Oakland Road Comfort Suites Project

Public Draft Initial Study Mitigated Negative Declaration

March 2021

Prepared for:
City of San José
Planning Building and Code Enforcement
200 E. Santa Clara Street,
San José, CA 95113

Prepared by:
Stantec Consulting Services, Inc. 75 E. Santa Clara Street, Suite 1225
San José, CA 95113

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: Oakland Road Comfort Suites Hotel Project

PROJECT FILE NUMBER: PD18-042 & PDC18-032

PROJECT DESCRIPTION: Planned Development Rezoning from the CIC Combined Industrial/Commercial Zoning District to the CIC(PD) Planned Development Zoning District and Planned Development Permit to allow to allow the construction of a 5-story, 48-room hotel with an alternative parking arrangement (mechanical lifts) on a 0.24-gross acre site.

PROJECT LOCATION: northeast corner of Oakland Road and Faulstich Court

ASSESSORS PARCEL NO.: 241-13-019 **COUNCIL DISTRICT:** 3

APPLICANT CONTACT INFORMATION: Pillars Architecture and Design (Attn: Alex Ross), 12 South 1st Street, Suite 808, San Jose, CA 95113, (408) 295-5667

FINDING

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

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

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

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

C. AIR QUALITY.

Impact AIR-1: Construction activities associated with the proposed project would expose the off-site receptors to cancer risk and PM2.5 emissions in excess of BAAQMD thresholds.

MM AIR-1: Cleaner Off-road Construction Equipment

The following mitigation measure shall be implemented during all phases of construction to reduce potential exposure of diesel particulate matter (DPM) and particulate matter less than 2.5 micrometers in aerodynamic diameter (PM2.5) emissions to sensitive receptors located near the Project site. Prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest), the project applicant shall prepare and submit a construction operations plan that includes specifications of the equipment to be used during construction to the Director of Planning, Building and Code Enforcement or the Director's designee. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth below:

- For all construction equipment larger than 25 horsepower used at the site, equipment shall meet U.S. EPA Tier 4 emission standards. Tier 4 Interim engines shall, at a minimum, meet United States Environmental Protection Agency or California Air Resources Board (CARB) particulate matter emissions standards for Tier 4 Interim engines.
- Alternatively, use of CARB-certified Level 3 diesel particulate filters on off-road equipment with engines greater than 75 horsepower can be used in lieu of Tier 4 Interim engines or in combination with Tier 4 Interim engines.
- The construction contractor shall maintain records documenting its efforts to comply with this requirement, including equipment lists. Off-road equipment descriptions and information shall include, but are not limited to, equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, and engine serial number. The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest).

D. BIOLOGICAL RESOURCES.

Impact BIO-1: Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment.

MM-BIO-1: Nesting Birds

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.

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

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

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

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

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

I. HAZARDS AND HAZARDOUS MATERIALS.

Impact HAZ-1: Historic agricultural activities on the Project site may have impacted subsurface soil with pesticide residuals, which could be released during excavation and construction activities for the Project.

MM-HAZ-1: Soil Sampling

Prior to the issuance of any grading, or excavation permits, the Project applicant shall retain a qualified environmental consultant to conduct soil sampling to test shallow soils on the site for organochlorine pesticides and pesticide-based metals (e.g., lead and arsenic). The qualified environmental consultant shall compare results to the Regional Water Quality Control Board Environmental Screening Levels and prepare documentation to outline the soil sample data and testing and submit the results to the Director of Planning, Building, and Code Enforcement or Director's designee and the Environmental Compliance Officer in the City of San Jose's Environmental Services Department.

If residual contaminants are found and are above environmental screening levels, the Project applicant shall implement appropriate management procedures such as removal of the contaminated soil and/or capping the contaminated soil under clean soil or hardscape must be implemented under regulatory oversight from the SCCDEH or DTSC. Copies of all environmental investigations shall be submitted

to the City's Environmental Services Department and the Director of Planning, Building and Code Enforcement, or Director's designee prior to issuance of any grading permits.

