by water needs (hydrozoning)
- Resource-efficient landscapes – no invasive species, plants chosen and located to grow to the natural size, drought tolerant, native, Mediterranean species, or other appropriate species
- High-efficiency irrigation system – low-flow drip, bubblers, or sprinklers
- Efficient distribution of domestic hot water – insulated hot water pipes
- Water-efficient plumbing fixtures
- Lighting efficiency – high-efficacy lighting

In addition, the project would provide space for organic waste collection containers on-site and enroll in the San José Clean Energy (SJCE) TotalGreen program, which provides electricity from 100 percent carbon-free sources.

Source: JETT Architecture + Design, June 15, 2020.

CONCEPTUAL SITE PLAN | FIGURE 3.0-1

Source: Urbal Architecture, June 15, 2020.

CONCEPTUAL CROSS-SECTION | FIGURE 3.0-2

3.2 LANDSCAPING

It is anticipated that nine of the existing 42 trees on-site would be preserved as part of the project and the remaining 33 trees, including 23 ordinance-sized trees, would be removed. Five off-site trees on neighboring properties would also be removed per the owner's approval. The project would plant at least 115 new trees along the site and building perimeters, and within the proposed surface parking lot and proposed amenity space. Other new landscaping, including shrubs and lawn areas, are also proposed.

3.3 VEHICLE ACCESS AND PARKING

Vehicle access to the project would be provided via an existing driveway on Newberry Drive along the southern site boundary, an existing driveway on the frontage road to Almaden Expressway at the northeast corner of the site, and another existing driveway along Hillsdale Avenue through the connected parking lot of the adjacent Denny's restaurant. The driveways along Newberry Drive and Almaden Expressway would provide direct access to a resident drop-off/pick-up area on the west side of the building, surface parking proposed on the west side of the building, and the surface parking lot proposed on the northern portion of the site. The project would include a total of 115 vehicle parking stalls and five motorcycle stalls in the two surface parking lots. Bicycle parking would include six long-term bicycle spaces.

3.4 CONSTRUCTION

It is anticipated that construction of the project would take approximately 18 months, starting as early as August 2021 and completing as early as April 2023. The project would require excavation of approximately 10,195 cubic yards of soil at a maximum depth of five feet below ground.

SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND IMPACT DISCUSSION

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

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

The discussion for each environmental subject includes the following subsections:

- **Environmental Setting** – This subsection 1) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project and 2) describes the existing, physical environmental conditions at the project site and in the surrounding area, as relevant.
- **Impact Discussion** – This subsection 1) includes the recommended checklist questions from Appendix G of the CEQA Guidelines to assess impacts and 2) discusses the project's impact on the environmental subject as related to the checklist questions. For significant impacts, feasible mitigation measures are identified. "Mitigation measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370).

4.1 AESTHETICS

4.1.1 Environmental Setting

4.1.1.1 *Regulatory Framework*

State

Streets and Highway Code Sections 260 through 263

The California Scenic Highway Program (Streets and Highway Code, Sections 260 through 263) is managed by the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. There are no state-designated scenic highways in San José. Interstate 280 (I-280) from the San Mateo County line to State Route (SR) 17, which includes segments in San José, is an eligible, but not officially designated, State Scenic Highway.[1]

Local

Envision San José 2040 General Plan

The Envision San José 2040 General Plan (General Plan) includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The proposed project would be subject to General Plan aesthetics policies, including the ones listed below.

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

[1] California Department of Transportation. *California Scenic Highways*. https://www.arcgis.com/home/item.html?id=f0259b1ad0fe4093a5604c9b838a486a. Accessed March 9, 2020.

Policies	Description
CD-1.17	Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.
CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.

City of San José Design Guidelines and Design Review Process

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

City of San José Council Policy 4-3: Private Outdoor Lighting on Private Developments

Council Policy 4-3 requires private development to use energy-efficient outdoor lighting that is fully or partially shielded and not directed skyward. Low-pressure sodium lighting is required unless a photometric study is done, and the proposed lighting referred to Lick Observatory for review and comment. One of the purposes of this policy is to provide for the continued enjoyment of the night sky and for continuing operation of Lick Observatory, by reducing light pollution and sky glow.

4.1.1.2 *Existing Conditions*

Visual Character

Project Site

The project site is generally flat and developed with a 44,488-sf single-story, multi-tenant office building and surface parking lot that surrounds the building. The building is generally rectangular in shape with its long axis running north-south. The building has rectangular and arched entryways with tinted glass doors and windows and clay tile roofing. Landscaping in the form of shrubs and trees are located along the perimeter of the site and building. Additional detail about the trees on-site (including tree species) is provided in Section 4.4 Biological Resources.

Surrounding Area

The project site is located in an urban, developed area. The project site is surrounded by roadways on all sides, including a one-lane frontage road and a six-lane expressway (Almaden Expressway) to the east, a two-lane roadway (Newberry Drive) to the south, and a two-lane private driveway to the west and north of the site (refer to Figure 2.4-3).

To the west of the project site is a two-story, stucco commercial building with a flat roof and tinted first floor windows. To the north of the project site is a single-story restaurant that consists of stucco, an obtuse-angled roof with shingles, and an outdoor dining patio area. There are several commercial buildings to the east across Almaden Expressway, including a single-story commercial building with Spanish tile shingles and a single-story, flat-roofed concrete building in a car dealership lot. There are one- and two-story single-family residences south of the project site, south of Newberry Drive. These residences are separated from the project site by Newberry Drive, an approximately six-foot tall concrete wall, and landscape buffer (including trees). The residences consist of wood and stucco and have gable or hip style roofs.

In summary, the project area is developed with a mix of land uses and architectural styles. As a result, no single design aesthetic is dominant. Refer to Photos 1 through 4, below, for views of the site and surrounding properties.

Scenic Views

The City has many scenic resources including the hills and mountains that frame the valley floor, the baylands, and the urban skyline itself. Hillsides visible from the City include the foothills of the Diablo Range and Silver Creek Hills to the east, the Santa Cruz Mountains to the west, and Santa Teresa Hills to the south. Given that the project area is relatively flat and the project area is built out, views of scenic vistas are limited. Views of the mountains to the west and hills to the south are obscured by existing buildings and mature trees. There are no baylands visible from the project area.

Scenic Corridors

The project site is not located along a state-designated scenic highway. The nearest eligible state scenic highways are I-280 at the Interstate 880 (I-880) interchange, approximately 4.5 miles northwest of the site and SR 17 at the SR 9 interchange, approximately 6.2 miles southwest of the site. The project site is not visible from designated or eligible state scenic highways.

Light and Glare

Sources of light and glare that are present in urban environments, including the project area, include streetlights, parking lot lights, building security lights, internal building lights, vehicular headlights, and reflective surfaces and windows.

Photo 1: View of the project site, looking northwest from Newberry Drive and Almaden Expressway.

Photo 2: View of the rear of the restaurant building, looking north from the project site.

PHOTOS 1 & 2

Photo 3: View of a commercial building across Almaden Expressway, looking east.

Photo 4: View of the western site boundary with the adjacent office building on the left and the project site on the right.

PHOTOS 3 & 4

4.1.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Except as provided in Public Resources Code Section 21099, would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☒	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings?[2] If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☒	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☒	☐

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

As described above in Section 4.1.1.2 Existing Conditions, views of scenic vistas (including the mountains and hillsides) are currently obscured and limited due to existing development and mature landscaping in the project area. There are no unobstructed views of scenic vistas from the project site. Redevelopment of the site with the proposed four-story, 195,840-sf assisted living facility, therefore, would not substantially block views of these vistas from the project area. **(Less than Significant Impact)**

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

The project site is not located along a state-designated scenic highway. The nearest eligible state scenic highways are I-280 at, approximately 4.5 miles northwest of the site, and SR 17, approximately 6.2 miles southwest of the site. The project site is not visible from I-280 or SR 17. For this reason, the redevelopment of the project site would not damage scenic resources within a state designated highway. **(No Impact)**

[2] Public views are those that are experienced from publicly accessible vantage points.

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

The project site is in an urbanized area and thus would be subject to applicable regulations governing scenic quality. The City's Zoning Ordinance does not include regulations governing scenic quality. The project is consistent with the applicable General Plan policies identified in Section 4.1.1.1 Regulatory Framework by:

- Utilizing high standards of architecture and site design – The proposed building's neutral color palette, smooth trim, and use of stone veneer around the porte-cochere and entrance provide a sensible and appealing visual appearance.
- Adding to the unique character of the vicinity – As previously discussed, the surrounding area has a mix of architectural styles. The proposed building would be similar in size and shape of the adjacent office building to the west to be visually compatible. The modern design of the proposed assisted living facility would add to the unique mix of architectural styles of the other surrounding buildings as well.
- Plantings and trees at appropriate locations within the site to help soften the appearance of the built environment – The project proposes to plant 115 or more trees throughout the project site. These trees would provide a visual break in the urban built-up environment of the vicinity.

In addition, the project is required to conform to the City's Commercial Design Guidelines and undergo the design review process, which require that new structures be compatible with the character of the existing neighborhood. The Commercial Design Guidelines also state that the elements of a building should relate logically to each other, as well as to surrounding buildings, to enhance the given or potential characteristics of a particular building or area.

For the above reasons, the proposed project would not substantially degrade the existing visual character or quality of public views of the site and its surroundings or conflict with regulations governing scenic quality. **(Less than Significant Impact)**

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

As described above in Section 4.1.1.2 Existing Conditions, the project site is located in an urban area with existing sources of light and glare. Like other development in the area, the project would include nighttime security lighting and interior lighting. The project's outdoor security lighting would incrementally increase the level of illumination in the area. The project includes landscaping along the perimeter of the site that would screen views of the site and its nighttime lighting from surrounding uses. In addition, the project is required to comply with the City's Private Outdoor Lighting on Private Developments policy, which requires energy-efficient outdoor lighting that is fully or partially shielded and not directed skyward to minimize glare and light spillover onto

adjacent properties. Design and construction of the project in conformance with the City's outdoor lighting policy, therefore, would not create a new source of substantial nighttime light that would adversely affect views.

Glare can also be caused by sunlight or artificial light reflecting from finished surfaces such as window glass or other reflective materials. The project would not be constructed with highly reflective materials, such as mirrored glass. In addition, the project does not propose any large, uninterrupted expanses of glass or other highly reflective materials. Exterior building materials primarily include stucco, wood, stone, and cement. For these reasons, the project would not result in significant glare impacts. In addition, the project would be subject to the City's design review process, which would ensure that the final design of the project would not utilize highly reflective exterior materials.

Based on the above discussion, the project would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area. **(Less than Significant Impact)**

4.2 AGRICULTURE AND FORESTRY RESOURCES

4.2.1 Environmental Setting

4.2.1.1 *Regulatory Framework*

State

Farmland Mapping and Monitoring Program

The California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) assesses the location, quality, and quantity of agricultural land and conversion of these lands over time. Agricultural land is rated according to soil quality and irrigation status. The best quality land is called Prime Farmland. In CEQA analyses, the FMMP classifications and published county maps are used, in part, to identify whether agricultural resources that could be affected are present on-site or in the project area.[3]

California Land Conservation Act

The California Land Conservation Act (Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space uses. In return, landowners receive lower property tax assessments. In CEQA analyses, identification of properties that are under a Williamson Act contract is used to also identify sites that may contain agricultural resources or are zoned for agricultural uses.[4]

Fire and Resource Assessment Program

The California Department of Forestry and Fire Protection (CAL FIRE) identifies forest land, timberland, and lands zoned for timberland production that can (or do) support forestry resources.[5] Programs such as CAL FIRE's Fire and Resource Assessment Program and are used to identify whether forest land, timberland, or timberland production areas that could be affected are located on or adjacent to a project site.[6]

[3] California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed February 25, 2020. http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx.
[4] California Department of Conservation. "Williamson Act." Accessed March 10, 2020. http://www.conservation.ca.gov/dlrp/lca.
[5] Forest Land is land that can support 10 percent native tree cover and allows for management of forest resources (California Public Resources Code Section 12220(g)); Timberland is land not owned by the federal government or designated as experimental forest land that is available for, and capable of, growing trees to produce lumber and other products, including Christmas trees (California Public Resources Code Section 4526); and Timberland Production is land used for growing and harvesting timber and compatible uses (Government Code Section 51104(g)).
[6] California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed February 25, 2020. http://frap.fire.ca.gov/.

4.2.1.2 *Existing Conditions*

The Santa Clara County Important Farmland 2016 Map designates the project site as Urban and Built-Up Land.[7] Urban and Built-Up Land is defined as land occupied by structures with a building density of at least one unit per 1.5 acres, or approximately six structures to a 10-acre parcel. The site is currently developed with a commercial office building and is zoned Commercial Pedestrian (CP). There is no agricultural or forest land located on or adjacent to the project site and the site is not subject to a Williamson Act contract.

4.2.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	☐	☐	☐	☒
d) Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒

[7] California Department of Conservation. "Santa Clara County Important Farmland 2016 Map." Accessed February 25, 2020. ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2016/scl16.pdf.

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

The project site is designated as Urban and Built-Up Land, as discussed in Section 4.2.1.2 Existing Conditions, and is not designated as farmland of any type. There is no farmland in the vicinity of the project site. For these reasons, the project would not convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural use. **(No Impact)**

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

The project site is not zoned for agricultural use. The project site is zoned Commercial Pedestrian (CP). The project site is not under a Williamson Act contract. The project, therefore, would not conflict with existing zoning for agricultural use or a Williamson Act contract. **(No Impact)**

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

The project site is zoned Commercial Pedestrian (CP). The project site and surrounding properties are not zoned for forestland or timberland. The project, therefore, would not conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production. **(No Impact)**

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

The project site and surrounding properties do not contain forest land. The project, therefore, would not result in a loss of forest land or conversion of forest land to non-forest use. **(No Impact)**

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

As previously discussed, the project site and surrounding properties are not designated, zoned, or used for agricultural or forest land uses. Therefore, the project would not involve changes in the existing environment which could result in conversion of farmland to non-agricultural use or conversion of forest land to non-forest use. **(No Impact)**

4.3 AIR QUALITY

The following discussion is based, in part, on an Air Quality and Greenhouse Gas Assessment prepared for the project by Illingworth & Rodkin, Inc. dated September 28, 2020. A copy of the assessment report is included as Appendix A.

4.3.1 Environmental Setting

4.3.1.1 *Background Information*

Criteria Pollutants

Air quality in the Bay Area is assessed related to six common air pollutants (referred to as criteria pollutants), including ground-level ozone (O_3), nitrogen oxides (NO_x), particulate matter (PM), carbon monoxide (CO), sulfur oxides (SO_x), and lead.[8] Criteria pollutants are regulated because they result in health effects. An overview of the sources of criteria pollutants and their associated health are summarized in Table 4.3-1. The most commonly regulated criteria pollutants in the Bay Area are discussed further below.

Table 4.3-1: Health Effects of Air Pollutants

Pollutants	Sources	Primary Effects
Ozone (O_3)	Atmospheric reaction of organic gases with nitrogen oxides in sunlight	• Aggravation of respiratory and cardiovascular diseases • Irritation of eyes • Cardiopulmonary function impairment
Nitrogen Dioxide (NO_2)	Motor vehicle exhaust, high temperature stationary combustion, atmospheric reactions	• Aggravation of respiratory illness • Reduced visibility
Fine Particulate Matter ($PM_{2.5}$) and Coarse Particulate Matter (PM_{10})	Stationary combustion of solid fuels, construction activities, industrial processes, atmospheric chemical reactions	• Reduced lung function, especially in children • Aggravation of respiratory and cardiorespiratory diseases • Increased cough and chest discomfort • Reduced visibility
Toxic Air Contaminants (TACs)	Cars and trucks, especially diesel-fueled; industrial sources, such as chrome platers; dry cleaners and service stations; building materials and products	• Cancer • Chronic eye, lung, or skin irritation • Neurological and reproductive disorders

High O_3 levels are caused by the cumulative emissions of reactive organic gases (ROG) and NO_x. These precursor pollutants react under certain meteorological conditions to form high O_3 levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to

[8] The area has attained both state and federal ambient air quality standards for CO. The project does not include substantial new emissions of sulfur dioxide or lead. These criteria pollutants are not discussed further.

reduce O_3 levels. The highest O_3 levels in the Bay Area occur in the eastern and southern inland valleys that are downwind of air pollutant sources.

PM is a problematic air pollutant of the Bay Area. PM is assessed and measured in terms of respirable particulate matter or particles that have a diameter of 10 micrometers or less (PM_{10}) and fine particulate matter where particles have a diameter of 2.5 micrometers or less ($PM_{2.5}$). Elevated concentrations of PM_{10} and $PM_{2.5}$ are the result of both region-wide emissions and localized emissions.

Toxic Air Contaminants

TACs are a broad class of compounds known to have health effects. They include but are not limited to criteria pollutants. TACs are found in ambient air, especially in urban areas, and are caused by industry, agriculture, diesel fuel combustion, and commercial operations (e.g., dry cleaners). TACs are typically found in low concentrations, even near their source (e.g., diesel particulate matter [DPM] near a freeway).

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs. Diesel exhaust is a complex mixture of gases, vapors, and fine particles. Medium- and heavy-duty diesel trucks represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (most susceptible to injury).[9] Chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the California Air Resources Board (CARB).

Sensitive Receptors

Some groups of people are more affected by air pollution than others. CARB has identified the following persons who are most likely to be affected by air pollution: children under 16, the elderly over 65, athletes, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive receptors. Locations that may contain a high concentration of these sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, and elementary schools.

4.3.1.2 *Regulatory Framework*

Federal and State

Clean Air Act

At the federal level, the United States Environmental Protection Agency (EPA) is responsible for overseeing implementation of the Clean Air Act and its subsequent amendments. The federal Clean Air Act requires the EPA to set national ambient air quality standards for the six common criteria pollutants (discussed previously), including PM, O_3, CO, SO_x, NO_x, and lead.

[9] California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed September 14,2020. https://www.arb.ca.gov/research/diesel/diesel-health.htm.

CARB is the state agency that regulates mobile sources throughout the state and oversees implementation of the state air quality laws and regulations, including the California Clean Air Act. The EPA and the CARB have adopted ambient air quality standards establishing permissible levels of these pollutants to protect public health and the climate. Violations of ambient air quality standards are based on air pollutant monitoring data and are determined for each air pollutant. Attainment status for a pollutant means that a given air district meets the standard set by the EPA and/or CARB.

Risk Reduction Plan

To address the issue of diesel emissions in the state, CARB developed the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles. In addition to requiring more stringent emission standards for new on-road and off-road mobile sources and stationary diesel-fueled engines to reduce particulate matter emissions by 90 percent, the plan involves application of emission control strategies to existing diesel vehicles and equipment to reduce DPM (in additional to other pollutants). Implementation of this plan, in conjunction with stringent federal and CARB-adopted emission limits for diesel fueled vehicles and equipment (including off-road equipment), will significantly reduce emissions of DPM and NO_x.

Regional

2017 Clean Air Plan

The Bay Area Air Quality Management District (BAAQMD) is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how state and federal air quality standards will be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The 2017 CAP focuses on two related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 CAP describes how BAAQMD will continue its progress toward attaining state and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities. To protect the climate, the 2017 CAP includes control measures designed to reduce emissions of methane and other super-greenhouse gases (GHGs) that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.[10]

CEQA Air Quality Guidelines

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

[10] BAAQMD. *Final 2017 Clean Air Plan.* April 19, 2017. http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The proposed project would be subject to General Plan air quality policies, including the ones listed below.

Policies	Description
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.
MS-10.2	Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.
MS-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.
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.
MS-11.7	Consult with BAAQMD to identify stationary and mobile TAC sources and determine the need for and requirements of a health risk assessment for proposed developments.
MS-11.8	For new projects that generate truck traffic, require signage which reminds drivers that the State truck idling law limits truck idling to five minutes.
MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.
MS-13.3	Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.
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.

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

4.3.1.3 *Existing Conditions*

The Bay Area is considered a non-attainment area for ground-level O_3 and $PM_{2.5}$ under both the federal Clean Air Act and state Clean Air Act. The area is also considered nonattainment for PM_{10} under the state act, but not the federal act. The area has attained both state and federal ambient air quality standards for CO. As part of an effort to attain and maintain ambient air quality standards for O_3 and PM_{10}, BAAQMD has established thresholds of significance for these air pollutants and their precursors. These thresholds are for O_3 precursor pollutants (ROG and NO_x), PM_{10}, and $PM_{2.5}$, and apply to both construction period and operational period impacts, and are summarized in Table 4.3-2 below.

The closest sensitive receptors to the project site are residences approximately 400 feet to the west of the project site and approximately 0.2 mile south of the site, across Newberry Drive. Other sensitive receptors in the area include a school (Calvary Christian Academy) 0.5 mile north of the site and a daycare (Bright Explorers Preschool and Daycare) 0.3 mile west of the site.

4.3.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	☐	☐	☒	☐
c) Expose sensitive receptors to substantial pollutant concentrations?	☐	☒	☐	☐
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	☐	☐	☒	☐

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of San José has considered the air quality thresholds updated by BAAQMD in May 2017 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin and conservative in terms of the assessment of health effects associated with TACs and $PM_{2.5}$. The BAAQMD CEQA Air Quality thresholds used in this analysis are identified in Table 4.3-2.

Table 4.3-2: BAAQMD Air Quality Significance Thresholds			
Pollutant	**Construction Thresholds**	**Operation Thresholds**	
	Average Daily Emissions (pounds/day)	**Annual Daily Emissions (pounds/year)**	**Annual Average Emissions (tons/year)**
Criteria Air Pollutants			
ROG, NO_x	54	54	10
PM_{10}	82 (exhaust)	82	15
$PM_{2.5}$	54 (exhaust)	54	10
CO	Not Applicable	9.0 ppm (eight-hour) or 20.0 ppm (one-hour)	
Fugitive Dust	Dust-Control Measures/Best Management Practices	Not Applicable	
Health Risks and Hazards for New Sources (within a 1,000-foot Zone of Influence)			
Health Hazard	**Single Source**	**Combined Cumulative Sources**	
Excess Cancer Risk	10 per one million	0.3 µg/m^3	
Hazard Index	1.0	10.0	
Incremental Annual $PM_{2.5}$	0.3 µg/m^3	0.8 µg/m^3 (average)	
Notes: ROG = reactive organic gases, NO_x = nitrogen oxides, PM_{10} = course particulate matter with a diameter of 10 micrometers (µm) or less, and $PM_{2.5}$ = fine particulate matter with a diameter of 2.5 µm or less.			

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

The proposed project would not conflict with the 2017 CAP because it would be smaller than the BAAQMD CEQA Air Quality Guidelines significance thresholds shown in Table 4.3-2 and discussed in detail under checklist question b), is considered urban infill, and would be located near bike paths and transit with regional connections. Because the project would not exceed the BAAQMD significance thresholds as discussed under checklist question b) below, it would not result in the generation of operational-related criteria air pollutants and/or precursors that exceed the thresholds shown in Table 4.3-2. Thus, the project is not required to incorporate project-specific control measures listed in the 2017 CAP. Further, implementation of the project would not inhibit BAAQMD or partner agencies from continuing progress toward attaining state and federal air quality standards and eliminating health-risk disparities from exposure to air pollution among Bay Area communities, as described within the 2017 CAP. **(Less than Significant Impact)**

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

The Bay Area is considered a non-attainment area for ground-level ozone and $PM_{2.5}$ under both the federal Clean Air Act and state Clean Air Act. The area is also considered non-attainment for PM_{10} under the state Clean Air Act, but not the federal act. The area has attained both state and federal ambient air quality standards for carbon monoxide. 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.

Construction Emissions

The California Emissions Estimator Model (CalEEMod) computes annual emissions for construction that are based on the project type, size, and acreage. Inputs to CalEEMod were developed that take into account demolition of the on-site uses, excavation, and building construction (see Appendix A). CalEEMod provides emissions estimates for both on-site and off-site construction activities. On-site activities are primarily made up of construction equipment emissions, while off-site activity includes worker, hauling, and vendor traffic. The construction build-out scenario, including equipment list and schedule, was based on information provided by the project applicant. Table 4.3-3 summarizes the project's average daily construction emissions of ROG, NO_x, PM_{10} exhaust, and $PM_{2.5}$ exhaust and shows that the predicted construction period emissions would not exceed BAAQMD significance thresholds during any year of construction.

Table 4.3-3: Estimated Project Construction Emissions

Scenario	ROG	NO_x	PM_{10} Exhaust	$PM_{2.5}$ Exhaust
Average Daily Construction Emissions Per Year (pounds per day)				
2020 (110 construction workdays)	0.93	9.29	0.57	0.40
2021 (260 construction workdays)	8.16	10.92	0.69	0.52
2022 (60 construction workdays)	16.07	13.78	0.84	0.67
BAAQMD Thresholds	*54*	*54*	*82*	*54*
Exceed Threshold?	No	No	No	No

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

be less than significant if the following standard permit conditions are implemented to reduce these emissions.

Standard Permit Condition:

- The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:
    - Water active construction areas at least twice daily or as often as needed to control dust emissions.
    - Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
    - Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
    - Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
    - Pave new or improved roadways, driveways, and sidewalks as soon as possible.
    - Lay building pads as soon as possible after grading unless seeding or soil binders are used.
    - Replant vegetation in disturbed areas as quickly as possible.
    - Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
    - Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
    - Maintain and property tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
    - Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

The standard permit condition above is consistent with BAAQMD-recommended basic control measures for reducing fugitive particulate matter that are contained in the BAAQMD CEQA Air Quality Guidelines. With implementation of the above standard permit condition, construction of the project would not result in a cumulatively considerable net increase of criteria pollutants. **(Less than Significant Impact)**

Operational Emissions

Operational air emissions from the project would be generated primarily from vehicles driven by future employees. On-site emissions would result from architectural coatings and maintenance products used in the proposed building. CalEEMod was also used to estimate emissions from the proposed 175-kilowatt (kW) emergency diesel generator. The earliest full year of operation would be

2024. The operational emissions for full build-out of the project were modeled (see analysis in Appendix A) and the results are summarized in Table 4.3-4 below.

Table 4.3-4: Estimated Project Operation Emissions				
Scenario	**ROG**	**NO_x**	**PM_{10} Exhaust**	**$PM_{2.5}$ Exhaust**
Annual Emissions (tons)				
A. Project Operational Emissions	1.11	0.28	0.39	0.11
B. Existing Site Operational Emissions	0.32	0.21	0.29	0.08
Net Annual Emissions (A – B)	0.79	0.07	0.10	0.03
BAAQMD Thresholds	*10*	*10*	*15*	*10*
Exceed Threshold?	No	No	No	No
Daily Emissions (pounds)				
Project Operational Emissions	4.33	0.38	0.57	0.18
BAAQMD Thresholds)	*54*	*54*	*82*	*54*
Exceed Threshold?	No	No	No	No

As shown in Table 4.3-4, the project's annual and daily operational emissions would not exceed the BAAQMD thresholds of significance for ROG, NO_x, PM_{10}, and $PM_{2.5}$. Therefore, operation of the proposed project would not result in a significant air quality impact from operational emissions. **(Less than Significant Impact)**

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

Project impacts related to community risk can occur either by introducing a new source of TACs with the potential to adversely affect existing sensitive receptors in the project vicinity or by significantly exacerbating existing cumulative TAC impacts. The project would introduce new sources of TACs during construction (i.e., on-site construction and truck hauling emissions) and operation (i.e., emergency diesel generator and mobile sources).

Project construction activity would generate dust and equipment exhaust that would affect nearby sensitive receptors. The project would include the installation of emergency generators powered by diesel engines that would also have emissions of TACs and air pollutants. Additionally, the project would generate some traffic, consisting of mostly light-duty vehicles. The number of vehicle trips generated by the project is estimated to be approximately 461 daily trips for light-duty vehicles (i.e. passenger cars, not diesel trucks). Per BAAQMD recommended risks and methodology, a road with less than 10,000 total vehicle trips per day is considered a low-impact source of TACs and is not required to be considered in CEQA TAC analysis.[11] Since the project would generate less than

[11] BAAQMD. *Recommended Methods for Screening and Modeling Local Risks and Hazards.* May 2012.

10,000 daily trips, vehicle emissions would be considered negligible and were not included in this analysis.

The project impacts to existing sensitive receptors were calculated for temporary construction activities and the operation of the emergency generator (see Appendix A). 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. Modeling of TAC and $PM_{2.5}$ emissions, dispersion modeling, and cancer risk computations are included in Appendix A.

Community Health Risks from Project Construction and Operation

Construction equipment and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC. As discussed under checklist question b), construction exhaust air pollutant emissions would not contribute substantially to existing or projected air quality violations. Construction exhaust emissions, however, may 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 $PM_{2.5}$.