If contaminated soils are found in concentrations above established regulatory environmental screening levels, the Project applicant shall enter into the Santa Clara County Department of Environmental Health's (SCCDEH) Site Cleanup Program or equivalent to formalize regulatory oversight of the mitigation of contaminated soil to ensure the site is safe for construction workers and the public after development. The SCCDEH (or equivalent oversight agency) may require development of a Removal Action Plan, Soil Mitigation Plan, or other similarly titled report to document the removal and /or capping of contaminated soil. A copy of any reports prepared along with proof of regulatory oversight shall be submitted to the Director of Planning, Building, and Code Enforcement, or Director's designee, and the Municipal Compliance Officer of the City of San José Environmental Services Department. All work and reports produced shall be performed under the regulatory oversight and approval of the SCCDEH (or equivalent oversight agency).

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

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

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

M. NOISE

Impact NOI-1: Mechanical equipment associated with project operation is not known at this time and has the potential to exceed 55 dBA DNL at the adjacent residential property lines.

MM-NOI-1: Acoustical Study

Prior to issuance of any building permits and during final building design, the project applicant shall prepare a detailed acoustical study to evaluate the potential noise generated by building mechanical equipment and demonstrate the necessary noise control to meet the City's 55 dBA DNL goal. Noise control features such as sound attenuators, baffles, and barriers shall be identified and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL at noise-sensitive locations around the project site. The noise control features identified by the study shall be incorporated into the project prior to issuance of a building permit. The detailed acoustical study demonstrating that mechanical equipment would not exceed 55 dBA DNL at adjacent sensitive receptors shall be signed by a qualified noise consultant and submitted to the Director of Planning, Building, and Code Enforcement, or Director's designee, prior to the issuance of a building permit.

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 / TRAFFIC – The project would not have a significant impact on this resource,

therefore no mitigation is required.

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

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

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

U. MANDATORY FINDINGS OF SIGNIFICANCE

Cumulative impacts would be less than significant. The proposed Project would implement the identified mitigation measures and would have either have no impacts or less-than-significant impacts on air quality, biological resources, hazards and hazardous materials, and noise. Therefore, the proposed Project would not contribute to any cumulative impact for these resources. The Project would not cause changes in the environment that have any potential to cause substantial adverse direct or indirect effects on human beings.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **Monday April 19th, 2021** any person may:

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

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

Rosalynn Hughey, Director
Planning, ~~Building and Code~~ Enforcement

03/23/2021
Date

Deputy

Kara Hawkins
Environmental Project Manager

Circulation period: March 30, 2021 to April 19, 2021

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Abbreviations

µg/m^3	micrograms per cubic meter
°F	degrees Fahrenheit
2030 GHGRS	2030 Greenhouse Gas Reduction Strategy
303(d)	Clean Water Act Section 303(d)
AAQS	Ambient Air Quality Standards
AB	Assembly Bill
AIA	Airport Influence Area
Air Basin	San Francisco Bay Area Air Basin
APN	Assessor's Parcel Number
Applicant	Urban Mint Hospitality
ATCM	Air Toxics Control Measure
BAAQMD	Bay Area Air Quality Management District
Basin Plan	Water Quality Control Plan for the San Francisco Bay Area Basin
BMP	best management practice
BSA	Biological Study Area
BTU	British Thermal Unit
CAA	Clean Air Act
CAAQS	California Ambient Air Quality Standards
CAL FIRE	California Department of Forestry and Fire Protection
CALGreen	California Green Building Standards
CARB	California Air Resources Board
CARE	Community Air Risk Evaluation
CBC	California Building Standards Code
CCAA	California Clean Air Act
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CERCLA	Comprehensive Environmental Recovery, Compensation, and Liability Act
CESA	California Endangered Species Act
CH_4	methane
City	City of San José