Table 4.3-5 summarizes the maximum excess cancer risk, annual $PM_{2.5}$ concentrations, and HI based on the maximum DPM concentration affecting the maximally exposed individual (MEI), which is the sensitive receptor affected the most by project construction emissions. The MEI for construction and operation activities is located at a residence approximately 400 feet south of the project site. Project emissions at the residential MEI location would exceed BAAQMD single-source significance threshold for cancer risk (see Table 4.3-5). None of the project risks and hazards at other nearby sensitive receptors (including Bright Explorers Preschool and Daycare or the Calvary Christian Academy) would exceed the BAAQMD single-source significance thresholds (see Table 4.3-2).

Impact AIR-1: Construction activities at the project site would result in significant cancer risk at the maximally affected sensitive receptor. **(Significant Impact)**

Mitigation Measure: In addition to the standard permit conditions listed under checklist question b) above, and in conformance with General Plan Policies MS-10.1 and MS-13.1, the following mitigation measure would be implemented during all demolition and construction activities to reduce TAC emission impacts:

MM AIR-1.1: Prior to issuance of any demolition or grading permits, the project applicant shall develop a plan demonstrating that the off-road equipment used on-site to construct the project would reduce cancer risk at the maximally affected sensitive receptor to less than 10 parts per million. One feasible plan to achieve this reduction would include the following:

- All diesel-powered off-road equipment larger than 25 horsepower and operating on the site for more than two days continuously shall, at a minimum, meet EPA particulate matter emissions standards for Tier 4 engines. EPA Tier 3 engines retrofitted with level 3 diesel particulate filters would also meet this requirement. The use of equipment that is electrically powered or uses non-diesel fuels would be acceptable as well.

- Line power shall be provided to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators.

The plan shall be signed by a qualified air quality consultant and submitted to the Director of Planning, Building and Code Enforcement (PBCE), or the Director's designee, prior to the issuance of any demolition or grading permits.

Table 4.3-5: Construction and Operation Risk Impacts at the Off-Site Residential MEI

Source	Cancer Risk (per million)	Annual $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
Project Construction (Years 0-3)			
Unmitigated	**15.32**	0.15	0.01
Mitigated	7.50	0.05	<0.01
Project Operation (Years 4-30)	0.02	<0.01	<0.01
Unmitigated (Years 0-30)	**15.34**	0.15	0.01
Mitigated (Years 0-30)	7.52	0.05	<0.01
BAAQMD Single-Source Threshold	*>10.0*	*>0.3*	*>1.0*
Exceed Threshold?			
Unmitigated	**Yes**	No	No
Mitigated	No	No	No

Note: **Bold** text indicates a significant impact.

Modeling was completed to determine the effectiveness of the required mitigation measures. With the implementation of mitigation measure MM AIR-1.1above, the project's health risk from construction sources would be reduced to 7.50 excess cancer cases per million (Table 4.3-5), which is below the BAAQMD single-source threshold of 10.0. It should be noted that although the project includes an emergency backup generator, no mitigation was needed to reduce potential air quality impacts associated with its use because the project will use a small, 175-kW model and sensitive receptors are not located downwind of it. Emissions from the generator were predicted to be less than the BAAQMD single-source threshold. Therefore, with the implementation of MM AIR-1.1, the health risks of project construction and operation would be below the BAAQMD thresholds of significance. **(Less than Significant Impact with Mitigation Incorporated)**

Cumulative Community Risks of Existing and Project TAC Sources

The geographic area for cumulative impacts to sensitive receptors is within 1,000 feet of the project site. This distance is recommended by BAAQMD because adverse effects are the greatest within this distance. At further distances, health risk diminishes. A review of the project area indicates that traffic on Almaden Expressway and Hillsdale Avenue/West Capitol Expressway exceeds the average daily traffic (ADT) threshold of 10,000 vehicles. All other roadways within the area are below the

10,000 ADT threshold. One stationary source of TACs (located at 3373 Almaden Road approximately 400 feet from the project site) is located within the 1,000-foot influence area. The community risk impacts from the cumulative sources to the project MEI were modeled and the results are summarized in Table 4.3-6. Refer to Appendix A for details about the modeling, data inputs, and assumptions.

As shown in Table 4.3-6, the health risk from the cumulative sources (including project construction and operation) would not be significant with and without mitigation. The unmitigated estimated maximum cancer risk of less than 18.6, the annual $PM_{2.5}$ concentration of 0.33 µg/m^3, and the HI of less than 0.04 would not exceed the BAAQMD cumulative source thresholds of significance. **(Less than Significant Impact)**

Table 4.3-6: Cumulative Community Risk Impacts at the Off-Site Residential MEI

Source	Maximum Cancer Risk (per million)	$PM_{2.5}$ Concentration (µg/m^3)	Hazard Index
Project Emissions (Years 0-30)			
Unmitigated	15.34	0.15	0.01
Mitigated	7.52	0.05	<0.01
Almaden Expressway, ADT 28,000	3.16	0.15	<0.01
Hillsdale Avenue/West Capital Expressway, ADT 17,000	0.38	0.03	<0.01
Capitol Nissan (Plant #109813, Gas Station) MEI Distance at 530 feet	<0.1	--	<0.01
Combined Sources			
Unmitigated	<18.6	0.33	<0.04
Mitigated	<10.78	0.23	<0.04
BAAQMD Cumulative Source Threshold	*>100*	*>0.8*	*>10.0*
Exceed Cumulative Source Threshold?			
Unmitigated	No	No	No
Mitigated	No	No	No

Note: **Bold** text indicates a significant impact.

Modeling was completed to determine the effectiveness of the previously identified mitigation measure MM AIR-1.1and found the cumulative health risk to the project MEI would be even further reduced to less than 10.78 excess cancer cases per million and 0.23 µg/m^3 annual $PM_{2.5}$ concentration (see Table 4.3-6). The HI would be less than 0.04.

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

The proposed project would not introduce land uses to the area that generate odors, such as dairy farms, wastewater treatment plants, landfills, or coffee roasting. The project would generate localized emissions of diesel exhaust during construction equipment operation and truck activity. These emissions may be noticeable from time to time by adjacent receptors. However, they would be localized and are not likely to adversely affect people off-site by resulting in confirmed odor complaints. The project would not include any sources of significant odors that would cause complaints from surrounding uses. **(Less than Significant Impact)**

4.3.3 Non-CEQA Effects

Per California Building Industry Association v. Bay Area Air Quality Management District, 62 Cal. 4th 369 (BIA v. BAAQMD), effects of the environment on the project are not considered CEQA impacts. The following discussion is included for informational purposes only because the City of San José has policies (including General Plan Policies MS-10.1, 10.2, 11.2, and 11.7) that address existing air quality conditions affecting a proposed project.

The project would introduce new sensitive receptors to the project area by constructing a senior living facility. A health risk assessment of the project construction activities evaluated potential health effects to future sensitive receptors on-site from existing sources of TACs. Refer to Appendix A for details about the community health risk modeling, data inputs, and assumptions.

Table 4.3-7 summarizes the maximum excess cancer risk, annual $PM_{2.5}$ concentration, and HI. Table 4.3-7 shows that the TAC sources would not exceed BAAQMD single-source thresholds individually, and cumulatively, would not exceed the cumulative threshold.

Table 4.3-7: Health Risk Effects at the Proposed On-Site Receptors			
Source	**Maximum Cancer Risk (per million)**	**$PM_{2.5}$ Concentration ($\mu g/m^3$)**	**Hazard Index**
Almaden Expressway, ADT 25,000 (MEI 140 feet south)	0.56	0.24	<0.01
Hillsdale Avenue/West Capital Expressway, ADT 17,000	0.13	0.08	<0.01
Capitol Nissan (Plant #109813, Gas Station MEI Distance at 230 feet)	<0.1	--	<0.01
BAAQMD Single-Source Threshold	*>10.0*	*>0.3*	*>1.0*
Exceed Single-Source Threshold?	No	No	No
Cumulative Sources	0.79	0.32	<0.03
BAAQMD Cumulative Source Threshold	*>100*	*>0.8*	*>10.0*
Exceed Cumulative Threshold?	No	No	No

4.4 BIOLOGICAL RESOURCES

The following discussion is based, in part, on an arborist report prepared for the project site by Traverso Tree Service dated March 5, 2020. A copy of this report is included in Appendix B.

4.4.1 Environmental Setting

4.4.1.1 *Regulatory Framework*

Federal and State

Endangered Species Act

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

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

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, capture, possession, or trade of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. Hunting and poaching are also prohibited. The taking and killing of birds resulting from an activity is not prohibited by the MBTA when the underlying purpose of that activity is not to take birds.[12] Nesting birds are considered special-status species and are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

Sensitive Habitat Regulations

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

[12] United States Department of the Interior. "Memorandum M-37050. The Migratory Bird Treaty Act Does Not Prohibit Incidental Take." Accessed March 28, 2019. https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf.

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

Fish and Game Code Section 1602

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

Regional and Local

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

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

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The proposed project would be subject to General Plan biological resources policies, including the ones listed below.

Policies	Description
ER-4.4	Require that development projects incorporate mitigation measures to avoid and minimize impacts to individuals of special-status species.
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 activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
ER-6.5	Prohibit use of invasive species, citywide, in required landscaping as part of the discretionary review of proposed development.
MS-21.4	Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.
MS-21.5	As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design

Policies	Description
	measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.
MS-21.6	As a condition of new development, require, 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.
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.

San José Tree Removal Ordinance

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

In addition, any tree found by the City Council to have special significance can be designated as a Heritage Tree, regardless of tree size or species. It is unlawful to vandalize, mutilate, remove, or destroy such Heritage Trees. Under the City's Tree Removal Ordinance, specific criteria or findings must be made before a permit for removal of a live or dead Heritage Tree would be granted.

4.4.1.2 *Existing Conditions*

The project site is located within the SCVHP area and is designated Urban-Suburban. The Urban-Suburban designation is for areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures, and are defined as having one or more structures per 2.5 acres.

The project site is located within an urban, developed area. As shown in Figure 2.4-3, the project site is surrounded by development, including Almaden Expressway (a six-lane roadway) to the east of the site. The project site is fully developed with a building and paved surface parking. Existing landscaping is limited to small planting strips near the building and along the perimeter of the site.

Habitats in developed, urban areas such as the project site are low in species diversity. The wildlife species most often associated with developed areas include urban-adapted birds such as the rock dove, mourning dove, house sparrow, and European starling. There are no sensitive habitats (e.g., riparian habitat) or wetlands on or adjacent to the project site. Due to the lack of sensitive habitats and the developed nature of the project site, special-status plant and animal species are not expected to occur on the project site.

The primary biological resource on-site are trees. There are a total of 47 trees that could be impacted by the project. Most of the trees (42 trees) are located on-site, with five trees located off-site. Of the 47 trees, 31 are ordinance-sized. Three of the surveyed trees (cedar, ash, and coast redwood) are native to California, and the remaining 44 trees are non-native species. Some of the trees surveyed are considered shrubs but have the potential to become small trees.

A summary of the trees on and adjacent to the site, including species, size, and health, is provided in the Table 4.4-1 below, and the tree locations are shown on Figure 4.4-1. There are 12 different tree species and the trees vary in condition, with most of trees (total of 24 trees) in good or fair condition and suitable for preservation. Of the surveyed trees, 11 are in fair to poor condition and not suitable for preservation.

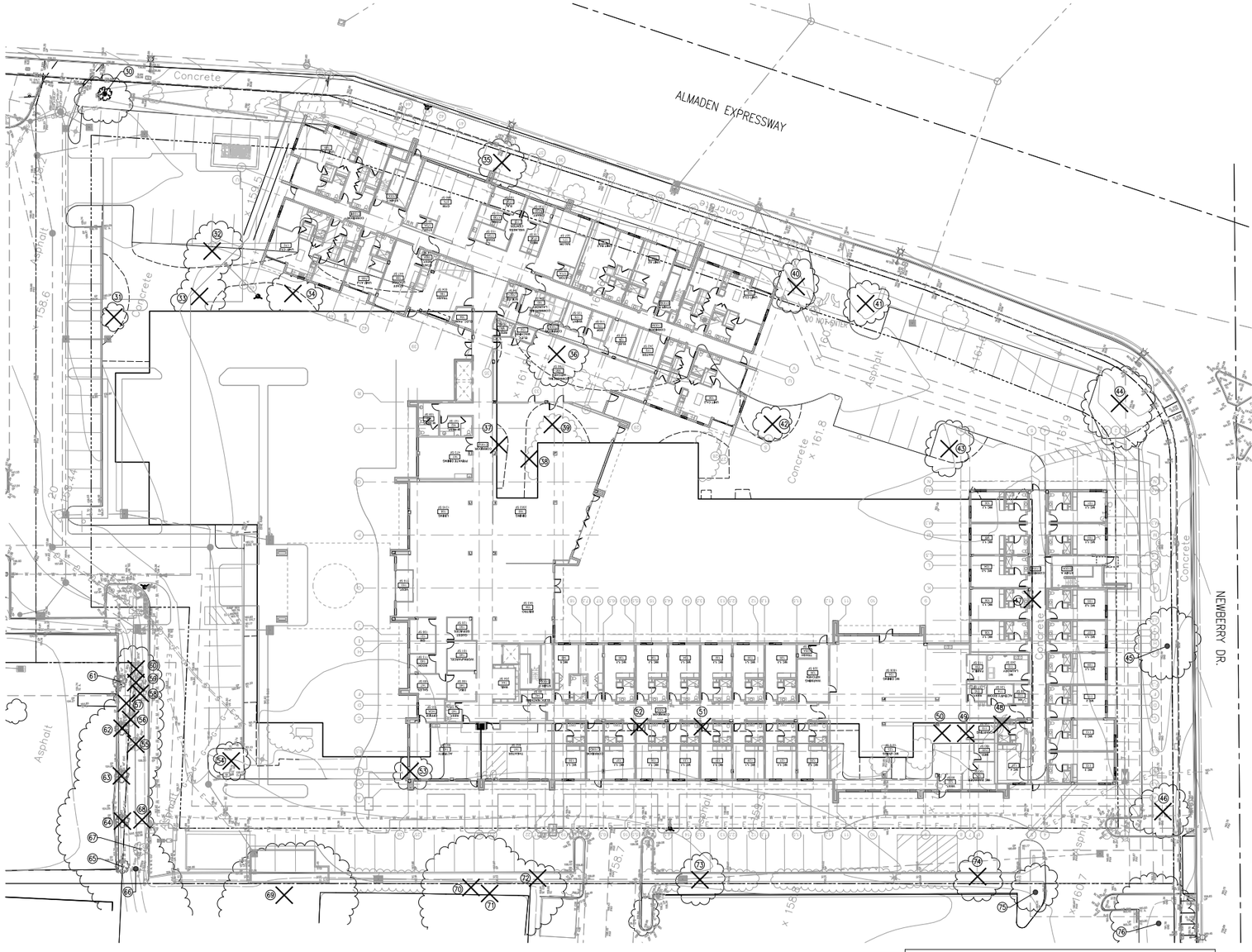
The closest sensitive habitat to the project site is the Guadalupe River, approximately 0.1 mile east of the site on the east side of Almaden Expressway.

Table 4.4-1: Trees On and Adjacent to the Site

Tree No.	Common Name	DBH[1]	Health[2]	Ordinance Sized Tree	Trees to be Removed
30	Olive	7, 9, 7, 5.5	G	x	
31	Olive	3, 3, 3, 2, 1	G		x
32	Olive	7, 6.5, 6.5, 6.5	G	x	x
33	Olive	6, 6	G		x
34	Olive	5, 5, 4.5, 5.5	G	x	x
35	Olive	6, 4, 5	G	x	x
36	Olive	5.5, 7, 8, 8, 8.5	G	x	x
37	Indian hawthorn	1	G-F		x
38	Indian hawthorn	1	F		x
39	Crape myrtle	3, 3, 2, 2	F		x
40	Olive	7, 5.5, 6	G	x	x
41	Olive	11, 7	G	x	x
42	Olive	1.5, 2, 1.5, 2, 1.5, 1.5, 1, 1, 1	F-P		x
43	Olive	13	G	x	x
44	Brazilian pepper	25	G	x	x
45	Brazilian pepper	7.5, 8, 5, 6	G		
46	Olive	10.5, 9, 7.5	G	x	x
47	Crape myrtle	9 stems x 1.5	F		x
48	Mexican fan palm	19	G-F	x	x
49	Crape myrtle	14 stems x 0.5	F		x
50	Crape myrtle	11 stems x 0.5	F		x
51	Crape myrtle	5 stems x 1, 5 stems x 0.5	F		x
52	Crape myrtle	4 stems x 1, 4 stems x 0.5	F		x

Table 4.4-1: Trees On and Adjacent to the Site					
Tree No.	**Common Name**	**DBH[1]**	**Health[2]**	**Ordinance Sized Tree**	**Trees to be Removed**
53	Olive	4.5, 5.5, 4, 5.5	G	x	x
54	Olive	6.5, 5.5	G-F	x	x
55	Privet	2, 3, 2, 3, 4	F-P	x	x
56	Cedar	2, 2, 2, 2, 1	F-P		x
57	Privet	6, 4	F-P		x
58	Privet	4, 3, 3	F-P		x
59	Privet	4, 3, 3, 3, 3	F-P	x	x
60	Privet	6, 3, 6, 3, 7	F-P	x	x
61	Unknown	11	F-P		
62	Ironbark eucalyptus	26	G	x	x (owner approval required for removal)
63	Ironbark eucalyptus	16	F	x	x (owner approval required for removal)
64	Ironbark eucalyptus	27.5	F-P	x	x (owner approval required for removal)
65	Ironbark eucalyptus	28	F		
66	Oleander	4, 2, 2.5, 2, 2, 1	F		
67	Privet	8, 7, 4, 4, 3, 7	F		
68	Privet	2, 3, 2, 3, 2, 1, 1	F-P		x
69	Ash	32	F-P		
70	Ironbark eucalyptus	20	G-F	x	
71	Ironbark eucalyptus	36	F	x	
72	Olive	7, 6, 5, 7	G	x	x
73	Olive	7, 7, 6, 5.5, 8	G	x	x
74	Olive	8, 7, 7.5, 7	G	x	x
75	Olive	6.5, 6, 6, 6	G		
76	Coast redwood	38.5	G-F		

[1] DBH: Diameter at Breast Height in inches
[2] Health Rating: Good (G), Fair (F), or Poor (P)



EXISTING TREES						
TREE NO.	TREE SPECIES	STATUS	REASON FOR REMOVAL	DIA. AT BREAST HT.	NATIVE	MINIMUM REPLACEMENT QTY & SIZE
30	OLIVE, OLEA EUROPEA	SAVE	–	33"	NO	–
31	OLIVE	REMOVE	IN PROPOSED PARKING	12"	NO	(1) 15-G
32	OLIVE	REMOVE	IN PROPOSED PARKING	28"	NO	TBD
33	OLIVE	REMOVE	IN PROPOSED PARKING	12"	NO	(1) 15-G
34	OLIVE	REMOVE	IN PROPOSED GRADING	21"	NO	TBD
35	OLIVE	REMOVE	IN PROPOSED WALKWAY	15"	NO	TBD
36	OLIVE	REMOVE	IN PROPOSED BUILDING	38"	NO	TBD
37	INDIAN HAWTHORN, RHAPHIOLEPIS INDICA	REMOVE	IN PROPOSED BUILDING	1"	NO	(1) 15-G
38	INDIAN HAWTHORN	REMOVE	IN PROPOSED BUILDING	1"	NO	(1) 15-G
39	CRAPE MYRTLE, LAGERSTROEMIA CV	REMOVE	IN PROPOSED BUILDING	10"	NO	(1) 15-G
40	OLIVE, OLEA EUROPEA	REMOVE	IN PROPOSED GRADING	19"	NO	TBD
41	OLIVE	REMOVE	IN PROPOSED GRADING	18"	NO	TBD
42	OLIVE	REMOVE	IN PROPOSED DEVELOPMENT	13"	NO	(1) 15-G
43	OLIVE	REMOVE	2' OF PROPOSED BLDG.	13"	NO	TBD
44	BRAZILIAN PEPPER, SCHINUS TEREBINTHIFOLIUS	REMOVE	IN PROPOSED GRADING	25"	NO	TBD
45	BRAZILIAN PEPPER	SAVE	–	26.5"	NO	–
46	OLIVE	REMOVE	OVER (E) WATER LINE	28"	NO	TBD
47	CRAPE MYRTLE	REMOVE	IN PROPOSED BUILDING	13.5"	NO	(1) 15-G
48	MEXICAN FAN PALM, WASHINGTONIA ROBUSTA	REMOVE	IN PROPOSED BUILDING	19"	NO	TBD
49	CRAPE MYRTLE	REMOVE	IN PROPOSED BUILDING	7"	NO	(1) 15-G
50	CRAPE MYRTLE	REMOVE	IN PROPOSED BUILDING	5.5"	NO	(1) 15-G
51	CRAPE MYRTLE	REMOVE	IN PROPOSED BUILDING	7.5"	NO	(1) 15-G
52	CRAPE MYRTLE	REMOVE	IN PROPOSED BUILDING	6"	NO	(1) 15-G
53	OLIVE, OLEA EUROPEA	REMOVE	IN PROPOSED BUILDING	21"	NO	TBD
54	OLIVE	REMOVE	IN PROPOSED PARKING	13"	NO	TBD
55	PRIVET, LIGUSTRUM LUCIDUM	REMOVE	WITHIN 1' OF PROPOSED PARKING	14"	NO	TBD
56	PRIVET	REMOVE	3' FROM PROPOSED PARKING	9"	NO	(1) 15-G
57	PRIVET	REMOVE	4' FROM PROPOSED PARKING	10"	NO	(1) 15-G
58	PRIVET	REMOVE	IN PROPOSED PARKING	10"	NO	(1) 15-G
59	PRIVET	REMOVE	WITHIN 1' OF PROPOSED PARKING	16"	NO	TBD
60	PRIVET	REMOVE	WITHIN 1' OF PROPOSED PARKING	25"	NO	TBD
61	UNKNOWN	SAVE	WITHIN 7' OF PROPOSED PARKING	11"	NO	–
62	IRONBARK EUCALYPTUS, EUCALYPTUS SIDEROXYLON	REMOVE	WITHIN 6' OF PROPOSED PARKING	26"	NO	TBD
63	IRONBARK EUCALYPTUS	REMOVE	WITHIN 5' OF PROPOSED PARKING	16"	NO	TBD
64	IRONBARK EUCALYPTUS	REMOVE	WITHIN 5' OF PROPOSED PARKING	27.5"	NO	TBD
65	IRONBARK EUCALYPTUS	SAVE	–	28"	NO	–
66	OLEANDER, NERIUM OLEANDER	SAVE	–	13.5"	NO	–
67	PRIVET	SAVE	–	33"	NO	–
68	PRIVET	REMOVE	IN PROPOSED PARKING	14"	NO	(1) 15-G
69	ASH, FRAXINUS SPP.	REMOVE	WITHIN 8' OF PROPOSED PARKING	32"	NO	(1) 24" BOX
70	IRONBARK EUCALYPTUS	REMOVE	1' FROM PROPOSED CURB	20"	NO	TBD
71	IRONBARK EUCALYPTUS	REMOVE	4' FROM PROPOSED CURB	36"	NO	TBD
72	OLIVE, OLEA EUROPEA	REMOVE	IN PROPOSED DRIVEWAY	25"	NO	TBD
73	OLIVE	REMOVE	IN PROPOSED DRIVEWAY	34"	NO	TBD
74	OLIVE	REMOVE	IN PROPOSED DRIVEWAY	30"	NO	TBD
75	OLIVE	SAVE	–	25"	NO	–
76	COAST REDWOOD, SEQUOIA SEMPERVIRENS	SAVE	–	38.5"	YES	–
TOTAL NUMBER OF (E) TREES						46
TOTAL NUMBER OF (E) TREES TO BE REMOVED						39

NOTES

1. REPLACEMENT QUANTITIES ARE BASED UPON THE CITY OF SAN JOSE'S "TREE REPLACEMENT RATIOS" CHART.
2. REFER TO FULL ARBORIST REPORT AS PREPARED BY JENNIFER TSO AT TRAVERSO TREE SERVICE, DATED MARCH 05, 2020.
3. (E) TREE LOCATIONS ARE APPROXIMATE AND BASED ON THE ARBORIST REPORT.

PROPOSED REPLACEMENT TREES		
TREE CONTAINER SIZE	QUANTITY	REPLACEMENT TREES RATIOS
24" BOX	95	4:1 RATIO
15-GALLON	20	1:1 RATIO
TOTAL	**115 OR MORE**	–

SEE SHEETS L10.2 FOR PLANTING PLAN SHOWING PROPOSED TREES.

EXISTING TREE REPLACEMENT RATIOS				
(E) TREE TO REMOVE	TYPE OF TREE			REPLACEMENT TREES RATIOS
	NATIVE	NON NATIVE	ORCHARD	
ORDINANCE SIZED	0	23	0	4:1 RATIO (24" BOX SIZE)
LESS THAN 12"ø	0	16	0	1:1 RATIO (15 GAL SIZE MIN.)
TOTAL TREES TO REMOVE	0	39	0	

ORDINANCE SIZED TREES TO BE REMOVED: 32, 34-36, 40, 41, 43, 44, 46, 48, 53-55, 59, 60, 62-64, 70-74 (23 TREES)

Source: JETT Landscape Architecture + Design, August 17, 2020.

TREE LOCATION MAP

FIGURE 4.4-1

4.4.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?	☐	☒	☐	☐
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?	☐	☐	☐	☒
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☒	☐
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☒	☐
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☒	☐

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

The project site is in a developed, urban area. No sensitive habitats or habitats suitable for special-status plant or wildlife species occur on or adjacent to the project site; therefore, the proposed project would not impact special-status species.

Nesting birds (including raptors and other migratory birds), however, could use the mature trees on or near the site. Nesting birds are protected by the MBTA and California Fish and Game Code. As

previously mentioned, there are approximately 42 trees present on the project site, with an additional five off-site trees that could be impacted by the project. The project proposes to remove 38 trees. Removal of the trees and construction disturbance during the breeding season could lead to nest abandonment and/or loss of reproductive effort. This is considered "take" by the CDFW. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would be a significant impact.

Impact BIO-1: Project construction (including tree removal) could impact nesting birds on or adjacent to the site, if present. **(Significant Impact)**

Mitigation Measures: In compliance with the MBTA, CDFW, and General Plan Policies ER-5.1 and ER-5.2, the project shall implement following measures to reduce or avoid construction-related impacts to nesting birds:

MM BIO-1.1: Tree removal and construction shall be scheduled to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1 through August 31, inclusive.

If tree removals and construction cannot be scheduled outside of nesting season, a qualified ornithologist shall complete pre-construction surveys to identify active nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February 1 through April 30, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1 through August 31, inclusive), unless a shorter pre-construction survey is determined to be appropriate based on the presence of a species with a shorter nesting period.

During this survey, the ornithologist shall inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that would be disturbed by construction, the ornithologist shall designate a construction-free buffer zone to be established around the nest, in consultation with the California Department of Fish and Wildlife (CDFW). The buffer would ensure that bird nests would not be disturbed during project construction.

MM BIO-1.2: Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the City's Director of PBCE or the Director's designee.

With implementation of the identified mitigation measures above, the project would reduce impacts to nesting birds to a less than significant level by avoiding construction during nesting bird season or completing pre-construction nesting bird surveys and establishing buffer areas to protect nesting birds (if present). **(Less than Significant Impact with Mitigation Incorporated)**

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

As discussed in Section 4.4.1.2 Existing Conditions, there are no sensitive habitats (including riparian habitat) on or adjacent to the project site. The closest riparian corridor to the project site is the Guadalupe River, approximately 0.1 mile east of the project site. Given the distance between the site and the Guadalupe River (which includes a six-lane expressway), redevelopment of the project site would not affect the riparian habitat along the Guadalupe River. For these reasons, implementation of the proposed project would not result in substantial adverse effects to any riparian habitats or identified sensitive natural communities. **(No Impact)**

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

As discussed in Section 4.4.1.2 Existing Conditions, the project site is developed and located in an urbanized area surrounded by development. There are no state or federally protected wetlands within, or adjacent to, the project site. For this reason, the proposed project would not adversely affect protected wetlands. **(No Impact)**

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

The project site is developed and surrounded by urban development. Migratory movements of animal species can be associated with riparian corridors, and the project site is not adjacent to any streams or waterways. There are no native wildlife nursery sites in the vicinity. In addition, the proposed building would not be constructed primarily of glass or reflective materials. Glass surfaces, which have the potential to disorient birds and cause accidental collisions, would be limited to windows and sliding doors. The project would primarily consist of a stucco exterior, with vinyl window frames and door frames. A stone veneer would surround the main entrances and the porte-cochere, and there would be metal railings on all the balconies. For these reasons, the project would not substantially interfere with the movement of any native resident or migratory fish or wildlife species. **(Less than Significant Impact)**

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

Of the 47 trees surveyed (42 on-site and five off-site/street trees), the project would result in the removal of 38 (33 on-site and five off-site/street trees). Of the 38 trees to be removed, 23 are ordinance-sized (refer to Appendix B). There are no Heritage Trees on or adjacent to the site that would be impacted by the project. The removal of the trees would be required to conform to the General Plan Policies MS-21.4, MS-21.5, and MS-21.6 and the City of San José Tree Removal Control.

The remaining nine trees would be preserved. Six trees (trees 30, 45, 61, 67, 69, 75 in Table 4.4-1 and Figure 4.4-1) to be preserved would be subjected to dripline encroachment and three to be saved that would not be encroached (trees 65, 66, 76; refer to Table 4.4-1).

Standard Permit Condition:

- **Tree Replacement.** A tree removal permit would be required from the City of San José for the removal of ordinance trees. The removed trees would be replaced according to tree replacement ratios required by the City, as provided in Table 4.4-2 below.

Table 4.4-2: Tree Replacement Ratios

Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more	5:1	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon

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

Single Family and two-dwelling properties may be mitigated at a 1:1 ratio.

Since 38 trees onsite would be removed, 23 trees would be replaced at a 4:1 ratio, five trees would be replaced at a 2:1 ratio, and the remaining 10 trees would be replaced at a 1:1 ratio. The species of trees to be planted would be determined in consultation with the City Arborist and the Department of PBCE.

In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of PBCE, at the development permit stage:

- The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site, at the development permit stage.
- Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance to the City Council approved Fee Resolution. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

With implementation of the above standard permit conditions, the proposed project would conform to the City's tree preservation ordinance. **(Less than Significant Impact)**

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

While the project site is within the SCVHP permit area, it does not have a natural communities land cover designation identified for the purposes of protection, enhancement, and restoration. The site has a land cover designation of Urban – Suburban. The project would comply with the SCVHP by implementing the below standard permit condition.

Standard Permit Condition:

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

With implementation of the identified standard permit condition above, the project would not conflict with the provisions of the Santa Clara Valley Habitat Plan. **(Less than Significant Impact)**

4.5 CULTURAL RESOURCES

The following discussion is based, in part, on a Cultural Resources Inventory Report prepared for the project site by Archaeological/Historical Consultants dated April 2020. This report is on file with the City of San José Department of PBCE.

4.5.1 Environmental Setting

4.5.1.1 *Regulatory Framework*

Federal and State

National Historic Preservation Act

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

California Register of Historical Resources

The California Register of Historical Resources (CRHR) is administered by the State Office of Historic Preservation and encourages protection of resources of architectural, historical, archeological, and cultural significance. The CRHR identifies historic resources for state and local planning purposes and affords protections under CEQA. Under Public Resources Code Section 5024.1(c), a resource may be eligible for listing in the CRHR if it meets any of the NRHP criteria.[13]

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

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

[13] California Office of Historic Preservation. "CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6." March 14, 2006.

California Native American Historical, Cultural, and Sacred Sites Act

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

Public Resources Code Sections 5097 and 5097.98

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

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

Local

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The proposed project would be subject to General Plan cultural resources policies, including the ones listed below.

Policies	Description
ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
ER-10.3	Ensure that City, state, and federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

Policies	Description
LU-13.15	Implement City, state, and federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.

4.5.1.2 *Existing Conditions*

Historical Resources

The project site is located approximately 4.5 miles south of the earliest development in the City of San José; urban development did not reach the project area until the 1960s. In 1876, the project area was part of a larger 134-acre lot owned by A.D. Biggs. By 1943, the project area and surrounding region were orchards, with four buildings located next to the Guadalupe River and adjacent to the southern part of the project site. In the 1950s and 1960s, two of the four buildings were demolished.

Properties north, south, and west of the project site were rapidly urbanized during the 1960s with orchards remaining to the east of the site. By the 1970s, the orchards become scarcer and buildings appeared adjacent to the project site to the north and east. The project site remained undeveloped until 1980 when the current office development was built. The on-site building and buildings adjacent to the project site are less than 50 years old.[14] The project site is not designated as a historic resource in the NRHP, CRHP, or City Inventory.[15]

Archaeological Resources

No archaeological resources are known within the project area, though a scatter of prehistoric artifacts was discovered across the Guadalupe River to the east in 1987.[16] The project site was previously studied in 1978 prior to the construction of the existing office building. The sidewalk adjacent to the project site was also studied as part of the Almaden Expressway Commuter Lane Project in 1988. Neither study identified cultural resources. An additional 12 studies have examined properties within 1/8 mile of the project site.

Archaeological sites are generally found in the places most suitable for human activity. Places that are relatively flat, with easy access to fresh water, and are covered with Holocene-era soils are more likely to contain archaeological deposits. The project site is flat, located approximately 600 feet from the Guadalupe River, and covered with Holocene-era soils. In addition, a scatter of prehistoric artifacts is located on the east side of the Guadalupe River, east of the project site. For these reasons, the project site has a moderate sensitivity for buried prehistoric archeological resources. There is a low sensitivity for historic-era buried archaeological resources because no previous residential, industrial, or commercial activities are known on-site.

[14] Archaeological/Historical Consultants. *Cultural Resources Inventory Report 3315 Almaden Expressway, San José, CA.* April 2020. Page 6.
[15] National Register of Historic Places. National Register Database and Research. Accessed September 10,2020. https://www.nps.gov/subjects/nationalregister/database-research.htm#table
[16] Archaeological/Historical Consultants. *Cultural Resources Inventory Report 3315 Almaden Expressway, San José, CA.* April 2020. Page 1.

4.5.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?	☐	☐	☐	☒
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?	☐	☐	☒	☐
c) Disturb any human remains, including those interred outside of dedicated cemeteries?	☐	☐	☒	☐

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

As discussed in Section 4.5.1.2 Existing Conditions, the building on-site and buildings adjacent to the project site are less than 50 years old. The project site is not designated as a historic resources in the NRHP, CRHP, or City Inventory. For these reasons, redevelopment of the project site would not significantly impact historical resources. **(No Impact)**

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

As discussed above in Section 4.5.1.2 Existing Conditions, the project site has a moderate potential for prehistoric archaeological resources. The proposed project would require excavation to a maximum depth of approximately five feet and construction activities could encounter archaeological resources (if on-site).

In accordance with General Plan Policy ER-10.3, the project is required to comply with the City's standard permit conditions below.

Standard Permit Condition:

- 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 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 the Director of PBCE or the Director's designee, the City of San José Historic Preservation Officer, and the Northwest Information Center (if applicable). Project personnel should not collect or move any cultural materials.

In addition, the project shall implement the following condition of approval to further reduce the project's less than significant impact to buried archaeological resources.

Condition of Approval:

- To the greatest extent possible, soil excavation shall be minimized during project construction. Prior to excavation activities, a qualified archaeologist shall provide construction crews with a cultural resources training. The training shall describe the types of soils and/or artifacts that indicate the presence of an archaeological site and the measures to be taken in the event of accidental discovery, answer questions that the project applicant, general contractor, or crews may have, and touch on contractors' and subcontractors' legal responsibilities in the event that archaeological resources are found.

With implementation of the City's standard permit condition and the above condition of approval, the proposed project would result in a less than significant impact to unknown archaeological resources by minimizing soil excavation and providing cultural resources training, determining the resources on-site, stopping all work within 50 feet if a resource is encountered during construction, and following recommendations of a qualified archaeologist regarding the find. **(Less than Significant Impact)**

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

While the project site does not contain a known Native American burial site, or other interred human remains, project construction could disturb as-yet undiscovered human remains. Consistent with General Plan policy ER-10.2, the proposed project would be required to comply with the following standard permit conditions to ensure human remains would not be disturbed (if found on-site).

Standard Permit Condition:

- 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. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of PBCE or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner shall make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner shall contact the NAHC within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD shall inspect the remains and

make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the 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 the mediation by the NAHC fails to provide measures acceptable to the landowner.

With the implementation of the above standard permit condition, the project would not result in significant impacts to human remains (if encountered on-site) by complying with existing regulations, halting work in the event of a discovery, notifying appropriate parties, and treating the remains appropriately. **(Less than Significant Impact)**

4.6 ENERGY

The following discussion is based, in part, on an Air Quality and Greenhouse Gas Assessment prepared for the project by Illingworth & Rodkin, Inc. dated September 28, 2020. A copy of the assessment is included as Appendix A.

4.6.1 Environmental Setting

4.6.1.1 *Regulatory Framework*

State

Energy Star and Fuel Efficiency

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

Renewables Portfolio Standard Program

In 2002, California established its Renewables Portfolio Standard Program, with the goal of increasing the percentage of renewable energy in the state's electricity mix to 20 percent of retail sales by 2010. Governor Schwarzenegger issued Executive Order (EO) S-3-05, requiring statewide emissions reductions to 80 percent below 1990 levels by 2050. In 2008, EO S-14-08 was signed into law, requiring retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 requires retail sellers and publicly owned utilities to procure 50 percent of their electricity from renewable sources by 2030. SB 100, passed in 2018, requires 100 percent of electricity in California to be provided by 100 percent renewable and carbon-free sources by 2045.

Executive Order B-55-18 To Achieve Carbon Neutrality

In September 2018, Governor Brown issued an executive order, EO-B-55-18 To Achieve Carbon Neutrality, setting a statewide goal "to achieve carbon neutrality as soon as possible, and no later than 2045, and achieve and maintain net negative emissions thereafter." The executive order requires CARB to "ensure future Scoping Plans identify and recommend measures to achieve the carbon neutrality goal." EO-B-55-18 supplements EO S-3-05 by requiring not only emissions reductions, but also that, by no later than 2045, the remaining emissions be offset by equivalent net removals of CO_2 from the atmosphere through sequestration.

California Building Standards Code

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6 of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately

every three years.[17] Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[18]

California Green Building Standards Code

The California Green Building Standards Code (CALGreen) establishes mandatory green building standards for buildings in California. CALGreen was developed to reduce GHG emissions from buildings, promote environmentally responsible and healthier places to live and work, reduce energy and water consumption, and respond to state environmental directives. CALGreen covers five categories: planning and design, energy efficiency, water efficiency and conservation, material and resource efficiency, and indoor environmental quality.

At the local level, the City of San José sets green building standards for municipal development. All projects are required to submit a LEED[19] or GreenPoint[20] checklist with the development proposal. Private developments are required to implement green building practices if they meet the Applicable Projects criteria defined by Council Policy 6-32. A 195,840-sf senior living facility, such as the one proposed, would be required to meet a minimum green building rating of 381 points.

Advanced Clean Cars Program

CARB adopted the Advanced Clean Cars program in 2012 in coordination with the EPA and National Highway Traffic Safety Administration. The program combines the control of smog-causing pollutants and GHG emissions into a single coordinated set of requirements for vehicle model years 2015 through 2025. The program promotes development of environmentally superior passenger cars and other vehicles, as well as saving the consumer money through fuel savings.[21]

Local

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The proposed project would be subject to General Plan energy policies, including the ones listed below.

Policies	Description
MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically target reduced energy use

[17] California Building Standards Commission. "California Building Standards Code." Accessed September 10, 2020. https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo.
[18] California Energy Commission (CEC). "2019 Building Energy Efficiency Standards." Accessed September 10, 2020. https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2019-building-energy-efficiency.
[19] Created by the non-profit organization United States Green Building Council, LEED is a certification system that assigns points for green building measures based on a 110-point rating scale.
[20] Created by the California based non-profit organization Build It Green, GreenPoint is a certification system for residential development that assigns points for green building measures based on a 381-point rating scale for multi-family development and 341-point rating scale for single-family developments.
[21] California Air Resources Board. "The Advanced Clean Cars Program." Accessed September 10, 2020. https://www.arb.ca.gov/msprog/acc/acc.htm.

Policies	Description
	through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).
MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation or other area functions.
MS-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, and passive solar building design and planting of trees and other landscape materials to reduce energy consumption.
MS-14.5	Consistent with state and federal policies and best practices, require energy efficiency audits and retrofits prior to or at the same time as consideration of solar electric improvements.
MS-19.1	Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a fiscally and environmentally sustainable local water supply.
TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

Climate Smart San José

Climate Smart San José is a plan to reduce air pollution, save water, and create a stronger and healthier community. The City approved goals and milestones in February 2018 to ensure the City can substantially reduce GHG emissions through reaching the following goals and milestones:

- All new residential buildings will be Zero Net Carbon Emissions (ZNE) by 2020 and all new commercial buildings will be ZNE by 2030 (Note that ZNE buildings would be all electric with a carbon-free electricity source).
- SJCE will provide 100-percent carbon-free base power by 2021.
- One gigawatt of solar power will be installed in San José by 2040.
- 61 percent of passenger vehicles will be powered by electricity by 2030.

Sustainable City Strategy

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

City of San José Reach Building Code

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

4.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 7,967 trillion British thermal units (Btu) in the year 2018, the most recent year for which this data is available. Out of the 50 states, California is ranked second in total energy consumption and 48th in energy consumption per capita. The breakdown by sector was approximately 18 percent (1,439 trillion Btu) for residential uses, 19 percent (1,509 trillion Btu) for commercial uses, 24 percent (1,848 trillion Btu) for industrial uses, and 40 percent (3,170 trillion Btu) for transportation.[22] This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, hydroelectric power, and biomass.

Electricity

Electricity in Santa Clara County in 2018 was consumed primarily by the commercial sector (77 percent), followed by the residential sector at 23 percent. In 2018, a total of approximately 16,668 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[23]

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

[22] U.S. Energy Information Administration (EIA). *State Profile and Energy Estimates, 2018.* Accessed: August 6, 2020. Available at: https://www.eia.gov/state/?sid=CA#tabs-1

[23] California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed September 10, 2020. http://ecdms.energy.ca.gov/elecbycounty.aspx.

Natural Gas

PG&E provides natural gas services within the City of San José. In 2018, approximately one percent of California's natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada.[24] In 2018, residential and commercial customers in California used 34 percent of the state's natural gas, power plants used 35 percent, the industrial sector used 21 percent, and other uses used 10 percent. Transportation accounted for one percent of natural gas use in California. In 2018, Santa Clara County used approximately 3.5 percent of the state's total consumption of natural gas.[25]

Fuel for Motor Vehicles

In 2018, 15.5 billion gallons of gasoline were sold in California.[26] The average fuel economy for light-duty vehicles (autos, pickups, vans, and sport utility vehicles) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 24.9 mpg in 2018.[27] Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was subsequently revised to apply to cars and light trucks model years 2011 through 2020. [28,29]

Energy Use of the Existing Building

The project site is currently occupied by a multi-tenant office building. Energy (in the form of electricity and natural gas) is used by this building primarily for heating and cooling, lighting, and water heating. Vehicle fuel is used by employees and customers traveling to and from the site. The existing office building on the project site uses approximately 771,420 kilo-British thermal units[30] (kBtu) of natural gas per year and 840,221 kilowatt-hours[31] (kWh) of electricity per year.[32]

[24] California Gas and Electric Utilities. 2019 *California Gas Report.* Accessed September 10, 2020. https://www.socalgas.com/regulatory/documents/cgr/2019_CGR_Supplement_7-1-19.pdf.
[25] California Energy Commission. "Natural Gas Consumption by County." Accessed September 10, 2020. http://ecdms.energy.ca.gov/gasbycounty.aspx.
[26] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed September 10, 2020. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.
[27] United States Environmental Protection Agency. "The 2018 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." March 2019.
[28] United States Department of Energy. *Energy Independence & Security Act of 2007.* Accessed September 10, 2020. http://www.afdc.energy.gov/laws/eisa.
[29] Public Law 110–140—December 19, 2007. *Energy Independence & Security Act of 2007.* Accessed September 10, 2020. http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf.
[30] The British thermal unit is a unit of heat; it is defined as the amount of heat required to raise the temperature of one pound of water by one degree Fahrenheit.
[31] The kilowatt-hour is a unit of energy equal to 3600 kilojoules.
[32] Illingworth & Rodkin, Inc. *San José Senior Living Air Quality and Greenhouse Gas Emission Assessment, Attachment 2 – CalEEMod Input Assumptions and Outputs*. September 28, 2020.

4.6.2 Impact Discussion

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

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

Energy would be consumed during the construction and operational phases of the proposed project. The construction phase would require energy for the manufacture and transportation of building materials, preparation of the site for grading, and the actual construction of the buildings. Petroleum-based fuels such as diesel fuel and gasoline would be the primary sources of energy for these tasks. Implementation of the proposed development would consume energy (in the form of electricity and natural gas) during operation, primarily from building heating and cooling, lighting, and water heating, as well as gasoline for vehicle trips to and from the site.

Energy Efficiency During Construction

The anticipated construction schedule assumes that the project would be built over a period of approximately 18 months. The project would require site preparation, grading, trenching, building construction, paving, and finishing of the building interior. The overall construction schedule and process is already designed to be efficient in order to avoid excess monetary costs. That is, equipment and fuel would not be used wastefully on the site because of the added expense associated with renting the equipment, maintaining it, and fueling it. Therefore, the opportunities for future efficiency gains during construction are limited. Similarly, energy would not be wasted or used inefficiently by construction equipment as the proposed project would include several measures that would improve the efficiency of the construction process (MM AIR-1.1). Implementation of the City's standard permit conditions detailed in Section 4.3 Air Quality would restrict equipment idling times to five minutes or less and would require the applicant to post signs on the project site reminding workers to shut off idling equipment. For these reasons, the construction of the project would not use energy in a wasteful manner. **(Less than Significant Impact)**

Energy Use During Project Operation

Electricity and Natural Gas Use

The proposed assisted living facility (including the parking lot) would use approximately 824,482 kWh of electricity per year and would not use any natural gas.[33] The project would use less energy than the existing office building and would operate in accordance with the current CALGreen requirements and Title 24 energy efficiency standards, which would improve the efficiency of the project. Additionally, the project would implement the following energy efficient measures from the GreenPoint checklist:

- Plants grouped by water needs (hydrozoning)
- Resource efficient landscapes – no invasive species, plants chosen and located to grow to the natural size, drought tolerant, native, Mediterranean species, or other appropriate species
- High-efficiency irrigation system – low-flow drip, bubblers, or sprinklers
- Efficient distribution of domestic hot water – insulated hot water pipes
- Water-efficient plumbing fixtures
- Lighting efficiency – high-efficacy lighting

Based on the above discussion, the assisted living facility and parking lot would not result in wasteful, inefficient, or unnecessary consumption of energy resources during project operation. **(Less than Significant Impact)**

Gasoline Fuel Use

The estimated daily VMT per employee for the project would be 12.03 with implementation of mitigation measure MM TR-2.1 (see Section 4.17 Transportation). It is assumed that residents of the assisted living facility would not generate a significant daily VMT per capita and thus would not use a significant amount of vehicle fuel. Using the EPA fuel economy estimate (22.0 mpg), the proposed project would result in consumption of approximately 18,362 gallons of gasoline per year.[34] However, as discussed in Section 4.17.3, the project would result in fewer trips than the existing office building. Thus, the project would be expected to result in a net decrease of vehicle fuel used per year compared to existing conditions.

Additionally, new automobiles used by employees of the proposed project would be subject to fuel economy and efficiency standards applied throughout the State of California, which means that over time the fuel efficiency of vehicles associated with the project site would improve. Implementation of the project would not result in a substantial increase of transportation-related energy use. **(Less than Significant Impact)**

[33] Ibid.
[34] 12.03 VMT daily per employee x 92 employees x 365 days/year / 22.0 mpg = 18,362 gallons of gasoline per year

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

The project would consume energy for multiple purposes including, but not limited to, building heating and cooling, lighting, appliances, and electronics. Energy would also be consumed during vehicle trips generated by future employees. The proposed project would comply with the requirements of the California Building Energy Efficiency Standards. Additionally, in compliance with the San José Reach Code, the project is required to meet higher efficiency standards because it is a mixed fuel development.

. Although the project would increase the project site's energy use, the proposed development would be completed in compliance with the current energy efficiency standards set forth in Title 24, CALGreen, and the City's Municipal Code. In addition, electricity for the proposed project would be provided by SJCE and the project proposes to enroll in SJCE's TotalGreen program (which provides electricity from 100 percent carbon-free sources). Therefore, the project would comply with state and local plans for energy efficiency. **(Less than Significant Impact)**

4.7 GEOLOGY AND SOILS

The discussion in this section is based in part on the Geotechnical Engineering Investigation prepared by Krazan & Associates, Inc. dated February 10, 2020. This report is included in this Initial Study as Appendix C.

4.7.1 Environmental Setting

4.7.1.1 *Regulatory Framework*

State

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act was passed following the 1971 San Fernando earthquake. The act regulates development in California near known active faults due to hazards associated with surface fault ruptures. Alquist-Priolo maps are distributed to affected cities, counties, and state agencies for their use in planning and controlling new construction. Areas within an Alquist-Priolo Earthquake Fault Zone require special studies to evaluate the potential for surface rupture to ensure that no structures intended for human occupancy are constructed across an active fault.

Seismic Hazards Mapping Act

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

California Building Standards Code

The CBC prescribes standards for constructing safe buildings. The CBC contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, ground strength, and distance to seismic sources. The CBC requires that a site-specific geotechnical investigation report be prepared for most development projects to evaluate seismic and geologic conditions such as surface fault ruptures, ground shaking, liquefaction, differential settlement, lateral spreading, expansive soils, and slope stability. The CBC is updated every three years.

California Division of Occupational Safety and Health Regulations

Excavation, shoring, and trenching activities during construction are subject to occupational safety standards for stabilization by the California Department of Industrial Relations, Division of Occupational Safety and Health (Cal/OSHA) under Title 8 of the California Code of Regulations and Excavation Rules. These regulations minimize the potential for instability and collapse that could injure construction workers on the site.

Public Resources Code Section 5097.5

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

Local

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The proposed project would be subject to General Plan geology policies, including the ones listed below.

Policies	Description
EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.
EC-4.2	Approve 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.
EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 15 and April 15.
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.

Policies	Description
EC-4.12	Require review and approval of grading plans and erosion control plans (if applicable) prior to issuance of grading permits by the Director of Public Works.
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.
ES-4.9	Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

City of San José Municipal Code

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

4.7.1.2 *Existing Conditions*

Regional and Site Geology

The site is located within the Santa Clara Valley, a broad plain with alluvial soils extending several hundred feet below ground surface. The Santa Clara Valley consists of a large structural basin containing alluvial deposits derived from the Diablo Range to the east and the Santa Cruz Mountains to the west. The valley sediments were deposited as a series of coalescing alluvial fans by streams that drain the adjacent mountains.

The near-surface deposits in the vicinity of the project site are comprised of Holocene[35] alluvial fan deposits and alluvial fan levee deposits consisting of sands, silts, and clays derived from erosion of local mountain ranges.

During preparation of the Geotechnical Engineering Investigation, subsurface borings were drilled to depths ranging from 20 to 50 feet below the existing site grade (see Appendix C). Portions of the site are covered by asphalt pavement. Within areas not covered by pavement, the upper soils consist of approximately six to 12 inches of clayey sand.

Beneath the pavement section and loose surface soils, approximately 1.0 to 3.5 feet of sand and clay fill material were encountered, underlain by approximately 2.0 to 3.5 feet of clayey sand. Below four

[35] Holocene sediments were deposited during the present epoch (up to 11,700 years ago).

to six feet, layers of clayey sand, sandy silt, silty sand, silty clay, and sandy clay were encountered. On-site soils were determined to have moderate expansion potential.[36]

Groundwater was encountered at 24 feet below grade. Historic high groundwater was estimated to be 10 feet based on information obtained from the CGS. Water table elevations may fluctuate with time, being dependent upon seasonal precipitation, irrigation, land use and climatic conditions, as well as other factors.

Seismicity and Seismic-Related Hazards

The San Francisco Bay Area is classified as the most seismically active region in the United States. The nearest faults to the project site are summarized in Table 4.7-1. Although the site is proximate to several faults, the project site is not within an Alquist-Priolo Fault-Rupture Hazard Zone.[37] Given the site's proximity to active faults, the project site is subject to very strong ground shaking from major earthquakes.

Table 4.7-1: Nearby Faults

Fault	Approximate Distance from the Project Site
Monte Vista-Shannon	4 miles west
San Andreas	10 miles west
Calaveras	10 miles east
Hayward	13 miles north
Zayante-Vergeles	14 miles south
Mount Diablo	32 miles north
San Gregorio	33 miles west

Liquefaction, Landslides, and Lateral Spreading

Liquefaction occurs during seismic ground shaking when saturated soil experiences increased pore water pressure and loses its cohesion, transforming previously solid ground to a near-liquid state. Land deformation may result, as well as ground settlement. The project site is not located within a liquefaction hazard zone.[38] Analysis of on-site soil samples determined that soils above a depth of 10 feet are non-liquefiable due to the absence of groundwater. Some of the soils below a depth of 19 feet have a slight to moderate potential for liquefaction.[39]

The site is not located within a zone associated with landslide potential.[40] The project site is on relatively flat ground and, therefore, the risk of seismically-induced landsliding is low.

[36] Krazan & Associates, Inc. *Geotechnical Engineering Investigation Proposed San José Senior Living 3315 Almaden Expressway, San José, California.* February 10, 2020. Page 7.
[37] Ibid. Page 4.
[38] Ibid. Page 4.
[39] Ibid. Page 6.
[40] Ibid. Page 4.

Lateral spreading is lateral ground movement of relatively flat-lying soil deposits towards a free face such as an excavation, channel, or open body of water. There are no free faces on or adjacent to the project site; therefore, there is no potential for lateral spreading on-site. The nearest free face, the Guadalupe River, is approximately 255 feet east of the project site.

Paleontological Resources

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

4.7.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
- Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42)?	☐	☐	☒	☐
- Strong seismic ground shaking?	☐	☐	☒	☐
- Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
- Landslides?	☐	☐	☒	☐
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	☐	☐	☒	☐
d) Be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?	☐	☐	☒	☐
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒

[41] City of San José. *Envision San José 2040 General Plan Final Environmental Impact Report.* 2010. Page 693.

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

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

Fault Rupture

As discussed above, the project site is not located within an Alquist-Priolo Earthquake Fault Zone. There are no known faults that cross the site. Therefore, the potential for fault rupture to occur at the site is low. **(Less than Significant Impact)**

Seismic Ground Shaking

The project site is located within the seismically active San Francisco Bay Area. As discussed above in Section 4.7.1.2 Existing Conditions, there are seven major faults located near the project site, including the San Andreas and Hayward faults. The project site would experience intense ground shaking in the event of a large earthquake.

In accordance with the General Plan and Municipal Code, and to avoid or minimize potential damage from seismic shaking, the proposed development would be built using standard engineering and seismic safety design techniques. The following standard permit condition shall be implemented to ensure the proposed development is designed to address seismic hazards.

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 (including liquefiable and expansive soils) and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.

With implementation of the above standard permit condition, which requires completion of a site-specific geotechnical report and implementation of its recommendations to properly design and construct the project to avoid and minimize seismic and seismic-related impacts, the proposed project would not expose people or structures to substantial adverse effects due to ground shaking. The project, therefore, would not exacerbate existing geological hazards on the project site such that it would impact (or worsen) off-site geological and soil conditions. **(Less than Significant Impact)**

Liquefaction

As discussed above in Section 4.7.1.2 Existing Conditions, while the project site is not located within a liquefaction hazard zone, some on-site soils below a depth of 19 feet have a slight to moderate potential for liquefaction. With implementation of the above standard permit condition, the proposed project would not expose people or structures to substantial adverse effects due to liquefaction by completing a site-specific geotechnical report and implementing the recommendations in the report for proper construction and design of the project to reduce seismic and seismic-related hazards (including liquefaction). **(Less than Significant Impact)**

Landslides

The project site is outside of the zones associated with landslide potential and site topography is relatively flat. In addition, there are no hillsides or areas of substantial differential elevation nearby. For these reasons, the risk of landslide on-site is low. **(Less than Significant Impact)**

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

Construction of the proposed project would disturb the ground and expose soils, thereby increasing the potential for wind- or water-related erosion and sedimentation at the site until the completion of construction. The City's National Pollutant Discharge Elimination System (NPDES) General Permit, urban runoff policies, and the Municipal Code (which are discussed in more detail in Section 4.10.2 Hydrology and Water Quality) require implementation of erosion control measures to prevent significant impacts from soil erosion, which typically occur during the rainy season. The General Plan Final Environmental Impact Report (General Plan EIR) concluded that with the regulatory programs currently in place, the possible impacts of accelerated erosion during construction would be less than significant.[42] The City requires all phases of development projects to comply with all applicable City regulatory programs pertaining to construction related erosion, including the below standard permit conditions.

Standard Permit Conditions:

- All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- Ditches shall be installed, if necessary, to divert runoff around excavations and graded areas.

[42] City of San José. *Envision San José 2040 General Plan Final Environmental Impact Report.* 2010. Page 515.