CLUP	California Land Use Plan
CNDDB	California Natural Diversity Database
CNEL	Community Noise Equivalent Level
CNPS	California Native Plant Society
CO	carbon monoxide
CO_2	carbon dioxide
CRHR	California Register of Historical Resources
CWA	Clean Water Act
dB	decibels
dBA/dB(A)	A-weighted decibel
DPM	diesel particulate matter
DTSC	Department of Toxic Substances Control
EIR	Environmental Impact Report
EO	Executive Order
EOP	Emergency Operations Plan
EPA	U.S. Environmental Protection Agency
ESA	Environmental Site Assessment
FAR Part 77	Federal Aviation Regulations, Part 77, “Objects Affecting Navigable Airspace”
FEMA	Federal Emergency Management Agency
FESA	Federal Endangered Species Act
FGC	Fish and Game Code
FMMP	Farmland Mapping and Monitoring Program
GHG	greenhouse gas
GHGRS	Greenhouse Gas Reduction Strategy
GIS	Geographic Information System
HAP	hazardous air pollutant
HFC	hydrofluorocarbon
HRA	Health Risk Assessment
HWCL	California Hazardous Waste Control Law
I-280	Interstate 280
I-880	Interstate 880
ISMND	Initial Study Mitigated Negative Declaration
ITE	Institute of Transportation Engineers
kWh	kilowatt hour

L_{dn}	day-night average sound level
LSAA	Lake and Streambed Alteration Agreement
MBTA	Migratory Bird Treaty Act
MEI	maximally exposed individual
mgd	million gallons per day
MLD	most likely descendant
MM	Mitigation Measure
mph	miles per hour
MRP	Municipal Regional Stormwater NPDES Permit
$MTCO_2e$	metric tons of carbon dioxide equivalent
N_2O	nitrogen dioxide
NAAQS	National Ambient Air Quality Standards
NAHC	Native American Heritage Commission
NMFS	National Marine Fisheries Service
NO_2	nitrogen dioxide
NOA	Notice of Agreement
NOI	Notice of Intent
NOx	nitrogen oxide
NPDES	National Pollutant Discharge Elimination Service
NPPA	Native Plant Protection Act
NRHP	National Register of Historic Places
OEHHA	Office of Environment and Health Hazard Assessment
PBCC	Department of Planning, Building, and Code Enforcement
PFC	perfluorocarbon
PG&E	Pacific Gas and Electric Company
$PM_{2.5}$	particulate matter 2.5 microns or less in aerodynamic diameter
PM_{10}	particulate matter 10 microns or less in aerodynamic diameter
PRC	Public Resources Code
Project	Oakland Road Comfort Suites Project
RCRA	Regional Conservation Recovery Act
ROG	reactive organic gas
RWF	Santa Clara County Regional Wastewater Facility
RWQCB	Regional Water Quality Control Board
SB	Senate Bill

SCCDEH	Santa Clara County Department of Environmental Health
SCVHP	Santa Clara Valley Habitat Plan
SCVWD	Santa Clara Valley Water District
SF_6	sulfur hexafluoride
SJC	San José International Airport
SJCE	San José Clean Energy
SJWC	San José Water Company
SO_2	sulfur dioxide
SP	Service Population
SRA	State Responsibility Area
Stantec	Stantec Consulting Services Inc.
SWPPP	Stormwater Pollution Prevention Plan
SWRCB	State Water Resources Control Board
TAC	toxic air contaminant
TCM	Treatment Control Measure
TDP	Oakland/Mabury Transportation Development Policy
TMDL	total maximum daily load
UBC	Uniform Building Code
US 101	U.S. Highway 101
USACE	U.S. Army Corps of Engineers
USFWS	U.S. Fish and Wildlife Service
USGS	U.S. Geological Survey
UWMP	Urban Water Management Plan
VMT	vehicle miles travelled
VTA	Santa Clara Valley Transportation Authority
WQC	Water Quality Certification