With implementation of the above standard permit conditions (which would prevent construction related erosion), and compliance with applicable regulations and City policies, the proposed project would not result in significant erosion impacts. **(Less than Significant Impact)**

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

Fill

Testing was performed on the fill soils and the results indicate that the fill material has varying strength characteristics ranging from loosely placed to compacted. Fill soils that have not been properly compacted may settle and cause distress to new structures or other improvements. As part of the site-specific geotechnical report for the project required as a standard permit condition under checklist question a), recommendations to remove or stabilize the fill on-site shall be implemented. **(Less than Significant Impact)**

Landslide, Lateral Spreading, and Liquefaction

As discussed in Section 4.7.1.2 Existing Conditions, the potential for landslide and lateral spreading on-site is low. The project site would be required to adhere to the recommendations set forth in the design-level geotechnical investigation for building design, engineering techniques, and general hazard avoidance related to on-site geologic conditions including liquefaction. **(Less than Significant Impact)**

Subsidence and Collapse

Portions of California, such as the San Joaquin Valley, have been subject to land subsidence due to fluid withdrawal (groundwater and petroleum). However, the project site area is not known to be subject to such subsidence hazards. Groundwater was encountered during site investigation at 24 feet below grade. Lowering of groundwater would not be required for project construction or operation; therefore, subsidence or collapse associated with dewatering or fluid removal is not expected to be a geologic hazard at the site.[43] **(Less than Significant Impact)**

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

As discussed in Section 4.7.1.2 Existing Conditions, the on-site soils have a moderate expansion potential. By constructing the project in accordance with standard building and engineering practices, the proposed project would not result in a significant impact as a result of expansive soils underlying the site.

[43] Jarosz, Dave. Managing Engineer at Krazan & Associates, Inc. Personal communications. May 10, 2020.

Standard Permit Condition:

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

With the implementation of the above standard permit condition, the project would be designed and constructed to minimize hazards due to expansive soils and the soil conditions on-site would not be exacerbated by the project such that it would impact (or worsen) on- or off-site conditions. **(Less than Significant Impact)**

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

The proposed project would connect to the existing sewer system; therefore, the project would not require septic tanks or alternative wastewater disposal systems. **(No Impact)**

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

The project site is located in an area of high paleontological sensitivity at depth. The project site has been previously disturbed during construction of the existing building and surface parking lot and no paleontological resources were found on-site. Construction of the project would require excavation to a maximum depth of approximately five feet below grade and could impact paleontological resources, if present on-site.

The General Plan EIR recognized that while development allowed under the General Plan could directly impact paleontological resources, implementation of General Plan policies and existing regulations and programs would reduce potential impacts to a less than significant level.[44] As such, the following standard permit condition would be applied to the proposed project to reduce and avoid impacts to unidentified paleontological resources.

[44] City of San José. *EIR for the Envision San José 2040 General Plan*. *(SCH# 2009072096)* June 2011. Page 707.

Standard Permit Condition:

- If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, the Director of PBCE or the Director's designee shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of PBCE or the Director's designee.

With implementation of the above standard permit condition, potential impacts to paleontological resources would be reduced to a less than significant level by stopping all work if fossils are discovered during construction and a professional paleontologist shall recommend appropriate treatment. **(Less than Significant Impact)**

4.8 GREENHOUSE GAS EMISSIONS

The following discussion is based, in part, on an Air Quality and Greenhouse Gas Assessment prepared for the project by Illingworth & Rodkin, Inc. dated September 28, 2020. A copy of the assessment is included as Appendix A. A copy of the Greenhouse Gas Reduction Strategy checklist completed by the applicant is also included in Appendix A.

4.8.1 Environmental Setting

4.8.1.1 *Background Information*

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

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

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

4.8.1.2 *Regulatory Framework*

State

Assembly Bill 32

Under the California Global Warming Solutions Act, also known as Assembly Bill (AB) 32, CARB established a statewide GHG emissions cap for 2020, adopted mandatory reporting rules for significant sources of GHGs, and adopted a comprehensive plan, known as the Climate Change Scoping Plan, identifying how emission reductions would be achieved from significant GHG sources.

In 2016, Senate Bill (SB) 32 was signed into law, amending the California Global Warming Solution Act. SB 32, and accompanying Executive Order B-30-15, require CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its Climate Change Scoping Plan in December of 2017 to express the 2030 statewide target in terms of million metric tons of CO_2e ($MMTCO_2e$). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 $MMTCO_2e$.

Senate Bill 375

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

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

Regional and Local

2017 Clean Air Plan

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

CEQA Air Quality Guidelines

The BAAQMD CEQA Air Quality Guidelines are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. The jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing GHG impacts developed by BAAQMD within the CEQA Air Quality Guidelines. The

guidelines include information on legal requirements, BAAQMD rules, methods of analyzing impacts, and recommended mitigation measures. Pursuant to the BAAQMD CEQA Air Quality Guidelines, a project in compliance with a qualified GHG reduction strategy is considered to have a less than significance GHG impact.[45]

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The proposed project would be subject to General Plan GHG emission policies, including the ones listed below.

Policies	Description
MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as state and/or regional policies which require that projects incorporate various green building principles into their design and construction.
MS-1.2	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.
MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
MS-2.11	Require new development to incorporate green building policies, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize effectiveness of passive solar design.).
MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
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.
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.
CD-3.8	Provide direct access from developments to adjacent parks or open spaces and encourage residential development to provide common open space contiguous to such areas.

[45] Bay Area Air Quality Management District. *California Environmental Quality Act Air Quality Guidelines*. May 2017. Page D-24.

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)
- CDD Deposit Program (Chapter 9.10)
- Wood Burning Ordinance (Chapter 9.10)

City of San José 2030 Greenhouse Gas Reduction Strategy

The 2030 Greenhouse Gas Reduction Strategy (GHGRS) is the latest update to the City's GHGRS and is designed to meet statewide GHG reduction targets for 2030 set by Senate Bill 32. As a qualified Climate Action Plan, the 2030 GHGRS allows for tiering and streamlining of GHG analyses under CEQA. The GHGRS identifies General Plan policies and strategies to be implemented by development projects in the areas of green building/energy use, multimodal transportation, water conservation, and solid waste reduction. Projects that comply with the policies and strategies outlined in the 2030 GHGRS, would have less than significant GHG impacts under CEQA.

City of San José Reach Building Code

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

Climate Smart San José

Climate Smart San José is a plan to reduce air pollution, save water, and create a stronger and healthier community. The City approved goals and milestones in February 2018 to ensure the City can substantially reduce GHG emissions through reaching the following goals and milestones:

- All new residential buildings will be ZNE by 2020 and all new commercial buildings will be ZNE by 2030 (Note that ZNE buildings would be all electric with a carbon-free electricity source).
- SJCE will provide 100-percent carbon-free base power by 2021.
- One gigawatt of solar power will be installed in San José by 2040.
- 61 percent of passenger vehicles will be powered by electricity by 2030.

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

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

4.8.1.3 *Existing Conditions*

Unlike emissions of criteria and toxic air pollutants, which have regional and local impacts, emissions of GHGs have a broader, global impact. Global warming is a process whereby GHGs accumulating in the upper atmosphere contribute to an increase in the temperature of the earth and changes in weather patterns.

The project site is currently developed and used as a single-story, multi-tenant office building and surface parking lot. GHGs generated by the site are primarily associated with the vehicles traveling to and from the site.

4.8.2 Impact Discussion

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

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

GHG emissions associated with 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.

Pursuant to CEQA Guidelines Sections 15064(h)(3), 15130(d), and 15183(b), as well as the BAAQMD CEQA Guidelines, a project's incremental contribution to a cumulative GHG emissions effect may be determined not to be cumulatively considerable if it complies with the requirements of the GHGRS. As discussed under checklist question b) below, the project is consistent with the GHGRS. For this reason, the project would not generate significant GHG emissions. **(Less than Significant Impact)**

The GHGRS was adopted after a project-level GHG analysis was prepared for the project, therefore, calculations of the project's GHG emissions provided below are included for informational purposes. GHG emissions associated with construction were computed to be 714 metric tons (MT) of CO_2e for the construction period. As shown in Table 4.8-1, the net annual emissions (452 MT of CO_2e in 2024 and 414 MT of CO_2e in 2030) and service population emissions (1.4 and 1.3 MT/CO_2e/year/service population in 2024 and 2030, respectively) resulting from operation of the proposed project are would not exceed the 660 MT CO_2e/year bright-line threshold in 2024 or in 2030 and it would not exceed the per capita threshold of 2.6 MT of CO_2e/year/service population in 2024 or in 2030. Thus, further demonstrating that the project would not contribute to significant GHG emissions. Refer to Appendix A for details regarding the project GHG emissions methodology, modeling, data inputs, and thresholds.

Table 4.8-1: Annual Project GHG Emissions (CO_2e) in Metric Tons

Source Category	Existing Land Uses		Proposed Project	
	2024	**2030**	**2024**	**2030**
Area	<0	<0	2	2
Energy Consumption	122	122	0	0
Mobile	256	227	343	305
Solid Waste Generation	22	22	89	89
Water Usage	11	11	17	17
Total	411	383	452	414
Net Emissions (existing – project)			42	31
Bright-Line Significance Threshold			***660 MT CO_2e/year***	
Service Population Emissions (MT CO2e/year/service population)			1.4	1.3
Per Capita Significance Threshold			***2.6 MT of CO2e/year/service population in 2030***	
Exceed both thresholds?			*No*	*No*

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

CARB Scoping Plan and 2017 Clean Air Plan

As discussed above in checklist question a) and in Section 4.3 Air Quality checklist question b), the proposed project would not conflict with the CARB Scoping Plan or the 2017 CAP because it would emit less than significant GHG emissions and air pollutants below BAAQMD CEQA Air Quality Guidelines significance thresholds. **(Less than Significant Impact)**

General Plan Policies and Greenhouse Gas Reduction Strategy

The project is consistent with the applicable General Plan policies identified in Section 4.8.1.2 Regulatory Framework by:

- Complying with the City's Private Sector Green Building Policy;
- Complying with applicable energy efficiency regulations, including CALGreen and the Reach Building Code (refer to Section 4.6 Energy);
- Incorporating green building measures, including planting resource-efficient landscaping and installing water efficient plumbing (refer to Section 3.0 Project Description);
- Providing accessible areas for recycling and a space for organic waste collection containers on-site;
- Planting new trees on-site;
- Including pedestrian friendly amenities (walkways, landscaping) on-site; and
- Implementing transportation demand management (TDM) measure (as required by mitigation measure MM TR-2.1 in Section 4.17 Transportation).

The project applicant completed the City's GHGRS Compliance Checklist to demonstrate the project's conformance with the GHGRS. A copy of this checklist is included in Appendix A. The project is consistent with the GHGRS by:

- Constructing the project in accordance with the current building code and reach code;
- Committing to participate in SJCE at the TotalGreen level (i.e., 100 percent carbon-free electricity);
- Providing space for organic waste collection containers on-site;
- Implementing transportation demand management (TDM) measure (as required by mitigation measure MM TR-2.1 in Section 4.17 Transportation); and
- Installing high-efficiency appliances/fixtures to reduce water use and planting low-water, pest-resistant landscaping.

As summarized above and detailed in Appendix A, the project is consistent with the applicable General Plan policies pertaining to GHG and the City's GHGRS. **(Less than Significant Impact with Mitigation Incorporated)**

Climate Smart San José

Climate Smart San José has been adopted by the City with the purpose of creating a more sustainable, connected, and economically inclusive City. Climate Smart San José is aligned with General Plan growth patterns and General Plan policies which prioritize automobile-alternative transportation modes, encourage denser development, and ensure energy-efficient features are included in new buildings.

As discussed in Section 4.6 Energy, the project would be subject to the City's Green Building Policy, which requires new development to incorporate energy conservation and efficiency through site design, architectural design, and construction techniques. For this reason, the project is consistent with the City's climate action goals as set forth in Climate Smart San José. **(Less than Significant Impact)**

Reach Code

The Reach Code applies to new construction projects in San José. As discussed in Section 4.6 Energy, the project would be subject to the Reach Code and be required to meet higher efficiency standards because it is a mixed fuel development. The proposed project would comply with the Reach Code by meeting the energy efficiency standards set forth in Title 24, CALGreen, and the California Building Energy Efficiency Standards. Electricity for the proposed project would be provided by SJCE and the project proposes to enroll in SJCE's TotalGreen program, which provides electricity from 100 percent carbon-free sources. For these reasons, the project is consistent with the City's goals as set forth in the Reach Code. **(Less than Significant Impact)**

4.9 HAZARDS AND HAZARDOUS MATERIALS

The discussion in this section is based in part on the Phase I and Phase II Environmental Site Assessments (ESAs) prepared by FirstCarbon Solutions in July 2018 and September 2018, respectively, as well as a second limited Phase II report prepared by FirstCarbon Solutions in June 2020 and Updated Summary Report prepared in November 2020. These reports are included in this Initial Study as Appendix D.

4.9.1 Environmental Setting

4.9.1.1 *Regulatory Framework*

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and state laws. In California, the EPA has granted most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (CalEPA). In turn, local agencies have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program.

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

Federal and State

Federal Aviation Regulations Part 77

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

Comprehensive Environmental Response, Compensation, and Liability Act

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted by Congress on December 11, 1980. 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. Over five years, $1.6 billion was collected and the tax went to a trust fund for cleaning up abandoned or uncontrolled hazardous waste sites. CERCLA accomplished the following objectives:

- 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.

The law authorizes two kinds of response actions:

- Short-term removals, where actions may be taken to address releases or threatened releases requiring prompt response; and
- Long-term remedial response actions that permanently and significantly reduce the dangers associated with releases or threats of releases of hazardous substances that are serious, but not immediately life-threatening. These actions can be completed only at sites listed on the EPA's National Priorities List.

CERCLA also enabled the revision of the National Contingency Plan (NCP). The NCP provided the guidelines and procedures needed to respond to releases and threatened releases of hazardous substances, pollutants, or contaminants. The NCP also established the National Priorities List. CERCLA was amended by the Superfund Amendments and Reauthorization Act on October 17, 1986.[46]

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA), enacted in 1976, is the principal federal law in the United States governing the disposal of solid waste and hazardous waste. RCRA gives the EPA the authority to control hazardous waste from the "cradle to the grave." This includes the generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA also sets forth a framework for the management of non-hazardous solid wastes.

The Federal Hazardous and Solid Waste Amendments (HSWA) are the 1984 amendments to RCRA that focused on waste minimization, phasing out land disposal of hazardous waste, and corrective action for releases. Some of the other mandates of this law include increased enforcement authority

[46] United States Environmental Protection Agency. "Superfund: CERCLA Overview." Accessed May 11, 2020. https://www.epa.gov/superfund/superfund-cercla-overview.

for the EPA, more stringent hazardous waste management standards, and a comprehensive underground storage tank program.[47]

Government Code Section 65962.5

Section 65962.5 of the Government Code requires CalEPA to develop and update a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by state and local agencies and developers to comply with CEQA requirements. The Cortese List includes hazardous substance release sites identified by the Department of Toxic Substances Control (DTSC) and State Water Resources Control Board (SWRCB).[48]

Toxic Substances Control Act

The Toxic Substances Control Act (TSCA) of 1976 provides the EPA with authority to require reporting, record-keeping and testing requirements, and restrictions relating to chemical substances and/or mixtures. Certain substances are generally excluded from TSCA, including, among others, food, drugs, cosmetics, and pesticides. The TSCA addresses the production, importation, use, and disposal of specific chemicals including polychlorinated biphenyls (PCBs), asbestos, radon, and lead-based paint.

California Accidental Release Prevention Program

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

Asbestos-Containing Materials

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

[47] United States Environmental Protection Agency. "Summary of the Resource Conservation and Recovery Act." Accessed May 11, 2020. https://www.epa.gov/laws-regulations/summary-resource-conservation-and-recovery-act.
[48] CalEPA. "Cortese List Data Resources." Accessed March 3, 2020. https://calepa.ca.gov/sitecleanup/corteselist/

California Code of Regulations Title 8, Section 1532.1

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

Regional and Local

Municipal Regional Permit Provision C.12.f

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

With the adoption of the San Francisco Bay Region Municipal Regional Stormwater NPDES Permit (MRP) by the San Francisco Bay Regional Water Quality Control Board on November 19, 2015, Provision C.12.f requires that permittees develop an assessment methodology for applicable structures planned for demolition to ensure PCBs do not enter municipal storm drain systems.[49] Municipalities throughout the Bay Area are currently modifying demolition permit processes and implementing PCB screening protocols to comply with Provision C.12.f. Buildings constructed between 1950 and 1980 that are proposed for demolition must be screened for the presence of PCBs prior to the issuance of a demolition permit. Single-family homes and wood-frame structures are exempt from these requirements.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The proposed project would be subject to General Plan hazards and hazardous materials policies, including the ones listed below.

Policies	Description
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.
EC-6.8	The City will use information on file with the County of Santa Clara Department of Environmental Health under the California Accidental Release Prevention (CalARP) Program as part of accepted Risk Management Plans to determine whether new

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

Policies	Description
	residential, recreational, school, day care, church, hospital, seniors or medical facility developments could be exposed to substantial hazards from accidental release of airborne toxic materials from CalARP facilities.
EC-6.9	Adopt City guidelines for assessing possible land use compatibility and safety impacts associated with the location of sensitive uses near businesses or institutional facilities that use or store substantial quantities of hazardous materials by September 2011. The City will only approve new development with sensitive populations near sites containing hazardous materials such as toxic gases when feasible mitigation is included in the projects.
EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.
EC-7.4	On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-paint and asbestos-containing materials, shall be implemented in accordance with state and federal laws and regulations.
EC-7.5	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.
EC-7.8	Where an environmental review process identified the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazardous materials found in the soil, groundwater, soil vapor, or in existing structures.
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.
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.

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

4.9.1.2 *Existing Conditions*

Database Search

On-Site Contamination

Hazardous Waste Generation

As a part of the Phase I ESA completed for the project site in July 2018, a review of federal, state, and local regulatory agency databases was completed, as well as a site visit, to evaluate the likelihood of contamination incidents at and near the project site. The site was identified on the HAZNET database. The HAZNET database contains information about types and quantities of wastes that are generated at a site. According to the database, minimal amounts (0.03 tons) of "laboratory waste chemicals" were reported as generated on the site and disposed of in the year 2009. This was the most recent year that hazardous waste was disposed of on the project site. The project site was not cross-referenced on any additional regulatory databases including those indicative of releases, spills, or contamination conditions. As no current or pending violations were noted, this HAZNET listing is not considered a significant concern.

Historic Agricultural Use

As described in Section 4.5 Cultural Resources, the project site was previously developed with and surrounding by orchards from the 1940s to the 1960s. Based on this information, there is a potential for residual agricultural chemicals to be present in on-site soils. The Phase I ESA recommended soil sampling and testing for pesticides, including arsenic and lead (which were used prior to the development of chemical pesticides). The results of the soil sampling are discussed below.

Asbestos-Containing Materials, Lead-Based Paint, and Polychlorinated Biphenyls

Based on information obtained from the historical records review, the existing site building and other improvements were constructed at a time when ACMs, LBPs, and PCBs were not yet completely phased out. Based on this information, there is a potential that ACMs, LBPs, and/or PCBs are present within the existing site building.

Off-Site Contamination

The database search was also completed to identify off-site use, generation, storage, treatment, releases and/or disposal of hazardous materials with the potential to impact the project site. While the database search revealed several listings and cases within the surrounding vicinity, only one case was noted as potentially affecting soil and soil vapor on the project site.

The property located at 1190 Hillsdale Avenue is listed on the Spills, Leaks, Investigation & Cleanup (SLIC) database. Historic uses at 1190 Hillsdale Avenue include dry cleaning operations and a gasoline service station, both of which used the volatile organic compound (VOC) tetrachloroethylene (PCE). Soil vapor PCE concentrations at 1190 Hillsdale Avenue were previously found to exceed the commercial and residential California Human Health Screening Levels and Environmental Screening Levels. The cleanup status is listed as Open – Verification Monitoring as of October 2016.

On-Site Soil and Soil Vapor Sampling

The Phase I ESA recommended soil and soil vapor sampling due to: (1) the proximity of the open cleanup case at 1190 Hillsdale Avenue, and (2) the historic agricultural use on-site. To evaluate the presence of VOCs, pesticides, and metals on the site, two sampling events were completed in September 2018 and June 2020. The results of the sampling are summarized below and described in detail in Appendix D.

Volatile Organic Compounds

During preparation of the first Phase II ESA (September 2018), one soil sample was collected on-site from a depth of 10 feet below ground surface (bgs), and two soil vapor probes were sampled at depths of five and 10 feet bgs. Both the soil and soil vapor samples were analyzed for VOCs. No VOCs were detected in the subsurface soil, and nine VOCs were detected in the soil vapor samples. The November 2020 Updated Summary Report concluded that benzene and tetrachloroethene are present in soil vapor at concentrations exceeding the RWQCB Tier 1 and Cancer Risk Environmental Screening Levels (ESLs), and did not exceed the RWQCB Non-Cancer Hazard ESLs (see Table 4.9-1 below and Appendix D). All other analyzed VOCs were reported below their respective ESLs.

Organochlorine Pesticides

During preparation of the second Phase II ESA in June 2020, 11 soil samples were collected from six locations on the project site[50] and analyzed for the presence of organochlorine pesticides. Sampling locations are shown on Table 4.9-2 below. Four organochlorine pesticide compounds were detected in the soil samples: dichloroethane (DDD), dichlorodiphenyldichloroethylene (DDE), dichlorodiphenyltrichloroethane (DDT), and dieldrin. The reported levels of these analytes exceeded their respective RWQCB Tier 1 ESLs and did not exceed the RWQCB Cancer Risk and Non-Cancer Hazard ESLs. Soil sampling results are summarized in Table 4.9-2 below and described in detail in Appendix D.

[50] Soil sampling depths ranged from six to 24 inches bgs.

Table 4.9-1: Analytical Results – Volatile Organic Compounds					
VOC	**ESL Tier 1**	**ESL Residential**		**Soil Vapor Sample**	
		Cancer Risk	**Non-Cancer Hazard**	**VAP-5**	**VAP-10**
Acetone	--	--	1,100,000	880	320
Benzene	3.2	3.2	100	**19**	**7.2**
2-Butanone	170,000	--	170,000	470	130
Carbon Disulfide	--	--	--	24	ND
Ethylbenzene	37	37	35,000	21	ND
4-Methyl-2-Pentanone	14,000	--	100,000	75	17
Tetrachloroethene	15	15	1,400	**81**	14
Toluene	10,000	--	10,000	130	17
m,p-Xylene	3,500	--	3,500	78	15
o-Xylene	3,500	--	3,500	23	ND

Notes:

Concentrations in parts per million (ppm)

ND = Not Detected

ESL = Environmental Screening Levels (RWQCB, January 2019)

Bold = Exceeds ESLs (Tier 1 and Cancer Risk)

Source: First Carbon Solutions.

SOIL SAMPLE LOCATIONS | FIGURE 4.9-1

Table 4.9-2: Analytical Results – Organochlorine Pesticides									
Analyte	**ESL Tier 1**	**ESL Residential**		**Soil Boring**					
		Cancer Risk	**Non-Cancer Hazard**	**ME-1-6***	**ME-2-6**	**ME-3-6**	**ME-4-6**	**ME-5-6**	**ME-6-6**
4,4-DDD	2.7	2.7	--	ND	0.0005	0.0071	0.00039	0.00085	0.0015
4,4-DDE	0.33	1.8	--	0.0220	0.0120	0.0042	0.0022	0.0370	0.0230
4,4-DDT	0.0011	1.9	37	**0.0031**	**0.0028**	**0.0980**	0.0006	**0.0058**	**0.0056**
Dieldrin	0.00046	0.037	3.5	ND	0.000049	0.00013	ND	0.0002	0.000069
Analyte	**ESL Tier 1**	**Cancer Risk**	**Non-Cancer Hazard**	-	**ME-2-12**	**ME-3-12**	-	**ME-5-12**	**ME-6-12**
4,4-DDD	2.7	2.7	--	-	0.00034	ND	-	0.00069	0.00091
4,4-DDE	0.33	1.8	--	-	0.00520	0.00560	-	0.02500	0.01800
4,4-DDT	0.0011	1.9	37	-	**0.00220**	**0.00380**	-	**0.00660**	**0.00360**
Dieldrin	0.00046	0.037	3.5	-	0.000068	ND	-	0.00017	0.00028
Analyte	**ESL Tier 1**	**Cancer Risk**	**Non-Cancer Hazard**	-	-	-	-	**ME-5-18**	-
4,4-DDD	2.7	2.7	--	-	-	-	-	0.00063	-
4,4-DDE	0.33	1.8	--	-	-	-	-	0.00450	-
4,4-DDT	0.0011	1.9	37	-	-	-	-	**0.00170**	-
Dieldrin	0.00046	0.037	3.5	-	-	-	-	0.00011	-

Notes:

Concentrations in ppm

ND = Not Detected

ESL = Environmental Screening Levels (RWQCB, January 2019)

Bold = Exceeds ESLs (Tier 1)

*The soil sample name indicates the location and depth at which the soil sample was taken. For example ME-1-6 indicates that the sample was taken at the first location at a depth of six inches, ME-2-12 indicates that the sample was taken at the location two at a depth of 12 inches, etc.

Metals

In June 2020, six soil samples were collected at a depth of six inches bgs and analyzed for lead and arsenic. The reported levels of lead (maximum concentration of 20 ppm) were below the RWQCB Tier 1, Cancer Risk, and Non-Cancer Hazard ESLs for lead.

The reported levels of arsenic exceeded the RWQCB Tier 1, Cancer Risk, and Non-Cancer Hazard ESLs at all six sampling locations (Table 4.9-3, below). However, the maximum concentration of arsenic reported on the site (6.3 ppm) was within background levels of arsenic in the Santa Clara Valley of 11 ppm, as determined by the City of San José Environmental Services Department.

Table 4.9-3: Analytical Results – Arsenic and Lead

Metal	ESL Tier 1	ESL Residential		ME-1-6	ME-2-6	ME-3-6	ME-4-6	ME-5-6	ME-6-6
		Cancer Risk	Non-Cancer Hazard						
Arsenic	0.067	0.067	0.026	**6.3**	**4.2**	**5.8**	**5.1**	**6.3**	**5.2**
Lead	32	82	80	18.0	18.0	20.0	10.0	17.0	20.0

Notes:
Concentrations in ppm
ESL = Environmental Screening Levels (RWQCB, January 2019)
Bold = Exceeds ESL (Tier 1 and Cancer Risk)

Groundwater Investigation

Groundwater in the project area is anticipated to be over 22 feet bgs with a flow direction to the north. The Phase I ESA did not identify any on- or off-site conditions that would result in groundwater contamination at the project site. There was no evidence for the presence of underground storage tanks (USTs) or aboveground storage tanks (ASTs) on or immediately upgradient of the site. Soil vapor sampling (see discussion above) indicated that VOCs were not detected at a depth of 10 bgs; therefore, there is no evidence of groundwater contamination by petroleum hydrocarbons or VOCs on the site.

Other Hazards

Airports

The nearest airports to the site are Reid-Hillview Airport, approximately 5.4 miles northeast of the project site, and the Norman Y. Mineta San José International Airport, approximately 6.8 miles north of the site. Given the distance of the project site from these airports, the site is not located within the Airport Influence Area (AIA) of either airport, nor is the site located in an airport safety zone designated in the Comprehensive Land Use Plan (CLUP) for either airport.[51] As a result, the project

[51] County of Santa Clara, Department of Planning and Development. *Airport Land Use Commission: Comprehensive Land Use Plans and Associated Documents*. November 16, 2016. Accessed March 5, 2020. https://www.sccgov.org/sites/dpd/Commissions/ALUC/Pages/ALUC.aspx.

site would not conflict with the FAR Part 77 height requirements for new developments given the distance of the site from the airports.

Wildfire Hazards

The project site is surrounded by residential and commercial development and is not located within a Very High Fire Hazard Severity Zone for wildland fires designated by California Department of Forestry and Fire Protection (CAL FIRE).[52]

4.9.2 Impact Discussion

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

[52] California Department of Forestry and Fire Protection. *Santa Clara County FHSZ Map*. November 6, 2007. Accessed March 5, 2020. https://osfm.fire.ca.gov/media/6766/fhszs_map43.pdf

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

Operation and construction of the proposed assisted living facility would not require the routine transport, use, or disposal of hazardous materials in quantities that would result in a significant hazard to the public. Operation of the proposed project would include the use and storage of cleaning and medical supplies and maintenance chemicals in small quantities. No other hazardous materials would be used or stored on-site. The small quantities of cleaning and medical supplies and materials would not pose a risk to the public or the environment. **(Less than Significant Impact)**

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

On-Site Contamination

The site was formerly used for agricultural purposes and is adjacent to a SLIC cleanup site. For this reason, on-site soil and soil vapor samples were analyzed for the presence of VOCs, organochlorine pesticides, and metals. As discussed in Section 4.9.1.2 Existing Conditions, the VOCs benzene and tetrachloroethene were reported in soil vapor on the site at concentrations exceeding RWQCB Tier 1 and Cancer Risk ESLs. The pesticides DDD, DDE, DDT, and dieldrin were reported in on-site soil at concentrations exceeding their respective Tier 1 ESLs, but below Cancer Risk and Non-Cancer Hazard ESLs. Arsenic was reported above Tier 1 and Cancer Risk ESLs, but within background levels.[53] No other contamination was found above regulatory screening levels.

Based upon the known contaminant depths, soils excavated from depths shallower than 18 and possibly 24 inches bgs would require off-site disposal at an approved facility. As described in Section 3.4 Construction, the project proposes to excavate to a maximum depth of five feet and would require excavation of an estimated 10,570 cubic yards of soil. The excavated soil would be disposed of in accordance with applicable laws and regulations at an off-site certified and permitted California landfill or disposal facility as appropriate and as determined by the waste profile.

Impact HAZ-1: Soil excavation and disposal during project construction could expose workers, future occupants, and the environment to levels of contaminants (including benzene, tetrachloroethene, and organochlorine pesticide compounds) exceeding RWQCB ESLs. **(Significant Impact)**

[53] Based upon communications with the City of San José Environmental Services Department, remediation is required for analytes that were reported on-site at concentrations exceeding both: 1) the Cancer Risk and Non-Cancer Hazard ESLs; and 2) background levels in the Santa Clara Valley. The two analytes that meet these criteria are the VOCs benzene and tetrachloroethene.

Mitigation Measure:

MM HAZ-1.1: Prior to the issuance of any grading permits, the project applicant shall enter the SCCDEH Site Cleanup Program (SCP). The regulatory agency may require further testing, remediation, or development of a Site Management Plan (SMP) or similar document to mitigate the elevated soil vapor results. If applicable, an SMP shall be prepared prior to the issuance of a grading permit to reduce or eliminate exposure risk to human health and the environment. Any further work required by the SCCDEH shall be performed by a qualified environmental professional. Evidence of regulatory oversight and copies of any subsequent documents developed under regulatory oversight such as testing results, an SMP or similar document, shall be provided to the Director of PBCE or the Director's designee and the Environmental Compliance Officer of the City of San José's Environmental Services Department.

The project, with the implementation of mitigation measure MM HAZ-1.1 would reduce impacts to construction workers, future occupants, and the environment from soils with elevated levels of benzene, tetrachloroethene, and any other unknown contamination to a less than significant level by requiring implementation of a plan that identifies processes and measures to safely and properly identify, handle, characterize, and dispose of hazardous materials. **(Less than Significant Impact with Mitigation Incorporated)**

Asbestos-Containing Materials and Lead-Based Paint

Based on the age of the existing building on-site, there is a potential that ACMs and/or LBPs are present within the on-site structure. An asbestos survey would be required by local authorities in accordance with NESHAP guidelines and Cal/OSHA regulations. Demolition of the existing on-site building could expose construction workers and nearby residences to harmful levels of lead or asbestos. The project would be required to implement the following standard permit conditions to reduce impacts due to the presence of ACMS and/or LBPs.

Standard Permit Conditions:

- In conformance with state and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of the existing site building to determine the presence of asbestos-containing materials and/or lead-based paint. The visual inspection/pre-demolition survey report shall be submitted to the Director of PBCE or the Director's designee for review and approval prior to issuance of a grading permit.
- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with the Cal/OSHA Lead in Construction Standard, Title 8, California Code Regulations 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 waste being disposed.
- All potentially friable ACMs shall be removed in accordance with NESHAP guidelines prior to building demolition that may disturb the materials. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8 of CCR, Section 1529, to protect workers from asbestos exposure.

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

With the implementation of the above standard permit conditions, including a pre-demolition survey and removal of building materials consistent with federal and state guidelines, the project would not result in a hazard to construction workers, the public, or environment due to the release of asbestos or lead into the environment during demolition. **(Less than Significant Impact)**

Polychlorinated Biphenyls

Because the existing site building was constructed in 1980, only one year after the EPA banned production of PCBs, there is a potential that PCBs are present within the building. The project would be required to comply with MRP Provision C.12.f to ensure PCBs do not enter municipal storm drain systems. Consistent with Provision C.12.f, the project would implement the following standard permit condition to reduce impacts due to PCBs.

Standard Permit Condition:

- In conformance with City of San José permitting requirements, consistent with RWQCB regulations, the project applicant shall be required to submit a PCB Screening Assessment Form to the Environmental Services Department when applying for a demolition permit to demolish the existing building(s) on the project site, and shall comply with any resulting sampling and abatement procedures as directed by federal and state agencies.

With the implementation of the above standard permit condition, which requires PCB screening prior to building demolition and proper disposal of PCBs (if present), the project would not result in hazards related to PCBs. **(Less than Significant Impact)**

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

The nearest school to the project site is Calvary Christian Academy, located at 1175 Hillsdale Avenue, approximately 0.2 mile north of the project site. Development of the project site

As discussed under checklist question a), the project would not result in hazardous emissions or require transport of hazardous materials, nor would significant hazardous waste be produced or disposed of during operation of the project. During construction, the proposed project would comply with the standard permit conditions to reduce fugitive dust emissions (refer to Section 4.3 Air Quality). For these reasons, the project would not emit hazardous emissions or handle hazardous materials that would impact the nearby school. **(Less than Significant Impact)**

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

As discussed above in Section 4.9.1.2 Existing Conditions, the project site is listed on the HAZNET database. The HAZNET database is not part of the list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. The project site is not listed as a hazardous materials site pursuant to Government Code Section 65962.5.[54] **(No Impact)**

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

The project site is not located within the AIA of the Reid-Hillview or Norman Y. Mineta San José International Airports and, therefore, is not subject to the policies in the CLUPs (including those for safety/height and noise) for those airports. The proposed project's height is below the minimum that would require FAA regulatory review pursuant to FAR Part 77. **(No Impact)**

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

The project does not propose any physical changes that would impair the City's Emergency Operations Plan or other emergency response plans. In addition, the project would be constructed in accordance with current building and fire codes to ensure structural stability and safety. the San José Fire Department (SJFD) would review the site development plans to ensure fire protection design features are incorporated and adequate emergency access is provided. For these reasons, the proposed

[54] California Department of Toxic Substances Control. "DTSC's Hazardous Waste and Substances Site List – Site Cleanup (Cortese List)." Accessed March 6, 2020. http://www.envirostor.dtsc.ca.gov/?surl=ookx0

project would not impair implementation of, or physically interfere with, the City's Emergency Operations and Evacuation Plans. **(Less than Significant Impact)**

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

The project site is not located within a Very High Fire Hazard Severity Zone for wildland fires designated by CAL FIRE.[55] Therefore, the project would not expose people or structures to hazards involving wildfire. **(No Impact)**

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

4.10 HYDROLOGY AND WATER QUALITY

4.10.1 Environmental Setting

4.10.1.1 *Regulatory Framework*

Federal and State

The federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality in California. Regulations set forth by the EPA and the SWRCB have been developed to fulfill the requirements of this legislation. EPA regulations include the 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 RWQCBs. The project site is within the jurisdiction of the San Francisco Bay RWQCB.

National Flood Insurance Program

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

Statewide Construction General Permit

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

Regional and Local

San Francisco Bay Basin Plan

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

Municipal Regional Permit Provision C.3.

The San Francisco Bay RWQCB re-issued the Municipal Regional Stormwater NPDES Permit (MRP) in 2015 to regulate stormwater discharges from municipalities and local agencies (co-permittees) in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, and the cities of Fairfield, Suisun City, and Vallejo.[56] Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 10,000-sf or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. LID-based treatment controls are intended to maintain or restore the site's natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g. rainwater harvesting for non-potable uses). The MRP also requires that stormwater treatment measures be properly installed, operated, and maintained.

In addition to water quality controls, the MRP requires new development 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 local rivers, streams, and creeks. Projects may be deemed exempt from these requirements if they do not meet the minimized size threshold, drain into tidally influenced areas or directly into the Bay, or drain into hardened channels, or if they are infill projects in subwatersheds or catchment areas that are greater than or equal to 65 percent impervious.

Municipal Regional Permit Provision C.12.f

Provision C.12.f of the MRP requires co-permittee agencies to implement a control program for PCBs that reduces PCB loads by a specified amount during the term of the permit, thereby making substantial progress toward achieving the urban runoff PCBs wasteload allocation in the Basin Plan by March 2030.[57] Programs must include focused implementation of PCB control measures, such as source control, treatment control, and pollution prevention strategies. Municipalities throughout the Bay Area are updating their demolition permit processes to incorporate the management of PCBs in demolition building materials to ensure PCBs are not discharged to storm drains during demolition. Buildings constructed between 1955 and 1978 that are proposed for demolition must be screened for the presence of PCBs prior to the issuance of a demolition permit.

Water Resources Protection Ordinance and District Well Ordinance

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

[56] MRP Number CAS612008
[57] San Francisco Bay Regional Water Quality Control Board. *Municipal Regional Stormwater Permit, Provision C.12.* November 19, 2015.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The proposed project would be subject to General Plan hydrology and water quality policies, including the ones listed below.

Policies	Description
IN-3.1	Achieve minimum level of services: • For sanitary sewers, achieve a minimum level of service "D" or better as described in the Sanitary Sewer Level of Service Policy and determined based on the guidelines provided in the Sewer Capacity Impact Analysis (SCIA) Guidelines. • For storm drainage, to minimize flooding on public streets and to minimize the potential for property damage from stormwater, implement a 10-year return storm design standard throughout the City, and in compliance with all local, State and Federal regulatory requirements.
IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.
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.
ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls.
EC-5.7	Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.
EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

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

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

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

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

4.10.1.2 *Existing Conditions*

Hydrology and Drainage

The project site is located in the Guadalupe River watershed, which drains approximately 171 square miles, beginning on the Santa Clara Valley floor at the confluence of Alamitos Creek and the Guadalupe River and flowing until its discharge point at the San Francisco Bay. Most of the project site (136,110 sf or 88 percent) is impervious, and the remaining 19,340 sf (or 12 percent) is pervious. Stormwater runoff from the project site flows into 12-inch and 15-inch storm drain lines in Almaden Expressway. The runoff discharges to the Guadalupe River, approximately 0.1 mile east of the project site, and eventually flows into the San Francisco Bay.

Water Quality

The water quality of streams, creeks, ponds, and other surface water bodies can be greatly affected by pollution carried in contaminated surface runoff. Pollutants from dispersed or areawide sources, known as non-point source pollutants, are washed from streets, construction sites, parking lots, and other exposed surfaces into storm drains. Urban stormwater runoff often contains contaminants such as oil and grease, plant and animal debris, pesticides, litter, and heavy metals. In sufficient concentrations, these pollutants have been found to adversely affect the aquatic habitats to which they drain.

Groundwater

The project site is located within the Santa Clara Plain groundwater subbasin.[58] Valley Water and local water suppliers monitor groundwater quality for a variety of parameters, including calcium, sodium, iron, nitrate, chloride, organic solvents, and gasoline additives (such as methyl-tert-butyl ether or MTBE) for concentrations above Maximum Contaminant Levels (MCLs) established by the EPA and State of California for drinking water.

[58] City of San José. "Utility Viewer." Accessed June 2, 2020. https://csj.maps.arcgis.com/apps/webappviewer/index.html?id=0d463f017c8a48a7b73b2d35bd7381f1.

The depth of groundwater can vary seasonally, and can be influenced by underground drainage patterns, regional fluctuations, and other factors. Groundwater at the project site was encountered at 24 feet below grade.[59]

Flooding and Other Inundation Hazards

The project site is not located in a 100-year floodplain, according to FEMA Flood Insurance Rate Maps for Santa Clara County.[60] The project site is designated as Flood Zone D, which is defined as areas of undetermined flood hazard where no flood hazard analysis has been conducted. Flood Zone D is not a Special Flood Hazard Area; therefore, no requirements are placed on new development in this area by the City of San José or the County of Santa Clara as it relates to flood insurance and/or flood protection.

Due to the project site's inland location and distance from large bodies of water (i.e., the San Francisco Bay), it is not subject to seiche or tsunami hazards.

4.10.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	☐	☐	☒	☐
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☒	☐
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:	☐	☐	☒	☐
- result in substantial erosion or siltation on- or off-site;	☐	☐	☒	☐
- substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;	☐	☐	☒	☐

[59] Krazan & Associates, Inc. *Geotechnical Engineering Investigation*. February 10, 2020. Page 5
[60] Federal Emergency Management Agency. "FEMA Flood Map Service Center." Accessed May 9, 2019. https://msc.fema.gov/portal/search?AddressQuery=14001%20Parkmoor%20Avenue%2C%20San%20José%2C%20California#searchresultsanchor

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
- create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	☐	☐	☒	☐
- impede or redirect flood flows?	☐	☐	☒	☐
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☒	☐
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☒	☐

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

Construction-Related Water Quality Impacts

Construction activities, such as grading and excavation, have the potential to result in temporary impacts to surface water quality in local waterways. When disturbance to the soil occurs, sediments may be dislodged and discharged to the storm drainage system, carried by surface runoff flows across the site. The proposed project would result in the disturbance of approximately 3.6 acres of soil, which is greater than the one-acre threshold required for conformance with the NPDES Construction General Permit.

In addition to the NPDES Construction General Permit (which includes the preparation of a SWPPP), the project is required to comply with the City's Grading Ordinance to ensure that site is graded so that it drains properly and does not impact adjacent properties or create erosion problems. Improper grading can result in localized flooding, landslides, and differential settlement. These problems not only affect the graded property but can also impact adjacent properties. To ensure that grading operations do not impact the local creeks and storm drainage systems during the wet months, any grading occurring between October 1 and April 30 requires an approved erosion control plan.

Standard Permit Condition:

- Best management practices to prevent stormwater pollution and minimize potential sedimentation shall be applied to project construction including, but not limited to, the following:
    - Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
    - Earthmoving or other dust-producing activities shall be suspended during periods of high winds.

- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be required to cover all trucks or maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas, and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- Vegetation 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.

Construction of the proposed project, in compliance with existing regulations and with implementation of the above standard permit conditions, would not result in significant construction-related water quality impacts by preventing stormwater pollution and minimizing potential sedimentation during construction. **(Less than Significant Impact)**

Post-Construction Water Quality Impacts

The proposed project would redevelop the project site and, as a result, would remove more than 10,000 sf of impervious surface area. The project, therefore, would be subject to Provision C.3 of the MRP and the City's Post-Construction Urban Runoff Management Policy (Policy 6-29). These regulations require that the project incorporate site design measures, source controls, and runoff treatment controls to minimize stormwater pollutant discharges. To comply with regulations, the project proposes three bioretention areas in the form of landscaping to treat runoff from the building roof and hardscape.

The General Plan FEIR concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on water quality.[61] The project would comply with existing regulations and, therefore, would result in a less than significant post-construction water quality impact. **(Less than Significant Impact)**

[61] City of San José. *Envision San José 2040 General Plan FEIR.* September 2011. Page 680.

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

The project site is located within the Santa Clara Plain groundwater subbasin. Development on the site would rely on existing sources of water and the City's existing water delivery system. The project site is not located on or adjacent to one of Valley Water's 18 major groundwater recharge systems.[62] Therefore, development on the site would not interfere with groundwater recharge activities or substantially deplete groundwater levels.

Groundwater was encountered at the site at approximately 24 feet bgs, and project construction would require excavation of up to approximately five feet below grade. Groundwater, therefore, is not expected to be encountered during project construction. If groundwater is encountered during excavation, any necessary construction dewatering would follow local and regional requirements for safe transport and disposal of dewatered groundwater. Water discharge from construction dewatering is acceptable under permit by the City of San José Environmental Service Department Watershed Protection Division. Discharge to the storm drain system requires approval from the San Francisco Bay RWQCB and the City's Environmental Services Division. If construction dewatering occurs, it would be temporary in nature and would not substantially reduce groundwater supplies or affect groundwater quality in the area.

Based on the above discussion, the project would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge. **(Less than Significant Impact)**

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

There are no waterways on the site, and the project would not result in the alteration of the course of a stream or river. The proposed project would decrease the impervious surface area on-site by six percent (or 8,870 sf) from 136,110 to 127,240 sf, which would result in a corresponding decrease in stormwater runoff. As a result, the project would not substantially alter the existing drainage pattern of the site and the existing storm drainage system would continue to be able to accommodate runoff from the project site. In addition, as discussed under checklist question a), the project would comply with existing regulations to reduce water quality impacts to a less than significant level. **(Less than Significant Impact)**

[62] Santa Clara Valley Water District. *2016 Groundwater Management Plan*. 2016. Figure 1-3.

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

As discussed above in Section 4.10.1.2, the project site is not subject to 100-year floods, tsunamis, or seiches. In addition, the proposed project is anticipated to use only small quantities of cleaning chemicals that would be properly stored. For these reasons, the project would not risk release of substantial pollutants due to inundation. **(Less than Significant Impact)**

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

Valley Water prepared a Groundwater Management Plan (GMP) for the Santa Clara Plain subbasin in 2016, describing its comprehensive groundwater management framework including objectives; strategies, programs, and activities to support those objectives; and outcome measures to gauge performance. The GMP is the guiding document for how Valley Water will ensure groundwater basins within its jurisdiction are managed sustainably. The Santa Clara Plain subbasin has not been identified as a groundwater basin in a state of overdraft. The project site is not located within, or adjacent to, a Valley Water groundwater recharge pond or facility.[63] Implementation of the proposed project, therefore, would not interfere with any actions set forth by Valley Water in its GMP in regards to groundwater recharge, transport of groundwater, and/or groundwater quality.

The RWQCB updates its Basin Plan triennially to reflect current conditions and track progress towards meeting water quality objectives. Development of the proposed project would comply with the NPDES Construction General Permit, MRP, and City policies regarding stormwater runoff and water quality. By adhering to these policies and regulations, the proposed project would not prevent the RWQCB from attaining the water quality objectives set forth in the Basin Plan.

Based on the above discussion, the project would not conflict with the GMP or Basin Plan. **(Less than Significant Impact)**

[63] Valley Water. *2016 Groundwater Management Plan.* Figure 1-3. 2016.

4.11 LAND USE AND PLANNING

4.11.1 Environmental Setting

4.11.1.1 *Regulatory Framework*

Local

Envision San José 2040 General Plan

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

Policies	Description
IP-5.1	Prepare a comprehensive Urban Village Plan prior to the issuance of entitlements for residential development within any of the Urban Village areas identified on the Land Use / Transportation Diagram. Commercial projects, including those with ancillary residential uses, and "Signature Projects", as defined in Policy IP-5.10, may proceed in advance of the preparation of a Village Plan
LU-2.1	Provide significant job and housing growth capacity within strategically identified "Growth Areas" in order to maximize use of existing or planned infrastructure (including fixed transit facilities), minimize the environmental impacts of new development, provide for more efficient delivery of City services, and foster the development of more vibrant, walkable urban settings.
LU-9.5	Require that new residential development be designed to protect residents from potential conflict with adjacent land uses.
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.
LU-9.13	Equitably distribute residential social service programs (e.g., board and care facilities) throughout the City, especially in areas with access to transit, rather than concentrating them in a few areas.

San José Zoning Ordinance

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

- Guiding, controlling, and regulating future growth and development in the City in a sound and orderly manner, and promoting the achievement of the goals and purposes of the General Plan;
- Protecting the character and economic and social stability of agricultural, residential, commercial, industrial, and other areas in the City;
- Providing light, air, and privacy to property;
- Preserving and providing open space and preventing overcrowding of the land;

- Appropriately regulating the concentration of population;
- Providing access to property and preventing undue interference with and hazards to traffic on public rights-of-way; and
- Preventing unwarranted deterioration of the environment and promoting a balanced ecology.

4.11.1.2 *Existing Conditions*

The project site is located within the Almaden Expressway/Hillsdale Avenue Urban Village (V64), which is an identified "growth area" in the City. Urban villages are envisioned to be walkable, bicycle-friendly, transit-oriented, mixed-use settings that provide both housing and jobs. Pursuant to General Plan Policy IP-5.1, an Urban Village Plan should be prepared prior to issuance of entitlements for residential development within an urban village. Commercial projects, including those with ancillary residential uses, and "Signature Projects" may proceed in advance of the preparation of an urban village plan. A plan has not yet been prepared for the Almaden Expressway/Hillsdale Avenue Urban Village.

The project site is designated Neighborhood/Community Commercial (NCC) in the General Plan and zoned Commercial Pedestrian (CP). The Neighborhood/Community Commercial land use designation supports a range of commercial activity, including commercial and office uses. General office uses, hospitals, and private community gathering facilities are allowed under this designation. Senior living facilities are also allowed. Under this land use designation, development is allowed to have a floor-area-ratio (FAR) of up to 3.5 and be one to five stories tall. Residential care facilities are allowed under the existing Commercial Pedestrian (CP) zoning with a conditional use permit.

The project site is occupied with an office building. Land uses in the surrounding vicinity include office, commercial, and residential uses, as well as a school and church (refer to Figure 2.4-3). The project is bounded by a frontage roadway to Almaden Expressway and Almaden Expressway to the east and Newberry Drive to the south.

The nearest airports are Reid-Hillview Airport, approximately 5.4 miles northeast of the project site, and the Norman Y. Mineta San José International Airport, approximately 6.8 miles north of the site. Given the distance of the project site from these airports, the site is not located within the AIA of either airport.[64] An AIA is a composite of the areas surrounding an airport that are affected by noise, height, and safety considerations. If a site (such as the project site) is located outside of an airport's AIA, it is not subject to aircraft-related noise, height, and safety considerations and policies.

4.11.2 Impact Discussion

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

[64] County of Santa Clara, Department of Planning and Development. *Airport Land Use Commission: Comprehensive Land Use Plans and Associated Documents*. November 16, 2016. Accessed February 26, 2020. https://www.sccgov.org/sites/dpd/Commissions/ALUC/Pages/ALUC.aspx.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☒	☐

a) Would the project physically divide an established community?

A physical division of an established community typically refers to the construction of a physical feature (such as a wall, roadway, or railroad line) or the removal of a means of access (such as a roadway or bridge) that would impair mobility within an existing community or between communities. The project proposes to redevelop the project site with a new assisted living facility and would not include any dividing infrastructure. The project, therefore, would not physically divide an established community. **(Less than Significant Impact)**

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

While there is no urban village plan yet for the Almaden Expressway/Hillsdale Avenue Urban Village, the proposed assisted living facility is a commercial use with ancillary residential uses; therefore, the project may proceed prior to an urban village plan being in place pursuant to General Plan IP-5.1.

The project's site's Neighborhood/Community Center (NCC) General Plan land use designation is intended for a broad range of commercial activity, including commercial uses that serve the communities in neighboring areas, such as neighborhood-serving retail services and commercial/professional office development. These developments are typically one to five stories tall with a FAR up to 3.5. The proposed project is a four-story, 195,840-sf assisted living facility on a 3.6-acre site, which results in a FAR of approximately 1.3. The proposed use and density are consistent and allowed by the site's existing Neighborhood/Community Center General Plan land use designation.

The proposed use is allowed under the existing Commercial Pedestrian (CP) zoning designation with a conditional use permit.

As discussed above, the project site is not within the AIAs for nearby airports and therefore, the project is not subject to the comprehensive land use plans of those airports.

Based on the above discussion, the proposed project would not conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. **(Less than Significant Impact)**

4.12 MINERAL RESOURCES

4.12.1 Environmental Setting

4.12.1.1 *Regulatory Framework*

State

Surface Mining and Reclamation Act

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

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

4.12.1.2 *Existing Conditions*

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

4.12.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	☐	☐	☐	☒

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

As previously discussed in Section 4.12.1.2 Existing Conditions, the Communications Hill area in central San José is the only area within the City designated by the SMGB as containing mineral deposits of regional significance. The project site is not in or adjacent to Communications Hill; it is approximately 0.9 miles southwest of the Communications Hill area. For this reason, the project would not result in the loss of a known mineral resource that would be of value to the region and residents of the state. **(No Impact)**

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

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

4.13 NOISE

The following discussion is based, in part, on a Noise and Vibration Assessment prepared for the project site by Illingworth & Rodkin, Inc. dated August 26, 2020. A copy of this report is included in Appendix E.

4.13.1 Environmental Setting

4.13.1.1 *Background Information*

Noise

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

Since excessive noise levels can adversely affect human activities and human health, federal, state, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. Noise guidelines are generally expressed using one of several noise averaging methods, including L_{eq}, DNL, or CNEL.[65] These descriptors are used to measure a location's overall noise exposure, given that there are times when noise levels are higher (e.g., when a jet is taking off from an airport or when a leaf blower is operating) and times when noise levels are lower (e.g., during lulls in traffic flows on freeways or in the middle of the night). L_{max} is the maximum A-weighted noise level during a measurement period.

Vibration

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

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

4.13.1.2 *Regulatory Framework*

State and Local

California Building Standards Code

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

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The proposed project would be subject to the General Plan noise and vibration policies, including the ones listed below.

Policies	Description
EC-1.1	Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, State and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include: Interior Noise Levels • The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected General Plan traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan. Exterior Noise Levels • The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (refer to Table EC-1 in the General Plan or Table 4.13-1 in this Initial Study). The acceptable exterior noise level objective is established for the City, except in the environs of the San José International Airport and the Downtown, as described below: For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential

Policies	Description
	stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.
EC-1.2	Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would: • Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable;" or • Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.
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.
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.
EC-2.3	Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or building that are documented to be structurally weakened, a continuous vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Equipment or activities typical of generating continuous vibration include but are not limited to: excavation equipment; static compaction equipment; vibratory pile drivers; pile-extraction equipment; and vibratory compaction equipment. Avoid use of impact pile drivers within 125 feet of

Policies	Description
	any buildings, and within 300 feet of historical buildings, or buildings in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction. Transient vibration impacts may exceed a vibration limit of 0.08 in/sec PPV only when and where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

Table 4.13-1: General Plan Land Use Compatibility Guidelines

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

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

Normally Acceptable:

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

Conditionally Acceptable:

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

Unacceptable:

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

4.13.1.3 *Existing Conditions*

Due to shelter-in-place restrictions implemented by the State of California at the time of the noise assessment, traffic volumes along the surrounding roadways were substantially lower and not representative of typical conditions. A noise monitoring survey was not completed to document ambient noise levels during this time period because resultant noise levels would not be representative of typical conditions.

In order to establish the environmental baseline for the project, noise data contained in the General Plan and noise measurements from a prior project located nearby were reviewed. A review of these data indicates that the noise environment in the project vicinity is primarily the result of vehicular traffic along Almaden Expressway. The General Plan noise contour information shows that noise levels at the project site typically range from 70 to 75 dBA DNL. This was confirmed through a review of noise data collected at a similar site along Almaden Expressway. Noise measurements at the nearby site revealed that, at a distance of 90 feet east of the Almaden Expressway centerline, hourly average noise levels typically ranged from 67 to 75 dBA L_{eq} during the day and from 57 to 71 dBA L_{eq} at night (see Appendix E). The day-night average noise level ranged from 72 to 74 dBA DNL.

Noise-sensitive land uses in the project vicinity include single-family residences along Cheshire Drive to the west and along Wellington Square to the southeast.

4.13.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project result in:				
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☒	☐	☐
b) Generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☒	☐
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☒	☐

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

Temporary Construction Noise

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 General Plan states that 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.

Construction of the proposed project is expected to begin in August 2021 and end by April 2023. Construction hours would be 7:00 AM to 5:00 PM Monday through Friday. Construction activities generate considerable amounts of noise, especially during earth-moving activities when heavy equipment is used. The construction of the proposed project would involve grading, excavation to lay foundations, trenching, building erection, and paving. The hauling of imported and exported soil and materials would generate truck trips on local roadways as well.

During each stage of construction, there would be a different mix of equipment operating, and noise levels would vary based on the amount of equipment in operation and the location at which the equipment is operating. Most construction noise falls within the range of 80 to 90 dBA at a distance of 50 feet from the source. The Federal Highway Administration (FHWA)'s Roadway Construction Noise Model (RCNM v. 1.1) was used to model construction noise levels produced by construction equipment operating at the project site. The inputs to the model were based on estimates for the number and type of equipment anticipated by the applicant. The typical hourly average construction-generated noise levels were calculated considering the distance from the center of the construction site to the nearest receptors, conservatively assuming that all equipment per phase would be operating simultaneously.