1.0 INTRODUCTION

Urban Mint Hospitality (applicant) is proposing to develop the Oakland Road Comfort Suites Project (Project) in the City of San José, California (City) (Figure 1-1). The Project site is approximately 0.25 acre and consists of a single vacant parcel identified as Assessor's Parcel Number (APN) 241-13-019 at 1338 Oakland Road. The Project involves rezoning the Project site from the Combined Industrial/Commercial zoning district to the Combined Industrial/Commercial Planned Development zoning district to allow for the construction of a five-story hotel consisting of approximately 36,513 square feet of floor area. The proposed hotel would include up to 48[1] guest rooms and other on-site guest amenity areas, such as a fitness room, meeting room, and dining area. The Project would also include an alternative parking design (mechanical, stacked parking) to provide 39 on-site parking spaces. Other site improvements would include landscaping, utility connections, and construction of pedestrian walkways and driveways. Construction of the project is estimated to take approximately 8 months.

1.1 PROJECT TITLE

Oakland Road Comfort Suites Project

1.2 LEAD AGENCY

City of San José
Planning, Building and Code Enforcement Department
200 E. Santa Clara Street, 3rd Floor Tower
San José, CA 95113

1.3 LEAD AGENCY CONTACT

Kara Hawkins, Environmental Project Manager
Phone: (408) 535-7852
Email: Kara.Hawkins@sanjoseca.gov

1.4 PURPOSE OF THE INITIAL STUDY

The purpose of this Initial Study is to evaluate the Project for potential environmental effects in compliance with the California Environmental Quality Act (CEQA). The City is the Lead Agency under CEQA and has the principal responsibility for carrying out or approving a project which may have a significant effect on the environment. This Initial Study has been prepared in anticipation of determining that all potentially significant impacts from implementing the Project can be mitigated to less than significant levels. This document has been prepared in accordance with CEQA, Public Resources Code

1 The original project planned for 50 rooms, but the design is now modified to include 48 rooms. However, the analysis accounts for 50 rooms and represents a more conservative scenario.

(PRC) Section 21000 et seq., the state CEQA Guidelines, California Code of Regulations (CCR), Title 14, Section 15000 et seq., and the policies of the City of San José, California.

1.5 PROJECT LOCATION

The Project is located at 1338 Oakland Road, at the northeast intersection of Oakland Road and Faulstich Court, in the City of San José (Figure 1-2). The Project site is approximately 0.25 acre and is identified as APN 241-13-019. Regional access to the Project site is provided by Interstate 880 (I-880) and U.S. Highway 101 (US 101), located about 0.5 mile to the west and south, respectively.