Based on the RCNM output, hourly average noise levels due to activities during busy construction periods would range from about 81 to 86 dBA L_{eq} at a distance of 50 feet. The nearest commercial land uses are located 85 feet northwest, 115 feet northeast, and 130 feet southeast and west of the center of the site, respectively. At the nearest commercial receptor 85 feet southwest, noise levels produced by construction activities at the site would range from 63 to 79 dBA L_{eq}. At distances of 115 to 130 feet, construction noise levels would be seven to eight dBA less than the levels referenced at 50 feet. Construction noise levels would exceed 70 dBA L_{eq} at unshielded commercial receptors within 250 feet of the center of the site. The nearest residential land use is located approximately 150 feet west of the center of the project site. Construction noise levels at the residential property boundary would range from 58 to 74 dBA L_{eq} at 150 feet.

Ambient noise levels at the surrounding land uses (estimated to be 60 to 75 dBA) would be substantially increased during various times throughout the duration of construction (up to 74 to 86 dBA, which represents an 11 to 14 dBA increase) for approximately 18 months. Per Policy EC-1.7 of the General Plan, the temporary construction impact would be significant because the project would involve substantial noise-generating activities continuing for more than 12 months. To minimize construction noise impacts, the project is required to implement the below mitigation measure.

Impact NOI-1: Temporary construction activities could involve substantial noise generating activities continuing for more than 12 months. **(Significant Impact)**

Mitigation Measure:

MM NOI-1.1: Prior to issuance of any demolition or grading permits, a qualified acoustical consultant shall prepare 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 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 construction noise logistics plan shall include, but is not limited to, the following measures, pursuant to General Plan Policy EC-1.7:

- Limit construction hours to 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. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of PBCE that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
- Construct solid plywood fences at least six feet above grade around construction sites adjacent to operational business, residences, or other noise-sensitive land uses.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Prohibit unnecessary idling of internal combustion engines.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to scree stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize "quiet" are compressors and other stationary noise sources where technology exists.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.

- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to adjacent land uses and nearby residences.
- If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- Designate a "disturbance coordinator" who will be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to current 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.

Prior to issuance of any grading or demolition permits, the project applicant shall submit the construction noise logistics plan to the Director of PBCE or the Director's designee for review and approval.

With implementation of MM NOI-1.1, the temporary construction noise impact would be reduced to a less than significant level by using best available noise suppression devices and techniques. **(Less than Significant Impact with Mitigation Incorporated)**

Operational Noise

According to Policy EC-1.2 of the General Plan, a significant permanent noise level increase would occur if the project would increase noise levels at noise-sensitive receptors by three dBA DNL or more where ambient noise levels exceed the "normally acceptable" noise level standard. The General Plan defines the "normally acceptable" outdoor noise level standard for the residential land uses to be 60 dBA DNL. Where ambient noise levels are at or below the "normally acceptable" noise level standard, noise level increases of five dBA DNL or more would be considered significant. For reference, a three dBA DNL noise level increase would be expected if the project would double existing traffic volumes along a roadway, and a five dBA DNL noise increase would occur if traffic volumes tripled.

Traffic Noise

The project's trip generation estimates were reviewed to evaluate the potential increase in traffic noise levels attributable to the project. The proposed project would result in a net increase of 43 daily trips, yet there would be 16 fewer trips during the AM peak hour and three fewer trips during the PM peak hour, as compared to the trips produced by the existing land use.[66] The minor increase in the number of daily trips would not measurably increase traffic noise levels along roadways serving the site given the substantially higher traffic volumes along these roadways. The project would not result in doubling of the traffic, and therefore, the proposed project would not result in a significant permanent noise level increase. **(Less than Significant Impact)**

Mechanical Equipment

Various mechanical equipment for heating, ventilation, and cooling purposes, exhaust fans, and other similar equipment would likely be located on the roof of the proposed building. Project noise levels at nearby sensitive land uses would depend on system design level specifications, including the equipment location, type, size, capacity, and enclosure design. These details are typically not available until later phases of the project design and building review process that occur after the entitlement process. Current roof plans indicate that four-foot mechanical screens are proposed to shield the proposed equipment.

Based on measurements of rooftop equipment at similar facilities in the region, noise levels of 50 to 60 dBA could be expected at a distance of 50 feet from the largest pieces of equipment. Noise levels generated by smaller mechanical equipment would be much lower, ranging from 40 to 50 dBA at 50 feet from the equipment and/or ventilation openings. Based on these conservative estimates, noise levels generated by the operation of project mechanical equipment could reach 54 dBA L_{eq} at the nearest residential property line to the south if unshielded and 49 dBA L_{eq} or less if fully shielded. The DNL, assuming 24-hour per day operation of the rooftop mechanical equipment, could reach 60 dBA assuming unshielded conditions and 55 dBA assuming shielded conditions.

The project also proposes a 175-kW emergency generator to be located within a 9.5-foot enclosure north of the proposed building. During emergencies, the noise produced by the operation of the generator would be exempt from City noise restrictions; however, generators are typically tested for a period of about one hour per month to ensure functionality in case of a power outage. The testing of the emergency generator would produce noise levels of approximately 58 dBA DNL at the nearest commercial property line 100 feet to the north, assuming a weather enclosure, or would range from 44 to 50 dBA DNL assuming a Level 1 or Level 2 sound enclosure.[67]

As proposed, the testing of the generator would produce noise levels below 60 dBA DNL at the commercial property line. Generator noise levels would be about 16 to 17 dBA less (41 to 42 dBA DNL assuming a weather enclosure, or 27 to 34 dBA DNL with a Level 1 or Level 2 sound enclosure) at the residences located on Cheshire Drive and Wellington Square to the southeast, which have direct line-of-sight to the generator enclosure. Generator noise at these residences would be below the City's 55 dBA DNL threshold for residential land uses. Residences located on Pembridge

[66] Illingworth & Rodkin, Inc. *San José Senior Living Noise and Vibration Assessment.* August 26, 2020. Page 24.
[67] With Level 1 enclosure, generator noise would be 70 to 89 dBA. With Level 1 enclosure, generator noise would be 63 to 78 dBA.

Drive would be fully shielded from the proposed generator by the intervening project building. The DNL produced by the testing of the generator would not measurably increase ambient DNL noise levels due to traffic along Almaden Expressway on days when testing occurs.

Impact NOI-2: Mechanical equipment associated with the project's operation could increase the ambient noise level of the surrounding vicinity in exceedance of the City's 55 dBA DNL threshold for new nonresidential land uses (General Plan policy EC-1.3). **(Significant Impact)**

Mitigation Measures:

MM NOI-2.1: Mechanical equipment shall be selected and designed to reduce noise levels 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 General Plan and 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. A plan set showing the location and type of mechanical equipment shall be accompanied by a signed letter from a qualified acoustical consultant detailing that impacts to residential receptors would not exceed 55 dBA DNL, and be submitted to the Director of PBCE, or the Director's designee, prior to issuance of any building permits.

MM NOI-2.2: In order to reduce the potential for annoyance, and to meet the City's 55 dBA DNL requirement, adjacent land owners shall be notified of the proposed generator testing schedule. Regular testing of the generator shall occur between the hours of 10:00 AM and 4:00 PM and avoid noise-sensitive morning and evening hours.

With implementation of MM NOI-2.1 and MM NOI-2.2, which include measures for mechanical equipment selection and generator testing, the project would have a less than significant mechanical equipment noise impact. **(Less than Significant Impact with Mitigation Incorporated)**

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

The construction of the project may generate perceptible vibration when heavy equipment or impact tools (e.g. jackhammers, hoe rams) are used. Construction activities would include demolition, site preparation work, foundation work, and new building framing and finishing. Foundation construction techniques involving impact or vibratory pile driving, which can cause excessive vibration, are not anticipated as part of the project.

According to General Plan Policy EC-2.3, 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 4.13-2 presents typical vibration levels that could be expected from construction equipment at a distance of 25 feet and summarizes the vibration levels at the nearest adjacent buildings surrounding the site. 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. Vibration levels would vary depending on soil conditions, construction methods, and equipment used.

Table 4.13-2: Construction Vibration Levels at Nearby Buildings

Equipment		PPV (in/sec)			
		West Commercial (35 ft)	**North Commercial (40ft)**	**South Residential (100 ft)**	**East Commercial (185 ft)**
Clam shovel drops		0.140	0.120	0.044	0.022
Hydromill (slurry wall)	In soil	0.006	0.005	0.002	0.001
	In rock	0.012	0.010	0.004	0.002
Vibratory Roller		0.145	0.125	0.046	0.023
Hoe Ram		0.061	0.053	0.019	0.010
Large bulldozer		0.061	0.053	0.019	0.010
Caisson drilling		0.061	0.053	0.019	0.010
Loaded trucks		0.052	0.045	0.017	0.008
Jackhammer		0.024	0.021	0.008	0.004
Small bulldozer		0.002	0.002	0.001	0.000

Source: Transit Noise and Vibration Impact Assessment Manual, Federal Transit Administration, Office of Planning and Environment, U.S. Department of Transportation, FTA Report No. 0123, September 2018, as modified by Illingworth & Rodkin, Inc., April 2020.

Construction vibration received at off-site buildings would depend on the distance between individual pieces of equipment on the project site and the off-site building. For example, a vibratory roller operating near the project site boundary would generate the worst-case vibration levels for the building sharing that property line. Construction vibration impacts are assessed based on the potential for damage to buildings on receiving land uses, not at receptors at the nearest property lines. Therefore, the distances used to propagate construction vibration levels (as shown in Table 4.13-2) were estimated under the assumption that each piece of equipment could operate along the nearest boundary of the project site, representing the most conservative scenario.

Based on the Historical Resources Inventory for the City of San José, the nearest historic building in the project vicinity is at 2434 Almaden Expressway, which is approximately one mile north of the project site. Construction equipment would not generate vibration levels in excess of the City's 0.08 in/sec PPV vibration threshold at this distance. All other structures surrounding the site are assumed to be of normal conventional construction and would be 35 feet or more from areas of the site where heavy equipment would be used. At a minimum distance of 35 feet, the maximum vibration levels generated by the proposed construction equipment would be 0.145 in/sec PPV, below the 0.2 in/sec PPV threshold.

Vibration levels would potentially be perceptible within 100 feet of the site. Implementation of MM NOI-1.1, which requires 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 residences and businesses, would reduce perceptible vibration to a less than significant level. **(Less than Significant Impact)**

c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

The nearest airports are Reid-Hillview Airport, approximately 5.4 miles northeast of the project site, and the Norman Y. Mineta San José International Airport, approximately 6.8 miles north of the project site. The project site lies well outside the 2037 60 dBA CNEL noise contour of the Norman Y. Mineta San José International Airport, according to the certified 2020 Airport Master Plan Environmental Impact Report. This means that future exterior noise levels due to aircraft would not exceed 60 dBA CNEL/DNL. According to Policy EC-1.11 of the General Plan, the required safe and compatible threshold for exterior noise levels would be at or below 65 dBA CNEL/DNL for aircraft.

Reid-Hillview Airport produces considerably less environmental noise as compared to Norman Y. Mineta San José International Airport. Noise levels produced by Reid-Hillview Airport aircraft are not significant at the site and would be compatible with the proposed land use. **(Less than Significant Impact)**

4.13.3 Non-CEQA Effects

Per *BIA v. BAAQMD*, effects of the environment on the project are not considered CEQA impacts. The following discussion is included for informational purposes only because the City of San José has policies (General Plan Policies 1.1, 1.2, 1.7, and 2.3) that address existing noise conditions affecting a proposed project.

The Environmental Leadership Chapter in the General Plan sets forth policies with the goal of minimizing the impact of noise on people through noise reduction and suppression techniques, and

through appropriate land use policies. The applicable General Plan policies were presented in detail in Section 4.13.1.2 Regulatory Framework and are summarized below for the proposed project:

- The City's acceptable exterior noise level objective is 60 dBA DNL or less for the proposed residential uses.
- The City's standard for interior noise levels in residences is 45 dBA DNL.

The future noise environment at the project site would continue to result primarily from vehicular traffic along Almaden Expressway and the surrounding local roads. The traffic study completed for the proposed project (see Appendix F) included peak hour trips generated by the proposed project. The net AM and PM peak hour trips generated by the proposed project would be less than those generated by the existing land use on-site. Therefore, the project would not contribute to a noise level increase along the surrounding roadways. To estimate future traffic noise levels, a review of the traffic volumes contained in the General Plan EIR was made. Traffic noise levels along Almaden Expressway are expected to increase by one dBA by the year 2035. Therefore, future noise levels would be 75 dBA DNL at a distance of 90 feet from the centerline of Almaden Expressway.

Future Exterior Noise Environment

The project would include a courtyard area with outdoor amenities for residents to use. The southern section of the courtyard would be surrounded by an eight-foot screen fence, which would attach to the building at both ends. A six-foot perimeter fence would run along the eastern and southern boundary of the outdoor use area, attaching to the building at both ends. Both of the proposed fences would have a three-inch gap between the ground and the bottom of the fence. Aside from this gap, the fences are assumed to be solid from the bottom edge to the top edge.

To assess the effectiveness of the proposed fences to reduce future noise levels at the courtyard, the FHWA Traffic Noise Model version 2.5 (TNM) was used to model the outdoor use area (see technical analysis in Appendix F for more details about the model and model inputs). Traffic volumes along Almaden Expressway were included in the model, as well as the proposed building and topographic information for the project site and surrounding area. A vehicle distribution along Almaden Expressway of 96 percent automobiles, two percent medium trucks, and two percent heavy trucks was used, along with posted speed limits.

With the eight-foot screen fence around the courtyard and the six-foot perimeter fence, the future exterior noise levels at the northern and southern sections of the courtyard would be below 60 dBA DNL. The proposed bocce ball court, vegetable garden, and orchard plaza along the eastern boundary of the courtyard would be exposed to future exterior noise levels of 66 dBA DNL with the proposed fences.

While the proposed fences with three-inch gaps at the base of the barriers would be adequate for reducing the majority of the courtyard to below 60 dBA DNL, the outdoor uses along the eastern boundary would exceed 60 dBA DNL by six dBA with the proposed fences. This would fall within the City's "conditionally acceptable" threshold range. The City could permit these exterior noise levels under a conditional approval. Several barrier heights were modeled in TNM, and the noise level results at the bocce ball, vegetable garden, and orchard plaza are shown in Table 4.13-3 for each modeled barrier height.

Table 4.13-3: Summary of TNM Results Along the Eastern Boundary of the Courtyard				
Receptor	**TNM Noise Level Results for Various Perimeter Fence Heights**			
	Six-foot Fence	**Eight-foot Fence**	**10-foot Fence**	**12-foot Fence**
Eastern Boundary of Courtyard	66 dBA DNL	63 dBA DNL	61 dBA DNL	60 dBA DNL

According to the TNM results summarized in Table 4.13-3, a 12-foot barrier would be required along the eastern perimeter of the project site to meet the City's "normally acceptable" 60 dBA DNL threshold at the outdoor uses located along the eastern boundary of the courtyard.

Condition of Approval:

- The project shall include a 12-foot barrier or similar noise attenuation structure to achieve the City's 60 dBA DNL standard at the proposed outdoor uses along the eastern boundary of the courtyard.

Future Interior Noise Environment

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 forced-air mechanical ventilation can 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.

The site plan shows residential units located on each floor and along each building façade. The units along the eastern building façade with direct line-of-sight to Almaden Expressway would be set back from the centerline of the roadway by 115 to 175 feet. The ground-level units along this façade would have partial shielding provided by the proposed six-foot perimeter fence. The ground-level units would be exposed to future exterior noise levels ranging from 64 to 66 dBA DNL. The units on floors two through four would be exposed to future exterior noise levels ranging from 71 to 74 dBA DNL. Future interior noise levels would be up to 51 dBA DNL at ground-level units and up to 59 dBA DNL at units on the upper floors, assuming windows to be partially open.

Units along the northern and southern façades would have some direct exposure to Almaden Expressway, with partial shielding provided from the proposed building. For units along the northern façade with direct line-of-sight to Almaden Expressway, setbacks from the centerline would range from 115 to 170 feet, while setbacks along the southern façade would range from 150 to 280 feet. At these setbacks, the units along the northern façade with direct line-of-sight to Almaden Expressway would be exposed to future exterior noise levels ranging from 68 to 74 dBA DNL. Units along the

southern façade would be exposed to future exterior noise levels ranging from 63 to 74 dBA DNL. Future interior noise levels would be up to 59 dBA DNL at units along the northern and southern façades, assuming windows to be partially open.

The remaining units along the northern façade, which are shielded from Almaden Expressway by the proposed building, and the units along the western façade would have some exposure to Hillsdale Avenue and other local roadways; however, setbacks from Hillsdale Avenue would be 345 feet or more, and the units exposed to traffic noise along Newberry Drive would be partially shielded by existing surrounding buildings. These units along the northern and western façades would be exposed to future exterior noise levels ranging from below 60 to 63 dBA DNL. Future interior noise levels would range from 45 to 48 dBA DNL, assuming windows to be partially open.

Units facing the courtyard would be partially shielded by the proposed building. These units would be exposed to future exterior noise levels ranging from below 60 to 69 dBA DNL. Future interior noise levels would range from 45 to 54 dBA DNL, assuming windows to be partially open.

The future interior noise levels would exceed the 45 dBA DNL threshold and would require noise insulation features.

Standard Permit Condition:

- The project applicant shall prepare final design plans that incorporate building design and acoustical treatments to ensure compliance with the CBC and City noise standards. A project-specific acoustical analysis shall be prepared to ensure that the design incorporates controls to reduce interior noise levels to 45 dBA DNL or lower within the residential units. The project applicant shall conform with any special building construction techniques requested by the Department of PBCE, which may include sound-rated windows and doors, sound-rated wall construction, and acoustical caulking.

The implementation of the standard permit condition above would reduce interior noise levels to 45 dBA DNL or less, consistent with the General Plan.

4.14 POPULATION AND HOUSING

4.14.1 Environmental Setting

4.14.1.1 *Regulatory Framework*

State

Housing-Element Law

State requirements mandating that housing be included as an element of each jurisdiction's general plan is known as housing-element law. The Regional Housing Need Allocation (RHNA) is the state-mandated process to identify the total number of housing units (by affordability level) that each jurisdiction must accommodate in its housing element. California housing-element law requires cities to: 1) zone adequate lands to accommodate its RHNA; 2) produce an inventory of sites that can accommodate its share of the RHNA; 3) identify governmental and non-governmental constraints to residential development; 4) develop strategies and a work plan to mitigate or eliminate those constraints; and 5) adopt a housing element and update it on a regular basis.[68] The City of San José Housing Element and related land use policies were last updated in 2015.

Regional and Local

Plan Bay Area 2040

Plan Bay Area 2040 is a long-range transportation, land-use, and housing plan intended to support a growing economy, provide more housing and transportation choices, and reduce transportation-related pollution and GHG emissions in the Bay Area. Plan Bay Area 2040 promotes compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).[69]

ABAG allocates regional housing needs to each city and county within the nine-county San Francisco Bay Area, based on statewide goals. ABAG also develops forecasts for population, households, and economic activity in the Bay Area. ABAG, MTC, and local jurisdiction planning staff created the Regional Forecast of Jobs, Population, and Housing, which is an integrated land use and transportation plan through the year 2040 (upon which Plan Bay Area 2040 is based).

4.14.1.2 *Existing Conditions*

The project site is located in an urbanized area of the City of San José. The City of San José population was estimated to be 1,043,058 in January 2019, with approximately 335,887 housing

[68] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements" Accessed February 26, 2020. http://hcd.ca.gov/community-development/housing-element/index.shtml.
[69] Association of Bay Area Governments and Metropolitan Transportation Commission. "Project Mapper." http://projectmapper.planbayarea.org/.

units.[70] ABAG projects that there will be an approximate City population of 1,334,100 and 432,030 households by the year 2040.[71]

Buildout of the City's General Plan would result in 120,000 units housing units, with an estimated population of 367,000 by 2035.[72] The project site is located within the Almaden Expressway/Hillsdale Avenue Urban Village (V64), which is planned for an increase of 400 jobs and 296 dwelling units. To date, none of the planned development capacity has been entitled.

Currently, there are no existing residences on-site.

4.14.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☒	☐
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

a) Would the project induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

The project proposes an assisted living facility with a total of 195 units and an estimated capacity for 230 residents. The facility would have a total of approximately 92 employees. The proposed use and development are consistent with the existing General Plan land use designation on-site and, therefore, are included in the planned growth for the City. For this reason, the project would not induce unplanned growth in the area. The project would not extend a road or other infrastructure that would indirectly induce growth. **(Less than Significant Impact)**

[70] California Department of Finance. *Table 2: E-5 City/County Population and Housing Estimates for Cities, Counties and the State, January 2011-2019, with 2010 Benchmark.* Accessed February 26, 2020. http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/.
[71] Association of Bay Area Governments. *Projections 2013.* August 2013.
[72] City of San José. *Envision San José 2040 General Plan Integrated Final Program EIR.* September 2011. Page 787.

b) Would the project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

The project site is currently developed with a multi-tenant office building. No residences are located on the project site. As a result, the project would not displace residents or housing and would not require the construction of replacement housing elsewhere. **(No Impact)**

4.15 PUBLIC SERVICES

4.15.1 Environmental Setting

4.15.1.1 *Regulatory Framework*

State

Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) requires local governments to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two.

Government Code Section 65995 through 65998

California Government Code Section 65996 specifies that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to the issuance of a building permit. Government Code Sections 65995 through 65998 set forth provisions for the payment of school impact fees by new development by "mitigating impacts on school facilities that occur (as a result of the planning, use, or development of real property" (Section 65996[a]). The legislation states that the payment of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA (Section 65996[b]).

Developers are required to pay a school impact fee to the school district to offset the increased demands on school facilities caused by the proposed residential development project. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code.

Regional and Local

Countywide Trails Master Plan

The Santa Clara County Trails Master Plan Update is a regional trails plan approved by the Santa Clara County Board of Supervisors. It provides a framework for implementing the County's vision of providing a contiguous trail network that connects cities to one another, cities to the county's regional open space resources, County parks to other County parks, and the northern and southern urbanized regions of the County. The plan identifies regional trail routes, sub-regional trail routes, connector trail routes, and historic trails.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The proposed project would be subject to General Plan public services policies, including the ones listed below.

Policies	Description
ES-2.2	Construct and maintain architecturally attractive, durable, resource-efficient, and environmentally healthful library facilities to minimize operating costs, foster learning, and express in built form the significant civic functions and spaces that libraries provide for the San José community. Library design should anticipate and build in flexibility to accommodate evolving community needs and evolving methods for providing the community with access to information sources. Provide at least 0.59-sf of space per capita in library facilities.
ES-3.1	Provide rapid and timely Level of Service (LOS) response time to all emergencies: 1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.
ES-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly visible and accessible spaces.
ES-3.11	Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.
PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
PR-1.2	Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
PR-1.12	Regularly update and utilize San José's Parkland Dedication Ordinance/Parkland Impact Ordinance (PDO/PIO) to implement quality facilities.
PR-2.4	To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend PDO and PIO fees for neighborhood serving elements (such as playground/tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds.
PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

Parkland Dedication Ordinance and Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25), requiring new residential development to either dedicate sufficient land to serve new residents or pay fees to offset the increased costs of providing new park facilities for new development. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities on-

site. For projects exceeding 50 units, the City decides whether the project will dedicate land for a new public park site or provide a fee in-lieu of land dedication. Pursuant to Municipal Code Section 14.25.610, residential care facilities for the elderly are eligible for the deferment of payment of the parkland fee, under the following requirements:

A. 100 percent of the residential units included in the residential care facility for the elderly must be covered by the license issued by the State of California to provide care to non-ambulatory elderly residents prior to occupancy of the first unit.
B. The residential care facility for the elderly must provide the following care and have the following attributes:
    1. Assistance in dressing, grooming, bathing, and other personal hygiene;
    2. Assistance with taking medication;
    3. Central storing and distribution of medication;
    4. Arrangement of and assistance with medical and dental care, including transportation; of residents to doctor or dentist appointments;
    5. Supervision of resident schedule and activities;
    6. Monitoring of food intake and special diets;
    7. Designed for residents who are physically incapable of travel outside the facility without personal assistance from the staff; and
    8. Residents receive transportation assistance from the facility on a limited basis for required activities such as medical appointments.

At the time that the residential care facility for the elderly ceases to meet the eligibility requirements set forth in Municipal Code Section 14.25.610, the owner of the property on which the residential care facility for the elderly is constructed shall be responsible for payment of the deferred fees including the interest earned on those fees during the deferment period.

4.15.1.2 *Existing Conditions*

Fire Protection Services

Fire protection services for the project site are provided by the SJFD. The SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the City. The closest station to the project site is Station Number 13 located at 4380 Pearl Avenue, 1.6 miles southeast of the project site.

Police Protection Services

Police protection services for the project site are provided by the Police Department (SJPD), which is headquartered at 201 West Mission Street, approximately six miles north of the project site. Patrols are dispatched from police headquarters.

Schools

The project site is located within the attendance boundaries of the San José Unified School District, which serves students from kindergarten through grade 12. Students in the project area attend Reed

Elementary School, located at 1524 Jacob Avenue approximately 1.6 miles southwest of the site; John Muir Middle School, located at 1260 Branham Lane approximately 1.6 miles south of the site; and Pioneer High School, located at 1290 Blossom Hill Road approximately 3.7 miles south of the project site.

Parks

The City of San José owns and maintains over 3,500 acres of parkland, including neighborhood parks, community parks, and regional parks.[73] The City's Department of Parks, Recreation, and Neighborhood Services is responsible for development, operation, and maintenance of all City park facilities. The nearest public park is the 8.6-acre Paul Moore Park located at Cherry Avenue and Hillsdale Avenue, approximately 0.7 mile west of the site. The park includes a picnic area, basketball and tennis courts, a softball field, and a playground.

Library and Community Centers

The City of San José is served by the San José Public Library System. The San José Public Library System consists of one main library (Dr. Martin Luther King Jr.) and 22 branch libraries. The nearest public library is the Pearl Avenue Branch Library at 4270 Pearl Avenue, approximately 1.5 miles southeast of the project site. The nearest community center is Kirk Community Center at 1601 Foxworthy Avenue, approximately 2.1 miles west of the project site.

4.15.2 Impact Discussion

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

[73] The Trust for Public Land, The Economic Benefits of the Park & Recreation System in San José, California (2016). Accessed September 14, 2020. https://www.tpl.org/sites/default/files/files_upload/updated-san-jose-econ-rept.pdf

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection services?

The proposed use is consistent with the existing General Plan land use designation for the site. The General Plan EIR concluded that, with the build out of the General Plan (which includes the proposed development), additional fire staff and equipment may be required to adequately serve a larger population but no new fire stations would be required other than those already planned.[74] The proposed project would replace the existing multi-tenant office building on the project site with an assisted living residential facility, which would intensify the use of the project site and result in an incremental increase in the demand for fire protection services compared to existing conditions.

Given the proximity of Station Number 13 to the project site, the development of the project would not significantly increase the response times to the site compared to existing conditions and would not preclude the SJFD from meeting their response time goals. In addition, the proposed development would be constructed in accordance with current building codes, and the SJFD would review project plans to ensure appropriate safety features are incorporated to reduce fire hazards. In accordance with General Plan Policy ES-3.11, the project would provide adequate fire suppression infrastructure. For these reasons, the proposed project would not result in a significant impact on fire protection facilities and services. **(Less than Significant Impact)**

b) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for police protection services?

The project site is currently served by the SJPD. Similar to fire protection services, the proposed development would incrementally increase the demand for police protection services to the site compared to existing conditions. The incremental increase in police protection services would not require new or expanded police protection facilities in order to maintain acceptable service ratios, response times, or other performance objectives for police protection services. In addition, the SJPD would review the final site design, including proposed landscaping, access, and lighting to ensure that the project provides adequate safety and security measures. For these reasons, the proposed project would not result in a significant impact on police protection facilities and services. **(Less than Significant Impact)**

[74] City of San José. *Integrated Final Program Environmental Impact Report for the Envision San José 2040 General Plan.* SCH# 2009072096. September 2011. Pages 626-629.

c) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for schools?

The project proposes an assisted living facility for seniors. As a result, the project would not generate any new students that would attend schools in the project vicinity. For this reason, the proposed project would have no impact on schools. **(No Impact)**

d) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for parks?

New residents of the site may result in the incremental increase in use of existing park facilities in the area, including Paul Moore Park. The proposed project would offset its park demand by providing a minimum of 8,800 sf of outdoor common amenity space on-site and complying with the City's PDO/PIO, as applicable. For these reasons, the project would not require the expansion or construction of new park facilities and would not cause a significant impact to park facilities. **(Less than Significant Impact)**

e) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for other public facilities?

The project may result in increased use of other public facilities such as libraries and community centers. Library and other community facilities would not be substantially degraded by the incremental increase in use created by the project. The existing and planned library facilities in the City will provide approximately 0.68 sf of library space per capita for the anticipated population under buildout of the General Plan (including the development proposed by the project), which exceeds the City's service goal of 0.59 sf of space per capita.[75] Therefore, no additional library facilities are required to adequately serve the buildout of the General Plan (including the project). In addition, the project's on-site outdoor amenities and compliance with the PDO/PIO (discussed above under checklist question d)) would offset the project's demand on other public facilities including community centers and community gardens. For these reasons, the proposed project would not substantially increase the use of City of San José facilities or otherwise require the construction of new public facilities. **(Less than Significant Impact)**

[75] City of San José. *Integrated Final Program Environmental Impact Report for the Envision San José 2040 General Plan.* September 2011. Page 637.

4.16 RECREATION

4.16.1 Environmental Setting

4.16.1.1 *Regulatory Framework*

State and Local

Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) requires local governments to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two.

Parkland Dedication Ordinance and Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25), requiring new residential development to either dedicate sufficient land to serve new residents or pay fees to offset the increased costs of providing new park facilities for new development. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities on-site. For projects exceeding 50 units, the City decides whether the project will dedicate land for a new public park site or provide a fee in-lieu of land dedication. Pursuant to Municipal Code Section 14.25.610, residential care facilities for the elderly are eligible for the deferment of payment of the parkland fee, under requirements previously outlined in Section 4.15 Public Services.

Envision San José 2040 General Plan Policies

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The proposed project would be subject to General Plan recreation policies, including the ones listed below.

Policies	Description
PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
PR-1.2	Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
PR-1.3	Provide 500-sf per 1,000 population of community center space
PR-2.4	To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance and Park Impact Ordinance fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds.

Policies	Description
PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, community gardens, community centers, etc.) within a three mile radius of the residential development that generates the PDO/PIO funds.

4.16.1.2 *Existing Conditions*

The City of San José owns and maintains over 3,500 acres of parkland including neighborhood parks, community parks, and regional parks. The City also manages 51 community centers, 17 community gardens, and six pool facilities. Other recreational facilities include seven public skate parks and 57.5 miles of interconnected trails.

Nearby recreational facilities include Paul Moore Park, located at Cherry Avenue and Hillsdale Avenue approximately 0.7 mile west of the project site; Thousand Oaks Park, located at 1054 Brockhampton Court approximately 1.4 miles southeast of the site; and Kirk Community Center, located at 1601 Foxworthy Avenue approximately 2.1 miles west of the site.

4.16.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☒	☐
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☒	☐

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

Future residents on-site would incrementally increase the demand on existing parks and other recreational facilities. As discussed in Section 4.15 Public Services, given the proposed on-site amenities for future residents and the project's conformance with the City's PDO/PIO, as applicable, to offset its demands on existing recreational facilities, the project would not significantly impact park and recreational facilities. **(Less than Significant Impact)**

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

The environmental impacts of constructing the proposed on-site indoor and outdoor amenity space is analyzed throughout this Initial Study and has been determined not to result in significant, unavoidable environmental impacts. As discussed in Section 4.15 Public Services and under checklist question a) above, new residents would be adequately served by on-site amenities and existing recreational facilities. The project would also comply with the City's PDO/PIO, as applicable, to offset its demands on park and recreational facilities. For these reasons, the proposed project would not require the construction of new recreational facilities with the potential to adversely affect the environment. **(Less than Significant Impact)**

4.17 TRANSPORTATION

The discussion in this section is based in part on a Transportation Analysis prepared by Hexagon Transportation Consultants, Inc. dated November 4, 2020. This report is included in Appendix F of this Initial Study.

4.17.1 Environmental Setting

4.17.1.1 *Regulatory Framework*

State

Regional Transportation Plan

MTC is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted Plan Bay Area 2040 in July 2017, which includes a Regional Transportation Plan to guide regional transportation investment for revenues from federal, state, regional and local sources through 2040.

Senate Bill 743

SB 743 establishes criteria for determining the significance of transportation impacts using a VMT metric intended to promote the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses. Specifically, SB 743 requires analysis of VMT in determining the significance of transportation impacts. Local jurisdictions are required by Governor's Office of Planning and Research (OPR) to implement a VMT policy by July 1, 2020.

SB 743 did not authorize OPR to set specific VMT impact thresholds, but it did direct OPR to develop guidelines for jurisdictions to utilize. CEQA Guidelines Section 15064.3(b)(1) describes factors that might indicate whether a development project's VMT may be significant.

Regional and Local

Congestion Management Program

VTA oversees the Congestion Management Program (CMP), which is aimed at reducing regional traffic congestion. The relevant state legislation requires that urbanized counties in California prepare a CMP in order to obtain each county's share of gas tax revenues. State legislation requires that each CMP define traffic LOS standards, transit service standards, a trip reduction and transportation demand management plan, a land use impact analysis program, and a capital improvement element. VTA has review responsibility for proposed development projects that are expected to affect CMP-designated intersections. Santa Clara County most recently updated its CMP in 2017.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The proposed project would be subject to General Plan transportation policies, including the ones listed below.

Policies	Description
TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).
TR-1.3	Increase substantially the proportion of commute travel using modes other than the single-occupant vehicle in order to meet the City's mode split targets for San José residents and workers.
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.
TR-1.9	Give priority to the funding of multimodal projects that provide the most benefit to all users. Evaluate new transportation projects to make the most efficient use of transportation resources and capacity.
TR-2.1	Coordinate the planning and implementation of citywide bicycle and pedestrian facilities and supporting infrastructure. Give priority to bicycle and pedestrian safety and access improvements at street crossings (including proposed grade-separated crossings of freeways and other high vehicle volume roadways) and near areas with higher pedestrian concentrations (school, transit, shopping, hospital, and mixed-use areas).
TR-2.2	Provide a continuous pedestrian and bicycle system to enhance connectivity throughout the City by completing missing segments. Eliminate or minimize physical obstacles and barriers that impede pedestrian and bicycle movement on City streets. Include consideration of grade-separated crossings at railroad tracks and freeways. Provide safe bicycle and pedestrian connections to all facilities regularly accessed by the public, including the Mineta San José International Airport.
TR-2.5	Integrate the financing, design and construction of pedestrian and bicycle facilities with street projects. Build pedestrian and bicycle improvements at the same time as improvements for vehicular circulation.
TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new

Policies	Description
	development is designed to accommodate and to provide direct access to transit facilities.
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.
LU-9.1	Create a pedestrian-friendly environment by connecting new residential development with safe, convenient, accessible, and pleasant pedestrian facilities. Provide such connections between new development, its adjoining neighborhood, transit access points, schools, parks, and nearby commercial areas.

Transportation Analysis Policy (City Council Policy 5-1)

As established in City Council Policy 5-1, Transportation Analysis Policy, the City of San José uses VMT as the metric to assess transportation impacts from new development. According to the policy, an employment (e.g., office or research and development) or residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional VMT per employee or the existing average citywide VMT per capita, respectively. Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to a have a less than significant VMT impact.

If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible. The policy also requires preparation of a Local Transportation Analysis to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access and recommend transportation improvements. The VMT policy does not negate Area Development policies and Transportation Development policies approved prior to adoption of Policy 5-1; however, it does negate the City's Protected Intersection policy as defined in Policy 5-3.

4.17.1.2 *Existing Conditions*

VMT of Existing Land Uses

To determine whether a project would result in CEQA transportation impacts related to VMT, the City has developed the San José VMT Evaluation Tool to streamline the analysis for residential, general employment (office), and industrial projects. Based on the VMT Evaluation Tool and the project's APN, the existing VMT for general employment uses in the project vicinity is 14.20 per employee. The current regional average VMT for general employment uses is 14.37 per employee. Thus, the VMT levels of existing general employment uses in the project vicinity are less than the regional average VMT levels.

Roadway Network

Regional access to the project area is provided via SR 85 and SR 87. Local access to the project site is provided via Almaden Expressway, Hillsdale Avenue, Capitol Expressway, and Newberry Drive. These roadways are described below.

SR 85 is a predominantly north/south, six-lane freeway that is oriented in an east-west direction in the vicinity of the project site. It extends from Mountain View to south San José, terminating at US 101. SR 85 is a six-lane freeway with four mixed-flow lanes and two high-occupancy vehicle (HOV) lanes. It connects to I-280, SR 17, SR 87, and US 101. SR 85 provides access to the project site via a full interchange at Almaden Expressway.

SR 87 is a north/south, six-lane freeway that extends from SR 85 in the south to US 101 in the north. SR 87 has two mixed-flow lanes and one HOV lane in each direction in the vicinity of the project site. Site access is provided to and from SR 87 via a partial interchange at Almaden Expressway and a full interchange at Capitol Expressway.

Almaden Expressway is a north/south expressway that extends from Harry Road in south San José to Almaden Road, just south of downtown San José. Near the project site, Almaden Expressway is six lanes wide. The southbound direction provides direct access to and from the project site via the ramp at Newberry Drive.

Hillsdale Avenue is an east/west six-lane divided roadway. Hillsdale Avenue merges with Camden Avenue in the west and becomes Capitol Expressway at Almaden Expressway in the east. The eastbound direction provides direct access to and from the project site via Newberry Drive. There is no direct access to and from the westbound direction on Hillsdale Avenue to the project site.

Capitol Expressway is a predominantly north/south six- to eight-lane expressway that is oriented in an east-west direction in the vicinity of the project. It extends from Jackson Avenue in east San José to Almaden Expressway. Capitol Expressway becomes Hillsdale Avenue at Almaden Expressway. Near the project site, Capitol Expressway is six lanes wide. The eastbound direction provides direct access to and from the project site via Newberry Drive.

Newberry Drive is a two-lane ramp (one lane in each direction) that connects Hillsdale Avenue and Almaden Expressway. Newberry Drive provides direct access to the project site.

Pedestrian, Bicycle, and Transit Facilities

Pedestrian Facilities

Pedestrian facilities in the project vicinity consist of sidewalks along Newberry Drive, Hillsdale Avenue, Almaden Road, and various residential streets in the surrounding neighborhood. There are limited sidewalks present along Almaden Expressway in the vicinity of the project site and there is a pedestrian bridge along the west side of Almaden Expressway that crosses Hillsdale Avenue/Capitol Expressway. Marked crosswalks in the project site vicinity include a midblock crosswalk on Newberry Drive and a crosswalk at the Newberry Drive/Hillsdale Avenue intersection.

Although sidewalks are present along most of Capitol Expressway in the vicinity of the project, sidewalks are missing on the bridge crossing Guadalupe River, which limits pedestrian access to the project site via Capitol Expressway. As such, pedestrian access to the project site is limited to Hillsdale Avenue and the surrounding neighborhood.

Bicycle Facilities

Existing bicycle facilities in the project vicinity consist of bicycle lanes[76] on the following roadway segments:

- Capitol Expressway, from Almaden Expressway to SR 87
- Cherry Avenue, from Curtner Avenue to SR 85
- Pearl Avenue, from Capitol Expressway to Branham Lane

The bicycle lanes along Capitol Expressway end just east of Almaden Expressway. As such, existing bicycle facilities do not provide direct bicycle access to the project site. To access the project site, bicyclists can walk their bicycles between the project site and Capitol Expressway via the existing sidewalk network. The low speeds and low vehicular volume on the surrounding neighborhood streets make them conducive to bicycle traffic. A map of existing bicycle facilities can be seen in Figure 4.17-1.

Transit Services

Existing transit service near the project site is provided by the VTA. Within the project vicinity, there are VTA bus stops located on Hillsdale Avenue and on Almaden Expressway. The VTA bus routes within the project vicinity and their headways are summarized below in Table 4.17-1 and can be seen in Figure 4.17-2.

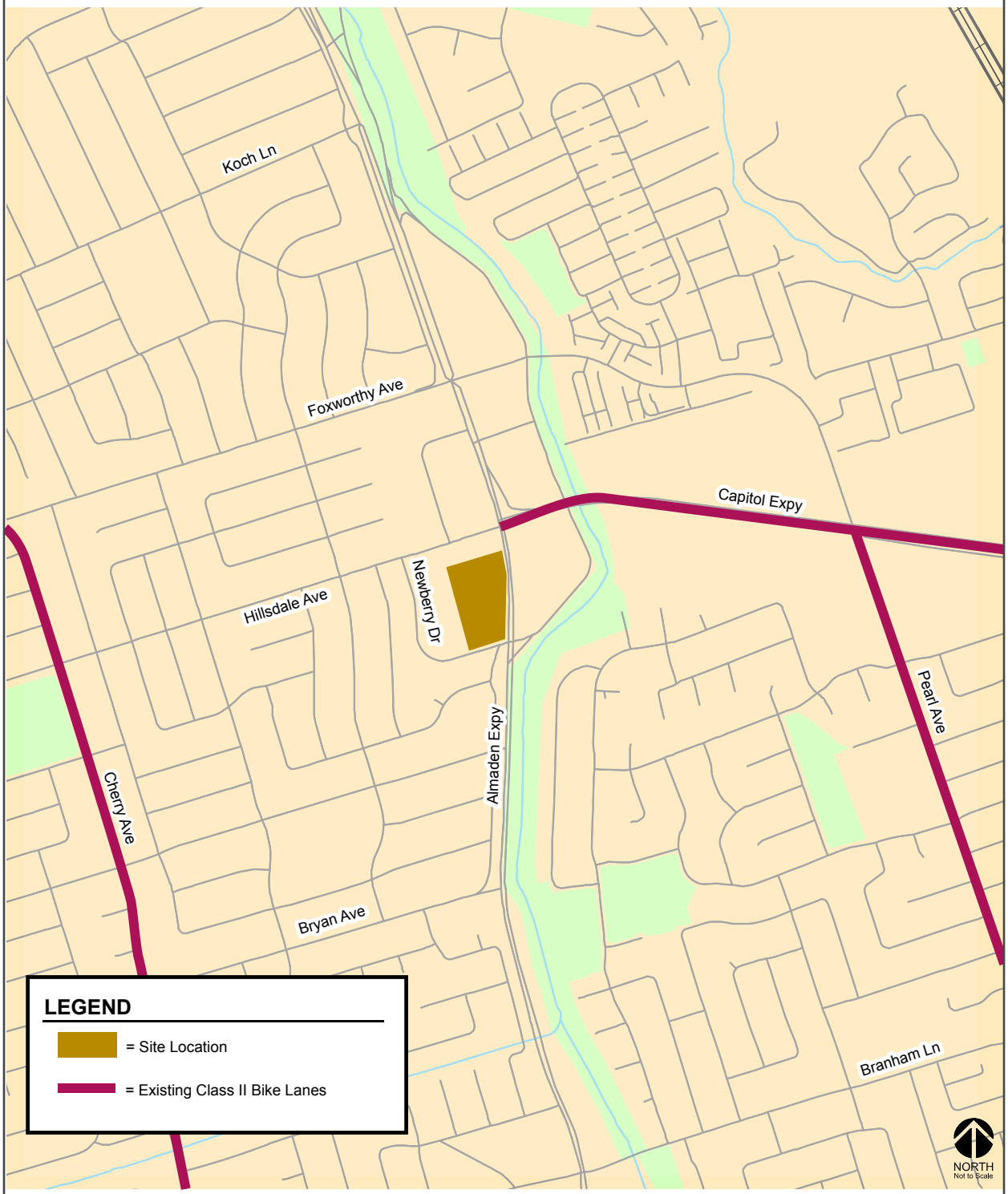
Table 4.17-1: Existing Bus Routes

Bus Route	Route Description	Headway*
Less Frequent Bus Route 64A	McKee & White to Ohlone-Chynoweth Light Rail Station	30
Local Bus Route 37	West Valley College to Capitol Light Rail Station	60

*Approximate headway, in minutes, during the peak weekday commute periods.
The route information provided is based on pre-COVID-19 conditions.

In addition to the VTA bus stops located near the project site, there is a VTA Light Rail Station less than two miles from the project site. The Capitol Light Rail Station is located on Capitol Expressway at SR 87. Local Bus Route 37 includes stops near the project site and at the Capitol Light Rail Station.

[76] Bicycle lanes are lanes on roadways designed for use by bicycles with special lane markings, pavement legends, and signage.



Source: Hexagon Transporation Consultants, Inc., May 26, 2020.

EXISTING BICYCLE FACILITIES | FIGURE 4.17-1

Source: Hexagon Transporation Consultants, Inc., May 26, 2020.

EXISTING TRANSIT SERVICES | FIGURE 4.17-2

4.17.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?	☐	☒	☐	☐
b) Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?	☐	☒	☐	☐
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☒	☐
d) Result in inadequate emergency access?	☐	☐	☒	☐

a) Would the project conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?

Transit Facilities

Due to the project site's proximity to bus stops and light rail transit, it is reasonable to assume that some project trips would utilize the transit services provided. It is estimated that the increased transit demand generated by the proposed project's estimated 92 employees could be accommodated by the current available ridership capacities of the transit services in the project area. The project would not alter existing transit facilities or conflict with the operation of existing or planned facilities. The project, therefore, would not conflict with a transit program, plan, ordinance, or policy. **(Less than Significant Impact)**

Pedestrian and Bicycle Facilities

The project would not eliminate any pedestrian or bicycle facilities. The project would install a new sidewalk along the project site frontage on Newberry Drive and construct a continuous sidewalk network within the project site. There are pedestrian/bicycle improvements that would improve access, consistent with General Plan Policies TR-1.4, TR-2.1, and LU-9.1.

Impact TRN-1: There are pedestrian/bicycle improvements that could be implemented to improve access, consistent with General Plan Policies TR-1.4, TR-2.1, and LU-9.1 **(Significant Impact)**

Mitigation Measures: See mitigation measure MM TR-2.1 below.

The project, with the proposed sidewalk improvements and installation of off-site pedestrian/bicycle improvements and traffic calming measures required by mitigation measure MM TR-2.1 below,

would not conflict with any adopted plans or policies for future pedestrian and bicycle facilities. **(Less than Significant Impact with Mitigation Incorporated)**

b) Would the project conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?

CEQA Guidelines Section 15064.3 identifies VMT analysis as the most appropriate measure of transportation impacts. The VMT thresholds of significance for development projects are established in the City's Transportation Analysis Policy. The VMT impact threshold is 15 percent below the Citywide average for general employment use. Thus, projects that include general employment uses are said to create a significant adverse impact when the estimated project-generated VMT exceeds the existing regional average VMT per employee minus 15 percent. Currently, the reported regional average is 14.37 VMT per employee. This equates to a significant impact threshold of 12.21 VMT per employee.

The City's VMT Evaluation Tool does not provide for the evaluation of VMT for an assisted living facility. Therefore, for the purpose of VMT evaluation, the proposed senior assisted living facility was converted to equivalent office space to provide an estimate of VMT (see analysis in Appendix F). This is a reasonable approach to VMT analysis for the project since the employees of the senior assisted living facility would produce the majority of site-generated traffic. Based on the land use conversion, applying standard daily trip generation rates from the Institute of Transportation Engineers' (ITE) Trip Generation Manual, an assisted living facility with 195 beds is estimated to generate the same number of daily trips as 52,100-sf of office space (see Table 4.17-2, below).

Table 4.17-2: Equivalent Office Space

Land Use	Size	Daily	
		Rate*	Trip
Assisted Living	195 beds	2.60	507
General Office Building	Equivalent Office Space** = 52,100-sf	9.74	507

*Source: ITE Trip Generation Manual, 10th Edition 2017

**The VMT Evaluation Tool does not provide for the evaluation of VMT for an assisted living facility. Therefore, the proposed project trips were converted to equivalent office space using ITE daily trip generation rates and evaluated as office land use in the VMT Evaluation Tool.

Using the City's VMT evaluation tool, the project VMT is estimated to be 14.14 per employee. The project VMT exceeds the significance threshold of 12.21 VMT per employee. Thus, the project would result in a significant VMT impact.

Impact TR-2: The project would exceed the threshold of significance set forth for VMT in the City's Transportation Analysis Policy. **(Significant Impact)**

Mitigation Measure:

MM TR-2.1: Prior to the issuance of any building permits, the project shall reduce its VMT per employee to below the City's significance threshold of 12.21 by implementing the below measures:

- Prior to issuance of building occupancy permits, the project applicant shall install a new sidewalk along the project frontage on Newberry Drive and the project shall work with the City and County to improve the pedestrian/bicycle connections at the intersections of Newberry Drive/Hillsdale Avenue and Almaden Expressway/Newberry Drive. These pedestrian/bicycle connection improvements are as follows:
    - At the intersection of Newberry Drive/Hillside Avenue, the project applicant shall work with the City to construct accessible ramps with truncated domes, provide new signage, refresh striping, install truncated domes at the existing median, and convert the Newberry Drive approach to stop-control.
    - At the intersection of Almaden Expressway/Newberry Drive, the project applicant shall work with the City and County to construct accessible ramps with truncated domes, tighten the northwest corner, and refresh striping.
- During operation of the project, the project applicant shall implement TDM measures to reduce employee VMT. VMT-reducing TDM measures shall include bicycle parking/end-of-trip facilities, a subsidized transit program, and commute trip reduction marketing and education. A TDM plan with approved measures shall be submitted to the Director of PBCE, or the Director's designee, prior to issuance of a grading permit.

Based on the City's VMT Evaluation Tool, implementing mitigation measure MM TR-2.1 would lower the project's VMT to 12.03 per employee, which is below the significance threshold of 12.21 VMT per employee (see summary reports of the VMT Evaluation Tool in Appendix F). The project, with the implementation of mitigation measure MM TR-2.1, would not result in a significant VMT impact and would not conflict with the City's Transportation Analysis Policy. **(Less than Significant Impact with Mitigation Incorporated)**

c) Would the project substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

Design Features

Project Driveways

As proposed, vehicular access to the project site would primarily be provided via an existing driveway on Newberry Drive. The parking lot for the project site would also be connected to the adjacent Denny's parking lot north of the site. Access to the Denny's site is provided via two existing driveways: one on Hillsdale Avenue and one on Almaden Expressway. The project would remove the existing driveway on Almaden Expressway.

- Driveway Widths – According to the City of San José Department of Transportation Geometric Design Guidelines, the typical width for a two-way driveway that serves a multi-family residential development is 26 feet wide. This provides adequate width for vehicular ingress and egress and provides a reasonably short crossing distance for pedestrians. The project driveway on Newberry Drive is 26 feet wide, which meets the City's standard. However, it is anticipated that the majority of project traffic would travel to and from the site via Hillsdale Avenue and Almaden Expressway. The project is not expected to generate cut-through traffic on the adjacent residential streets.

- Sight Distance at Newberry Drive Driveway – There is approximately 220 feet of sight distance from the project driveway on Newberry Drive, looking towards both eastbound and westbound traffic. Based on the stopping sight distances outlined in the California Department of Transportation's Highway Design Manual, a sight distance of 220 feet is sufficient for speeds up to 30 mph. On Newberry Drive, the eastbound direction has an advisory speed of 25 mph and the westbound direction has an advisory speed of 20 mph. Since the speed on Newberry Drive is less than 30 mph, the proposed sight distance of 220 feet is adequate.

- Driveway Operations – Access to the project would be via shared driveways. The Newberry Drive, Hillsdale Avenue, and Almaden Expressway driveways provide access to the project site, as well as the adjacent Denny's and commercial uses. No deficiencies in the driveway operations were observed. Since the project would produce fewer peak-hour trips than the existing office building, the project is not expected to have an adverse effect on driveway operations.

  It is expected that the project trips would have a minimal effect on queuing at the project driveway and the shared driveways. Outbound trips would be highest during the PM peak hour. During the PM peak hour, it is estimated that there would be 25 outbound trips, which equates to approximately one vehicle every two minutes. Any outbound queues would remain on-site while the vehicles wait for a gap in traffic to exit the driveway. The majority of inbound traffic would be right-turn traffic, and thus, would have not have an adverse effect on queuing. The project driveway on Newberry Drive would allow left-turn movements for

inbound traffic, however, the project trips making this movement would be minimal and therefore are not expected to have an adverse effect on Newberry Drive operations.

- Driveway Alternative – The City is considering closing the Denny's driveway located on Almaden Expressway. Thus, a scenario was analyzed with the shared Almaden Expressway driveway removed. Project traffic that would have used this driveway would be outbound vehicles that are heading towards southbound Almaden Expressway. Without the Almaden Expressway driveway, the outbound vehicles that would head towards southbound Almaden Expressway would need to use either the Newberry Drive driveway or the Hillsdale Avenue driveway. The vehicles that are rerouted to the other driveways would not have an adverse effect on the operations of those driveways.

On-Site Circulation

- Truck Access and Circulation – The project site plan was reviewed for truck access using truck turning-movement templates for a single unit truck, which represents small emergency vehicles, garbage trucks, and small to medium delivery trucks. Based on a review of the site plan configuration, adequate access would be provided for a single unit truck to access the site from Newberry Drive, maneuver through the parking lot, and exit the site from Newberry Drive. Refer to the discussion under checklist question d) regarding emergency access.

- Garbage Collection – The project includes a loading zone in the northeast corner of the building. Garbage trucks would have sufficient space to enter the site through the project driveway, navigate through the parking lot, and exit the site through the same project driveway. Since garbage collection would occur on-site, traffic operations along Newberry Drive, Hillsdale Avenue, and Almaden Expressway would not be affected during garbage collection activities.

Based on the above discussion, the project would not substantially increase hazards due to a geometric design feature. **(Less than Significant Impact)**

Incompatible Uses

The project does not propose any incompatible uses, such as farm equipment. The project proposes a senior living facility that is consistent with the mix of residential and commercial uses in the area.

It is likely that all construction-related activity for the project would occur on-site. If any construction activities occur within the public right-of-way, clear signage (e.g., closure and detour signs) would be provided to ensure vehicles, pedestrians, and bicyclists are able to adequately reach their intended destinations safely. Per City standard practice, the project would be required to submit a construction management plan for City approval that addresses the construction schedule, street closures and/or detours, construction staging areas and parking, and the planned truck routes.

Based on the above discussion, the project does not propose incompatible uses. **(Less than Significant Impact)**

d) Would the project result in inadequate emergency access?

The project driveway on Newberry Drive would provide emergency vehicle access to the parking lot and building; however, it is expected that ambulances and fire trucks would travel to and from the site via Hillsdale Avenue and Almaden Expressway, similar to other project-generated traffic. The SJFD requires that all portions of the buildings be within 150 feet of a fire department access road and requires a minimum of six feet of clearance from the property line along all sides of the buildings. Based on review of the site plan, the project would meet the SJFD requirements. In addition, the final site design would be reviewed for consistency with applicable SJFD standards. Therefore, the project would not result in inadequate emergency access. **(Less than Significant Impact)**

4.17.3 Non-CEQA Effects

Level of Service

With the passage of SB 743 amending CEQA's evaluation of transportation impacts and the effective date of the CEQA Guidelines implementing SB 743, a project's effects on Level of Service (LOS) shall no longer be considered an impact on the environment. The following discussion is included because the City of San José has policies that address LOS as a planning or growth management matter, outside the CEQA process. In the event a deficient LOS condition is identified, the City has discretion whether to require a project to address the deficiency by implementing roadway or other transportation improvements to restore or improve the level of service, and the relevant question under CEQA is whether those improvements would result in adverse physical changes to the environment, and not whether the LOS has degraded below the condition considered acceptable.

The amount of traffic that would be generated by the project was estimated using ITE's Trip Generation Manual (see analysis in Appendix F). In accordance with San José's Transportation Analysis Handbook, the project is eligible for adjustments and reductions to the baseline trip generation. In addition, as discussed under checklist question b), the project would implement a TDM plan (see mitigation measure MM TR-2.1). The VMT reduction resulting from implementing the TDM plan is included as part of the trip generation estimates. Refer to Appendix F for additional details on the adjustments and reductions. It is estimated that the project would generate fewer daily and AM and PM peak hour trips compared to the existing office building (see Table 4.17-3); therefore, the project would not result in LOS deficiencies.

Parking

Vehicle Parking

The City of San José's off-street vehicle parking requirements, as described in the City's Zoning Code (Chapter 20.90, Table 20-190), are one parking space per six client beds, plus one additional space for up to four client beds (or portion thereof) above the first six, plus one space for each employee or staff member for residential care or service facilities. The project would include 195 beds and a maximum of 49 employees during peak times and full capacity. Therefore, the project would be required to provide 49 parking spaces for residents/visitors and 49 parking spaces for employees, for a total of 98 parking spaces.

The project proposes 115 total vehicle parking spaces. Thus, the proposed project would exceed the City's parking requirements by 17 parking spaces.

Bicycle Parking

The City of San José's off-street bicycle parking requirements, as described in the City's Zoning Code (Chapter 20.90, Table 20-190), are one long-term parking space per 10 full-time employees. The project would provide a total of six long-term bicycle parking spaces for the maximum 49 employees on-site. Thus, the proposed project would meet the City's bicycle parking requirements.