1.6 EXISTING SETTING AND SURROUNDING LAND USES

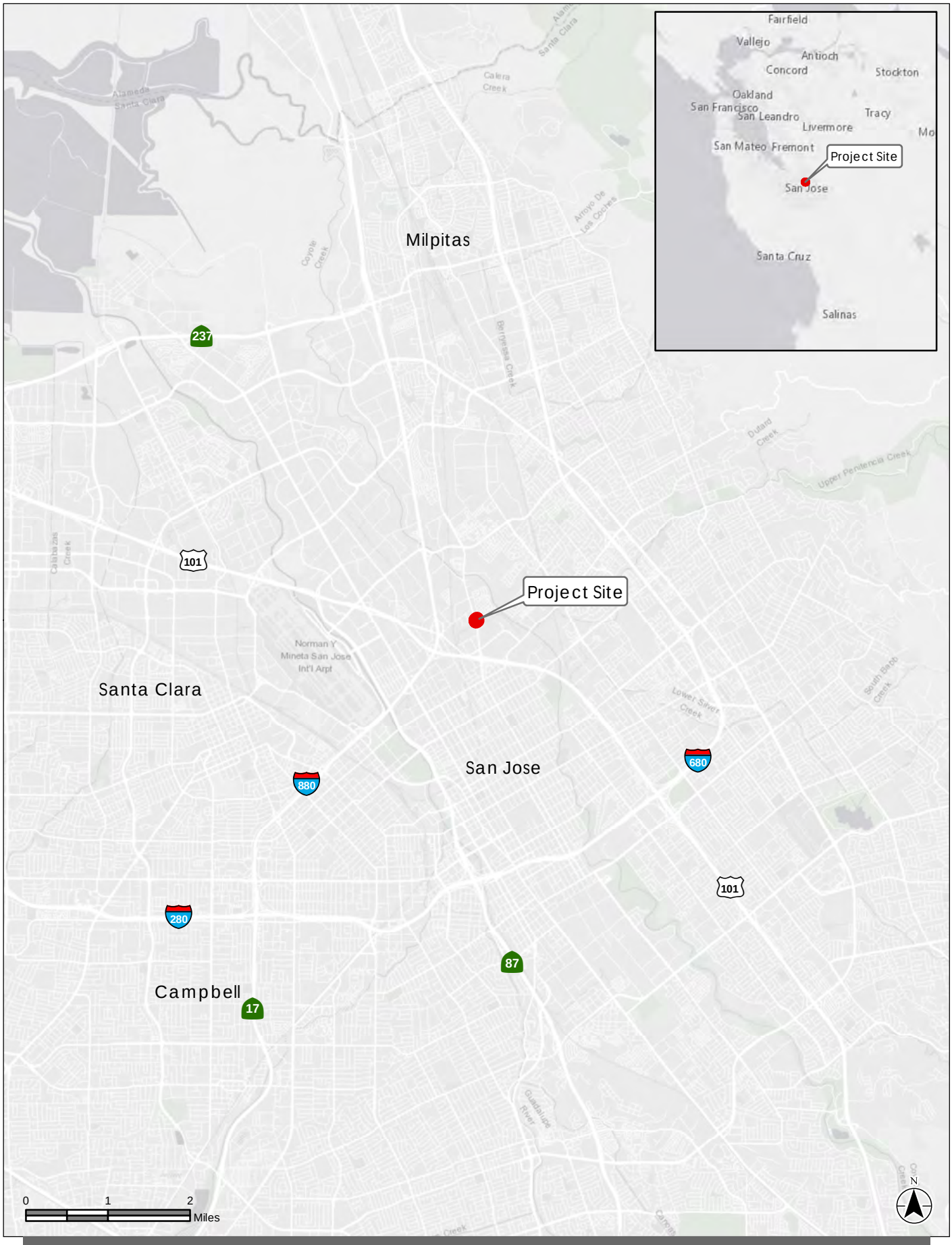
The Project is located within a developed commercial and industrial area of north San José. The Project site consists of a single vacant parcel that is generally flat and almost rhomboid in shape. The southeastern half of the site is covered with short, dense herbaceous and grass species. A concrete foundation, possibly a driveway, is situated near the middle of the property. A short curb-like edge treatment is present along the southeast side of the concrete. A second concrete pad, possibly the remnant of a foundation slab, is also located near the northeast end of the driveway. A single mature ornamental lemon tree is present on the northwest edge of the parcel.

The Project site is bordered by the South Bay Mobile Home Park to the north and east, Oakland Road and commercial uses to the west, and Faulstich Court and industrial uses to the south. General development within 0.25 mile surrounding the Project site includes commercial, residential, and industrial uses. The San José International Airport (SJC) is about 1.5 miles west of the Project site. Coyote Creek lies about 0.25 mile to the east. Figure 1-3 shows the surrounding land uses.