Table 4.17-3: Project Trip Generation Summary												
Land Use	**Size**	**Units**	**Daily**		**AM Peak Hour**				**PM Peak Hour**			
					Rate	**Trip**			**Rate**	**Trip**		
			Rate	**Trip**		**In**	**Out**	**Total**		**In**	**Out**	**Total**
Proposed												
Proposed Assisted Living[1]	195	beds	2.60	507	0.19	23	14	37	0.26	19	32	51
Location Based Reduction (9%)[2]				*(46)*		*(2)*	*(1)*	*(3)*		*(2)*	*(3)*	*(5)*
Subtotal Project Trips				**461**		**21**	**13**	**34**		**17**	**29**	**46**
Project- Specific Trip Reduction (15%)[3]				*(69)*		*(3)*	*(2)*	*(5)*		*(3)*	*(4)*	*(7)*
A. Project Trips				**392**		**18**	**11**	**29**		**14**	**25**	**39**
Existing												
Existing Office Building[4]	47.124	ksf	9.74	459	1.16	47	8	55	1.15	9	45	54
Location-Based Reduction (9%)[2]				*(41)*		*(4)*	*(1)*	*(5)*		*(1)*	*(4)*	*(5)*
B. Existing Trips				**418**		**43**	**7**	**50**		**8**	**41**	**49**
NET PROJECT TRIPS (A - B)				**(26)**		**(25)**	**4**	**(21)**		**6**	**(16)**	**(10)**

[1] Assisted living trip generation based on the rates published in the ITE Trip Generation Manual, 10th Edition (2017) for Assisted Living (Land Use Code 254). Rates expressed in trips per bed.

[2] The project site is located within an urban low-transit area based on the City of San José VMT Evaluation Tool (February 28, 2019). A nine-percent reduction was applied based on the location-based vehicle mode share percentage outputs from Table 6 of the City of San José Transportation Analysis Handbook 2018.

[3] A 15-percent reduction was applied based on the external trip adjustment obtained from the City of San José VMT Evaluation Tool.

[4] Existing office building trip generation based on the rates published in the ITE Trip Generation Manual, 10th Edition (2017) for General Office Building (Land Use Code 710). Rates expressed in trips per 1000 sf (ksf).

[5.] Values in parentheses represent negative values. For example, net project trips in parentheses represent a net loss in trips.

4.18 TRIBAL CULTURAL RESOURCES

4.18.1 Environmental Setting

4.18.1.1 *Regulatory Framework*

State

Assembly Bill 52

AB 52, effective July 2015, established a new category of resources for consideration by public agencies called Tribal Cultural Resources (TCRs). AB 52 requires lead agencies to provide notice of projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified. Where a project may have a significant impact on a TCR, consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a TCR or until it is concluded that mutual agreement cannot be reached.

Under AB 52, TCRs are defined as follows:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are also either:
    - Included or determined to be eligible for inclusion in the CRHR, or
    - Included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k).
- A resource determined by the lead agency to be a TCR.

4.18.1.2 *Existing Conditions*

There are no known TCRs on-site. The Ohlone tribe has sent a written request for notification of all projects within the City of San José. As discussed in Section 3.5 Cultural Resources, the project site has moderate sensitivity for archaeological resources.

4.18.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?	☐	☐	☒	☐

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☐	☒	☐

a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is listed 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)?

The City received written notice from the Ohlone Indian Tribal Representative on July 9, 2018, requesting notification of projects in accordance with Public Resources Code Section 21080.31 subdivision (b). The City also received a verbal request in a meeting with the tribal Representative on July 12, 2018, that such notification be sent only for projects in the City of San José that involve ground-disturbing activities, and that such requests may be sent by email only for future projects that require a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report. On September 1, 2020, the Ohlone Indian Tribal Representative was notified via email of the proposed project. At the time of the preparation of this Initial Study, no response was received, and it is presumed the consultation request has been declined. In addition, as discussed in Section 4.18.1.2 Existing Conditions, there are no known TCRs on-site. The implementation of the standard permit conditions identified in Section 4.5 Cultural Resources would reduce the project's impact to TCRs (if encountered during construction) to a less than significant level. **(Less than Significant Impact)**

b) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1?

See discussion under checklist question a). **(Less than Significant Impact)**

4.19 UTILITIES AND SERVICE SYSTEMS

4.19.1 Environmental Setting

4.19.1.1 *Regulatory Framework*

State

State Water Code

Pursuant to the State Water Code, water suppliers providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet (approximately 980 million gallons) of water annually must prepare and adopt an urban water management plan (UWMP) and update it every five years. As part of a UWMP, water agencies are required to evaluate and describe their water resource supplies and projected needs over a 20-year planning horizon, water conservation, water service reliability, water recycling, opportunities for water transfers, and contingency plans for drought events. The San José Water Company (SJWC) is the water provider to the site; the SJWC adopted its most recent UWMP in June 2016.

Assembly Bill 939

The California Integrated Waste Management Act of 1989, or AB 939, established the Integrated Waste Management Board, required the implementation of integrated waste management plans, and mandated that local jurisdictions divert at least 50 percent of solid waste generated (from 1990 levels), beginning January 1, 2000, and divert at least 75 percent by 2010. Projects that would have an adverse effect on waste diversion goals are required to include waste diversion mitigation measures.

Assembly Bill 341

AB 341 sets forth the requirements of the statewide mandatory commercial recycling program Businesses that generate four or more cubic yards of garbage per week and multi-family dwellings with five or more units in California are required to recycle. AB 341 sets a statewide goal for 75 percent disposal reduction by the year 2020.

Senate Bill 1383

SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. The bill grants Department of Resources Recycling and Recovery (CalRecycle) the regulatory authority required to achieve the organic waste disposal reduction targets and establishes an additional target that at least 20 percent of currently disposed edible food is recovered for human consumption by 2025.

Assembly Bill 1826

AB 1826 sets forth the requirements of the statewide mandatory commercial organics recycling program for businesses that generate four or more cubic yards of commercial solid waste per week and multi-family dwellings with five or more units in California. AB 1826 sets a statewide goal for 50 percent reduction in organic waste disposal by the year 2020.

California Green Building Standards Code

In January 2010, the State of California adopted CALGreen, establishing 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. These standards include the following mandatory set of measures, as well as more rigorous voluntary guidelines, for new construction projects to achieve specific green building performance levels:

- Reducing indoor water use by 20 percent;
- Reducing wastewater by 20 percent;
- Recycling and/or salvaging 65 percent of nonhazardous construction and demolition ("C&D") debris, or meeting the local construction and demolition waste management ordinance, whichever is more stringent (see San José-specific CALGreen building code requirements in the local regulatory framework section below); and
- Providing readily accessible areas for recycling by occupants.

Regional and Local

Countywide Integrated Waste Management Plan

Pursuant to Assembly Bill 939, solid waste facility compliance requires that each county prepare and adopt a Countywide Integrated Waste Management Plan. The Santa Clara County Integrated Waste Management Plan (CIWMP) was approved in 1996 and contains goals, policies, and objectives aimed to ensure an effective and efficient integrated waste management system.

Public Resources Code Sections 41770 and 41822, and Title 24, California Code of Regulations Section 18788 require that each countywide or regional agency integrated waste management plan (CIWMP/RAIWMP), and elements thereof, be reviewed, revised (if necessary), and submitted to the CalRecycle every five years. The last such review was completed in 2016 and concluded that despite population growth, solid waste diversion has increased, Santa Clara County has adequate disposal capacity (i.e., greater than 15 years), and no revisions to the CIWMP are warranted.[77]

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The proposed project would be subject to General Plan utilities and services policies, including the ones listed below.

Policies	Description
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.

[77] California Department of Resources Recycling and Recovery. *Five-Year CIWMP/RAIWMP Review Report Template.* October 27, 2016.

Policies	Description
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.
MS-3.3	Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
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.
IN-3.1	Achieve minimum level of services: • For sanitary sewers, achieve a minimum level of service "D" or better as described in the Sanitary Sewer Level of Service Policy and determined based on the guidelines provided in the Sewer Capacity Impact Analysis (SCIA) Guidelines. • For storm drainage, to minimize flooding on public streets and to minimize the potential for property damage from stormwater, implement a 10-year return storm design standard throughout the City, and in compliance with all local, State and Federal regulatory requirements.
IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
IN-3.5	Require development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D", to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.
IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
IN-3.10	Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES) permit.

San José Zero Waste Strategic Plan/Climate Smart San José

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

San José Municipal Code Section 9.10.2480

The City of San José requires 75 percent diversion of nonhazardous construction and demolition debris for projects that qualify under CALGreen.

4.19.1.2 *Existing Conditions*

Water Service

Water service to the project site is provided by the San José Water Company (SJWC). The service area of SJWC is 139 square miles, including most of the cities of San José and Cupertino; the entire cities of Campbell, Monte Sereno, Saratoga, the Town of Los Gatos; and parts of unincorporated Santa Clara County. Potable water provided to the service area is sourced from groundwater, imported treated water and local surface water. Approximately 55 percent of SJWC's water supply is purchased from the SCVWD, 37 percent is pumped from local groundwater aquifers, and eight percent comes from local surface water sources. According to the SJWC's UWMP, total water demand within its service area is expected to increase to 47,144 million gallons in 2020 and 49,561 million gallons in 2025. Forecasted increases in water demand are based on the Association of Bay Area Governments (ABAG) population projections for the City of San José.

The project site is currently developed with a multi-tenant office building, surface parking areas, and landscaping. The existing water demand on-site is estimated to be approximately 13.5 million gallons per year.[78]

Sanitary Sewer/Wastewater Treatment

Wastewater generated on-site is treated at the San José/Santa Clara Regional Wastewater Facility (RWF), which is administered and operated by the City's Department of Environmental Services. The RWF has the capacity to treat 167 million gallons of wastewater per day (mgd) during dry weather flow, with the City allocated approximately 110 mgd of existing capacity.[79] The City of San José currently generates approximately 69.8 mgd of average dry weather flow (ADWF), leaving 38.8 mgd of excess treatment capacity at the RWF for the City's wastewater treatment demands.[80]

Wastewater generated on-site is conveyed to the City's sewer system via two 18-inch diameter mains in Almaden Expressway.[81] Assuming sewage generation on-site is 85 percent of the site's water use, it is estimated that the site generates approximately 3,700 gallons of wastewater per day.

Storm Drainage

The project site is located within an urbanized area served by an existing storm drainage system. The existing site conditions include 136,110 sf (or 88 percent) of impervious surface area and 19,340 sf (or 12 percent) of pervious surface area. Runoff from the site flows untreated into storm drain inlets

[78] Illingworth & Rodkin, Inc. *San José Senior Living Air Quality and Greenhouse Gas Emission Assessment, Attachment 2 – CalEEMod Input Assumptions and Outputs*. August 28, 2020.
[79] San José-Santa Clara Regional Wastewater Facility, 2017. https://www.sanjoseca.gov/your-government/environment/water-utilities/regional-wastewater-facility. Accessed July 29, 2020.
[80] City of San José. *Envision San José 2040 General Plan FEIR.* September 2011. Page 648.
[81] City of San José. "Utility Viewer." Accessed June 2, 2020. https://csj.maps.arcgis.com/apps/webappviewer/index.html?id=0d463f017c8a48a7b73b2d35bd7381f1.

in the site vicinity, where it is conveyed to the City's storm drain system via 12-inch and 15-inch storm drain lines in Almaden Expressway.[82] Stormwater from the site is conveyed to the Guadalupe River, and eventually is discharged to the San Francisco Bay.

Solid Waste

The City of San José generates approximately 1.7 million tons of solid waste annually.[83] The City has an existing contract to dispose of its solid waste at Newby Island Sanitary Landfill (NISL). In December 2019, NISL has approximately 14.6 million cubic yards of capacity remaining and an estimated closure year of 2041.[84] The existing use on-site generates approximately 44 tons of solid waste per year.[85]

Other landfills located within Santa Clara County besides NISL include the Guadalupe Mines, Kirby Canyon, and Zanker Road landfills. According to the CIWMP, the county has adequate disposal capacity greater than 15 years.[86]

4.19.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☒	☐
b) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☒	☐
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☒	☐

[82] City of San José. "Utility Viewer." Accessed June 2, 2020. https://csj.maps.arcgis.com/apps/webappviewer/index.html?id=0d463f017c8a48a7b73b2d35bd7381f1
[83] City of San José. *2040 General Plan FEIR*. September 2011.
[84] North, Daniel. General Manager, Republic Services. Personal communications. November 14, 2019.
[85] Illingworth & Rodkin, Inc. *San José Senior Living Air Quality and Greenhouse Gas Emission Assessment, Attachment 2 – CalEEMod Input Assumptions and Outputs*. August 28, 2020.
[86] Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report.* June 2016.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
d) Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☒	☐
e) Be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?	☐	☐	☒	☐

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

The project would connect to existing utilities and services system infrastructure in the area.

Water Facilities

It is estimated that the proposed project would have a water demand of 20.7 million gallons per year, which is a net increase of 7.2 million gallons per year compared to existing conditions. The project would not require the construction or expansion of water delivery systems or the expansion of the boundaries of the SJWC service area. The project would comply with all applicable Public Works requirements to ensure water mains would have the capacity for water and fire flows required by the proposed project. For these reasons, the project would not result in significant environmental effects related to the relocation or construction of new or expanded water facilities. **(Less than Significant Impact)**.

Sanitary Sewer/Wastewater Treatment Facilities

The proposed project would connect to the City's existing sanitary sewer system, via the sanitary sewer lines in Almaden Expressway. It is estimated the project would generate 5,670 gallons per day of sewage, which result in a net increase in 1,970 gallons per day of sewage compared to existing conditions. The City has confirmed there is sufficient capacity in the existing sewer lines serving the site and downstream to accommodate project flows. Given the RWF available treatment capacity of 38.8 mgd for the City's wastewater treatment demands, the RWF would have sufficient capacity available to treat the project's net increase of 1,970 gallons per day. Based on these reasons, no relocation or construction of new or expanded sanitary sewer treatment facilities would be required to serve the proposed project. **(Less than Significant Impact)**

Storm Drainage

As discussed in Section 4.10 Hydrology and Water Quality, the project would result in a net decrease the impervious surface area on-site by six percent (or 8,870 sf) from 136,110 to 127,240 sf, which would result in a corresponding slight decrease in stormwater runoff. As a result, the existing storm

drainage system would continue to be able to accommodate runoff from the project site. No new storm drainage facilities would need to be constructed to accommodate the proposed project. **(Less than Significant Impact)**

Electric Power, Natural Gas, and Telecommunications

The project would connect to the existing electricity, natural gas, and telecommunication utility lines in the area, which would require minimal trenching and would not result in significant impacts. No new or expanded electricity, natural gas, or telecommunication facilities are required. **(Less than Significant Impact)**

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

SJWC provides water to the project area. SJWC's most recent UWMP (adopted in July 2016) determined that with utilization of conservation measures and recycled water, water supplies would be adequate to supply customers in its service area upon the City's General Plan buildout during normal, dry, and multiple dry years.[87] The SJWC's UWMP estimated its service area water demand to increase steadily through 2040 to a total of 52,486 acre-feet.[88]

The proposed project is projected to have a net increase in water demand of 7.2 million gallons of water a year (or 19,726 gallons per day) compared to existing conditions on-site. The project's proposed land use and water demand are consistent with what is assumed for the site in the City's General Plan and, as a result, are accounted for in the SJWC UWMP. For this reason, there is sufficient water supply to serve the proposed project. **(Less than Significant Impact)**

c) Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

The City currently has approximately 38.8 mgd of dry weather flow treatment capacity available at the RWF. Planned build out under the General Plan is estimated to generate 30.8 mgd, which would not exceed the City's allocated treatment capacity of 69.8 mgd of dry weather flow at the RWF.

The proposed development is consistent with the land use assumptions in the General Plan and, therefore, its sewage generation (5,670 gallons per day) is accounted for in the projected 30.8 mgd sewage generation for the City. For these reasons, the RWF has sufficient capacity to serve the project in addition to its existing commitments. The construction of new wastewater treatment facilities would not be required as a result of the proposed project. **(Less than Significant Impact)**

[87] City of San José. *Envision San José 2040 General Plan Four-Year Review Addendum*. December 2016. Page 90.
[88] For reference, one acre-foot is equivalent to 325,851 gallons.

d) Would the project generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

The proposed project is estimated to generate 178 tons of solid waste per year.[89] When compared to the existing conditions, the project would generate a net increase of 134 tons per year of solid waste. The project would be required to conform to City plans and policies to reduce solid waste generation and increase waste diversion, including the Zero Waste Strategic Plan and General Plan policies IN-1.5, IN-5.1, IN-5.3, IN-5.4, and IP-3.8.

The project is consistent with the General Plan and accounted for in the analysis in the 2040 General Plan FEIR. The General Plan FEIR determined that the increase in waste generated by build out of the General Plan would not result in an exceedance of capacity at existing landfills serving the City. As discussed previously in Section 4.19.1.2 Existing Conditions, the CIWMP concludes that the County has adequate disposal capacity greater than 15 years.[90] Given the County's landfill capacity (including the available capacity at NISL) and project compliance with existing regulations, there is sufficient capacity at local landfills to accommodate solid waste generated by the project and the project would not impair the attainment of solid waste reduction goals. **(Less than Significant Impact)**

e) Would the project be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?

The City of San José currently achieves a waste diversion rate of 64 percent. The proposed project would support the goals of the Zero Waste Strategic Plan by complying with the City's Construction and Demolition Diversion Program (which ensures that at least 75 percent of this construction waste is recovered and diverted from landfills) and providing readily accessible areas for recycling that serve all of the building on-site. By adhering to the requirements of the Zero Waste Strategic Plan and General Plan policies, the proposed project would not conflict with applicable statutes and regulations related to solid waste, including CALGreen, AB 939, AB 341, and local waste diversion requirements. **(Less than Significant Impact)**

[89] Illingworth & Rodkin, Inc. *San José Senior Living Air Quality and Greenhouse Gas Emission Assessment, Attachment 2 – CalEEMod Input Assumptions and Outputs*. August 28, 2020.
[90] Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report.* June 2016.

4.20 WILDFIRE

4.20.1 Environmental Setting

4.20.1.1 *Existing Conditions*

CAL FIRE is required by law to map areas of significant fire hazards based on fuels, terrain, weather, and other relevant factors. Referred to as Fire Hazard Severity Zones (FHSZ), these maps influence how people construct buildings and protect property to reduce risk associated with wildland fires. The project site is surrounded by urban development and is not located within a fire hazard severity zone.

4.20.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, Would the project:				
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☐	☒
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☐	☒
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☐	☒

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones; therefore, the project would not result in wildfire impacts. [91] **(No Impact)**

[91] California Department of Forestry and Fire Protection. *Fire Hazard Severity Zone Viewer*. Accessed February 28, 2020. http://egis.fire.ca.gov/FHSZ/.

4.21 MANDATORY FINDINGS OF SIGNIFICANCE

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
a)	Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	☐	☒	☐	☐
b)	Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	☐	☒	☐	☐
c)	Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☒	☐	☐

a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?

As discussed in the previous sections of this Initial Study, the proposed project would not degrade the quality of the environment with implementation of identified standard permit conditions and mitigation measures. As discussed in Section 4.4 Biological Resources, with implementation of the identified standard permit conditions and mitigation measures MM BIO-1.1 and MM BIO-1.2, the project would not significantly impact sensitive habitats or species. As discussed in Section 4.5 Cultural Resources, with implementation of the identified standard permit conditions, the project would result in a less than significant impact on archaeological and historic resources. **(Less than Significant Impact with Mitigation Incorporated)**

b) Does the project have impacts that are individually limited, but cumulatively considerable?

Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects "that are individually limited, but cumulatively considerable." As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means "that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." In addition, under Section 15152(f) of the CEQA Guidelines, where a lead agency has determined that a cumulative effect has been adequately addressed in a prior EIR, the effect is not treated as significant for purposes of later environmental review and need not be discussed in detail. This Initial Study evaluates the environmental impacts of the proposed assisted living facility project and takes into account other past, pending, and probable future projects whose impacts could combine to produce cumulative impacts.

The project would result in no impacts to agricultural and forestry resources, mineral resources, or wildfire. Therefore, the project would not contribute to significant cumulative impacts to these resources. There are no projects in proximity to the proposed project that the project would contribute to cumulative impacts to aesthetics, construction-related air quality and noise, cultural resources, and hazards and hazardous materials.

Given the project's consistency with the General Plan, compliance with existing regulations, and implementation of the identified standard permit conditions, the project would not contribute to significant cumulative biological resources, cultural resources, energy, geology and soils, hydrology and water quality, land use and planning, population and housing, public services, recreation, tribal cultural resources, and utilities and service systems impacts beyond what is planned for in the City's General Plan.[92]

In general, an individual project's impact on broader resources including air quality, energy, GHGs, and VMT are evaluated at a cumulative level. That is, if a project results in a significant impact to air quality, energy, GHGs, and VMT, the project would be considered to have a significant cumulative impact to those resources. As discussed in Sections 4.3 Air Quality, 4.6 Energy, 4.8 Greenhouse Gas Emissions, and 4.17 Transportation, the project would not result in significant impacts to those resources with the implementation of identified standard permit conditions and mitigation measures (including MM AIR-1.1, MM NOI-1.1, MM NO-2.1, and MM NOI-2.2). For this reason, the project would not result in significant cumulative impacts to those resources. **(Less than Significant Impact with Mitigation Incorporated)**

[92] City of San José. *Envision San José 2040 General Plan Final Environmental Impact Report.* 2010. Page 869-873.

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. While changes to the environment that could indirectly affect human beings would be represented by all of the designated CEQA issue areas, those that could directly affect human beings include air pollutants, geological hazards, hazardous materials, and noise. As discussed in Sections 4.3 Air Quality, 4.7 Geology and Soils, 4.9 Hazards and Hazardous Materials, and 4.13 Noise, the project with the implementation of identified standard permit conditions and mitigation measures (including MM AIR-1.1, MM HAZ-1.1, MM HAZ-1.2, MM NOI-1.1, MM NOI-2.1, and MM NOI-2.2) would reduce impacts to a less than significant level. No other direct or indirect adverse effects on human beings are anticipated. **(Less than Significant Impact with Mitigation Incorporated)**

SECTION 5.0 REFERENCES

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SECTION 6.0 LEAD AGENCY AND CONSULTANTS

6.1 LEAD AGENCY

City of San José
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Rosalynn Hughey, Director
Kara Hawkins, Environmental Project Manager

6.2 CONSULTANTS

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SECTION 7.0 ACRONYMS AND ABBREVIATIONS

AB	Assembly Bill
ABAG	Association of Bay Area Governments
ACM	Asbestos containing material
ADT	Average daily traffic
AIA	Airport Influence Area
BAAQMD	Bay Area Air Quality Management District
BFE	Base Flood Elevation
bgs	Below ground surface
BMPs	Best Management Practices
Btu	British thermal units
CalARP	California Accidental Release Prevention
CalEEMod	California Emissions Estimator Model
CAL FIRE	California Department of Forestry and Fire Protection
CALGreen	California Green Building Standards Code
Cal/OSHA	California Department of Industrial Relations, Division of Occupational Safety and Health
CalRecycle	California Department of Resource Recycling and Recovery
CAP	Clean Air Plan
CARB	California Air Resources Board
Caltrans	California Department of Transportation
C&D	Construction and demolition
CDFW	California Department of Fish and Wildlife
CEC	California Energy Commission
CEQA	California Environmental Quality Act
CFCs	Chlorofluorocarbons
CFR	Code of Federal Regulations
cfs	Cubic feet per second
CGS	California Geological Survey
CH_4	Methane
CIWMP	County Integrated Waste Management Plan
CLUP	Comprehensive Land Use Plan
CMP	Congestion Management Program

CNEL	Community Noise Equivalent Level
CO	Carbon monoxide
CO_2	Carbon dioxide
CO_2e	Carbon dioxide equivalents
CUPA	Certified Unified Program Agency
dB	Decibel
dBA	A-weighted sound level
DDD	Dichloroethane
DDE	Dichlorodiphenyldichloroethylene
DDT	Dichlorodiphenyltrichloroethane
DNL	Day-Night Level
DSOD	Division of Safety of Dams
DTSC	Department of Toxic Substances Control
du/ac	Dwelling units per acre
EIA	U.S. Energy Information Administration
EIR	Environmental Impact Report
EO	Executive Order
EPA	Environmental Protection Agency
ESA	Environmental Site Assessment
ESL	Environmental Screening Level
FAA	Federal Aviation Administration
FAR	Federal Aviation Regulations
FAR	Floor-area ratio
FEIR	Final Environmental Impact Report
FEMA	Federal Emergency Management Agency
FHSZ	Fire Hazard Severity Zone
FHWA	Federal Highway Administration
FIRM	Flood Insurance Rate Map
FMMP	Farmland Mapping and Monitoring Program
GHG	Greenhouse gas
GMP	Groundwater Management Plan
Gwh	Gigawatt hours
GWP	Global warming potential

HASP	Health and Safety Plan
HFCs	Hydrofluorocarbons
HI	Hazard Index
HMP	Hydromodification Management Plan
HOV	High-occupancy vehicle
in/sec	Inches per second
ITE	Institute of Transportation Engineers
ITR	Industrial-To-Residential
kW	Kilowatt
kWh	Kilowatt hours
LBP	Lead-based paint
L_{dn}	Day-Night Level
LEED	Leadership in Energy and Environmental Design
L_{eq}	Noise Equivalent Level
LID	Low Impact Development
LOS	Level of Service
LUTE	Land Use and Transportation Element
MBTA	Migratory Bird Treaty Act
MCLs	Maximum Contaminant Levels
MEI	Maximally Exposed Individual
mgd	Million gallons per day
MLD	Most Likely Descendant
$MMTCO_2e$	Million metric tons of CO_2e
MND	Mitigated Negative Declaration
mpg	Miles per gallon
mph	Miles per hour
MRP	Municipal Regional Stormwater Permit
MT	Metric tons
MTC	Metropolitan Transportation Commission
NAHC	Native American Heritage Commission
NESHAP	National Emissions Standards for Hazardous Air Pollutants
NFIP	National Flood Insurance Program
NHPA	National Historic Preservation Act

NISL	Newby Island Sanitary Landfill
N_2O	Nitrous oxide
NOD	Notice of Determination
NOI	Notice of Intent
NO_x	Nitrogen oxides
NPDES	National Pollutant Discharge Elimination System
NRHP	National Register of Historic Places
O_3	Ozone
OITC	Outdoor Indoor Transmission Class
OPR	Governor's Office of Planning and Research
OSHA	Occupational Safety and Health Administration
PAHs	Polycyclic aromatic hydrocarbons
PCBs	Polychlorinated biphenyls
PCE	Tetrachloroethylene
PDAs	Priority Development Areas
PDO	Parkland Dedication Ordinance
PFCs	Perfluorocarbons
PG&E	Pacific Gas and Electric Company
PID	Photoionization detector
PIO	Park Impact Ordinance
$PM_{2.5}$	Fine particulate matter
PM_{10}	Respirable particulate matter
PPM	Parts per million
PPV	Peak Particle Velocity
RAIWMP	Regional Agency Integrated Waste Management Plan
RCRA	Resource Conservation and Recovery Act
RHNA	Regional Housing Need Allocation
ROG	Reactive organic gases
RWQCB	Regional Water Quality Control Board
SB	Senate Bill
SCCDEH	Santa Clara County Department of Environmental Health
SCH	State Clearinghouse
SCIA	Sewer Capacity Impact Analysis

SCP	Site Cleanup Program
SCS	Sustainable Communities Strategy
SEIR	Single Environmental Impact Review
sf	Square foot/feet
SF_6	Sulfur hexafluoride
SFHA	Special Flood Hazard Area
SHMA	Seismic Hazards Mapping Act
SJCE	San José Clean Energy
SJFD	San José Fire Department
SJPD	San José Police Department
SJWC	San José Water Company
SLIC	Spills, Leaks, Investigations & Cleanup
SMARA	Surface Mining and Reclamation Act
SMGB	State Mining and Geology Board
SMP	Site Management Plan
SO_x	Sulfur oxides
SR	State Route
STC	Sound Transmission Class
SWPPP	Stormwater Pollution Prevention Plan
SWRCB	State Water Resources Control Board
TAC	Toxic Air Contaminants
TCLP	Toxicity characteristic leaching procedure
TCM	Treatment Control Measure
TCRs	Tribal Cultural Resources
TDM	Transportation Demand Management
TNM	Traffic Noise Model
UFMP	Urban Forest Management Plan
USACE	United States Army Corps of Engineers
USFWS	United States Fish and Wildlife Service
USGBC	United States Green Building Council
USTs	Underground storage tanks
UWMP	Urban Water Management Plan
VMT	Vehicle miles traveled

VOC	Volatile organic compounds
VTA	Santa Clara Valley Transportation Authority
WM	Waste Management
WPCP	Water Pollution Control Plant
WSA	Water Supply Assessment
$\mu m/m^3$	Micrograms per cubic meter
ZNE	Zero Net Carbon Emissions