1.7 GENERAL PLAN DESIGNATION AND ZONING

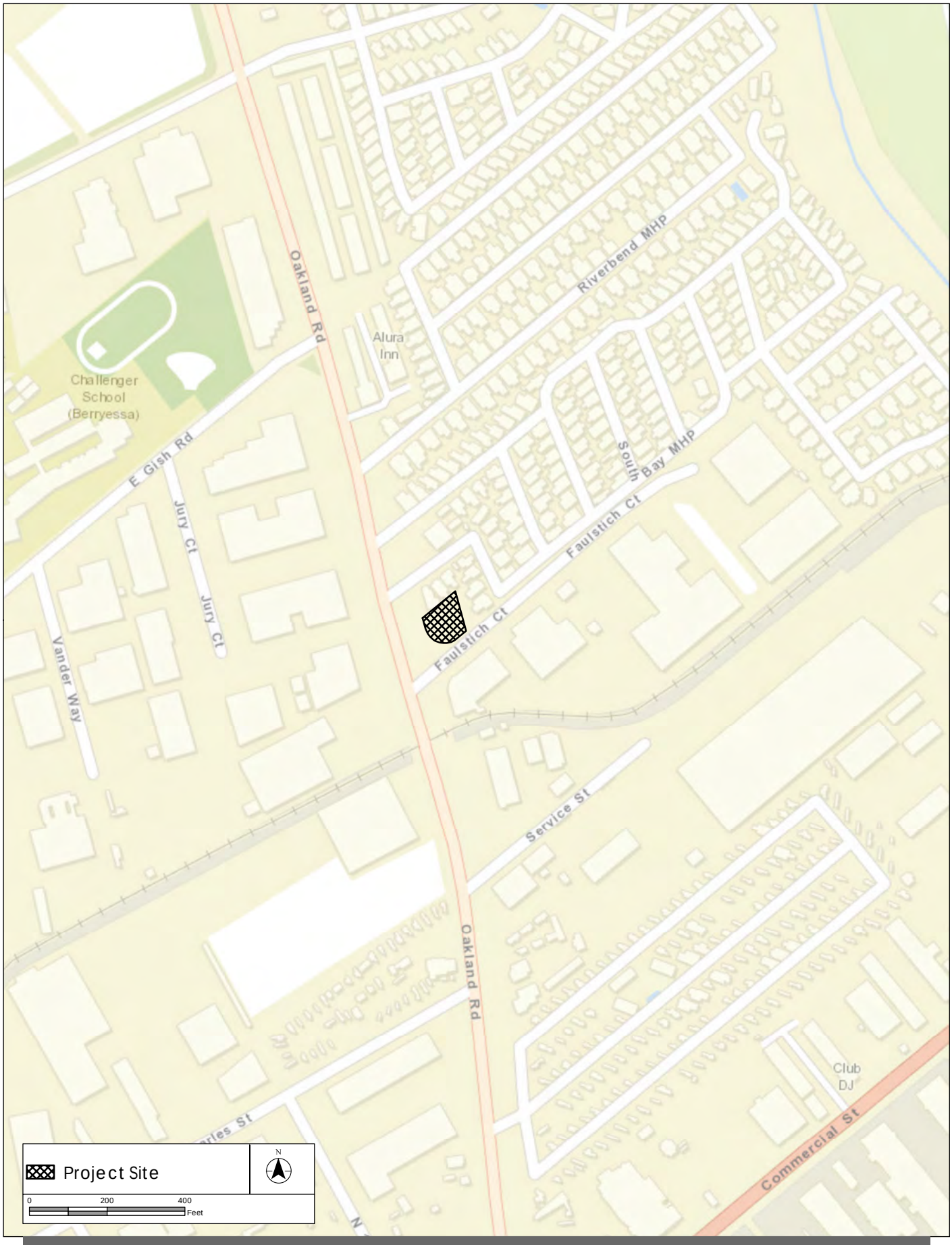
1.7.1 General Plan Land Use Designation

The Project site is designated Combined Industrial/Commercial by the City's General Plan. This land use designation is intended for a mix of commercial, office, and industrial uses, including hospitals and private community gathering facilities. This designation occurs in areas where the existing development pattern exhibits a mix of commercial and industrial land uses or in areas on the boundary between commercial and industrial uses. Development intensity can vary in this designation based on the type of uses that occur. In order to maintain an industrial character, small suburban strip centers are discouraged in this designation, although larger big-box type developments may be allowed because they mix elements of retail commercial and warehouse forms and uses. While this designation potentially accommodates a wide variety of uses and building forms, more specific guidance should be provided through the application of the Zoning Ordinance to establish use and form standards that would promote the development of a cohesive employment area across multiple adjoining properties that share this designation (City of San José 2018a). Figure 1-4 shows the General Plan land use designations for the Project site and surrounding areas.



REGIONAL LOCATION

FIGURE 1-1



VICINITY MAP

FIGURE 1-2

AERIAL MAP AND SURROUNDING LAND USES FIGURE 1-3

EXISTING LAND USE DESIGNATION

FIGURE 1-4

1.7.2 Zoning

The Project site is within the City's Combined Industrial/Commercial zoning district. The applicant is proposing to rezone the Project site from the Combined Industrial/Commercial zoning district to the Combined Industrial/Commercial Planned Development zoning district to allow for development of the Project.

The Combined Industrial/Commercial zoning district is intended for commercial or industrial uses, or a compatible mixture of these uses, which support the goals of the combined industrial/commercial general plan designation. The Combined Industrial/Commercial zoning district allows for a broad range of commercial uses with a local or regional market, including big box retail, and a narrower range of industrial uses, primarily industrial park in nature but including some low-intensity light industrial uses. Hotel uses are permitted in the Combined Industrial/Commercial zoning district. Figure 1-5 shows the zoning designations for the Project site and surrounding areas.

1.8 CEQA AND PUBLIC AGENCY REVIEW

CEQA requires that project proponents disclose the significant impacts to the environment from proposed development projects. The intent of CEQA is to foster good planning and to consider environmental issues during the planning process. The City is the Lead Agency under CEQA for the preparation of this Initial Study Mitigated Negative Declaration (ISMND). The CEQA Guidelines (Section 21067) define the Lead Agency as, "the public agency which has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment." Approval of the Project is considered a public agency discretionary action, and therefore, the Project is subject to compliance with CEQA. The City has directed the preparation of an ISMND to comply with CEQA.

The purpose of this document is to disclose the environmental consequences of implementing the Project to decision-makers and the public. The public, City residents, and other local and state resource agencies will be given the opportunity to review and comment on this document during a 30-day public-review period. Comments received during the review period will be considered by the City prior to certification of this ISMND and Project approval. Required Permits and Approvals

The Project would require the following review and permit approvals from the City of San José:

- Planned Development Rezoning
- Planned Development Permit

Other ministerial approvals, such as building-related permits and encroachment permits, are also anticipated. Additionally, all work related to improvements and Project grading would be subject to the San José Municipal Code, including the Zoning Ordinance, Building Code, and Fire Code.

EXISTING ZONING DISTRICTS

FIGURE 1-5

1.9 SCOPE OF THIS INITIAL STUDY

As the Lead Agency under CEQA, the City is responsible for compliance with the environmental review process prescribed by the CEQA Guidelines. This initial study evaluates the potentially significant effects on the environment and identifies revisions in the Project site plans (presented as mitigation measures) to mitigate the effects to a level at which no significant effect on the environment would occur.

The following technical studies were conducted and/or reviewed in preparing this ISMND: air quality modeling, cultural resources study, geotechnical study, a Phase 1 Environmental Site Assessment (ESA), noise technical report, and traffic study. These studies and supporting data are included as appendices to this ISMND and referred to, where appropriate, throughout this document.

1.10 DOCUMENT ORGANIZATION

This ISMND is organized as follows:

Section 1.0: Introduction. This section introduces the Project and describes the purpose and organization of this document.

Section 2.0: Project Description. This section describes the purpose and need for the Project and provides a detailed description of the Project.

Section 3.0: Environmental Checklist and Environmental Evaluation. This section presents an analysis of the range of environmental issues identified in the CEQA Environmental Checklist and determines for each topic whether the Project would result in no impact, a less than significant impact, a less than significant impact with mitigation incorporated, or a potentially significant impact. If impacts are determined to be potentially significant after incorporation of applicable mitigation measures, an Environmental Impact Report (EIR) would be required. For this Project, however, mitigation measures have been incorporated, where needed, that would reduce all potentially significant impacts to a less than significant level.

Section 4.0: References. This section lists the references used in preparing this ISMND.

Section 5.0: Report Preparation. This section identifies the report preparers.

2.0 PROJECT DESCRIPTION

2.1 PROJECT OVERVIEW

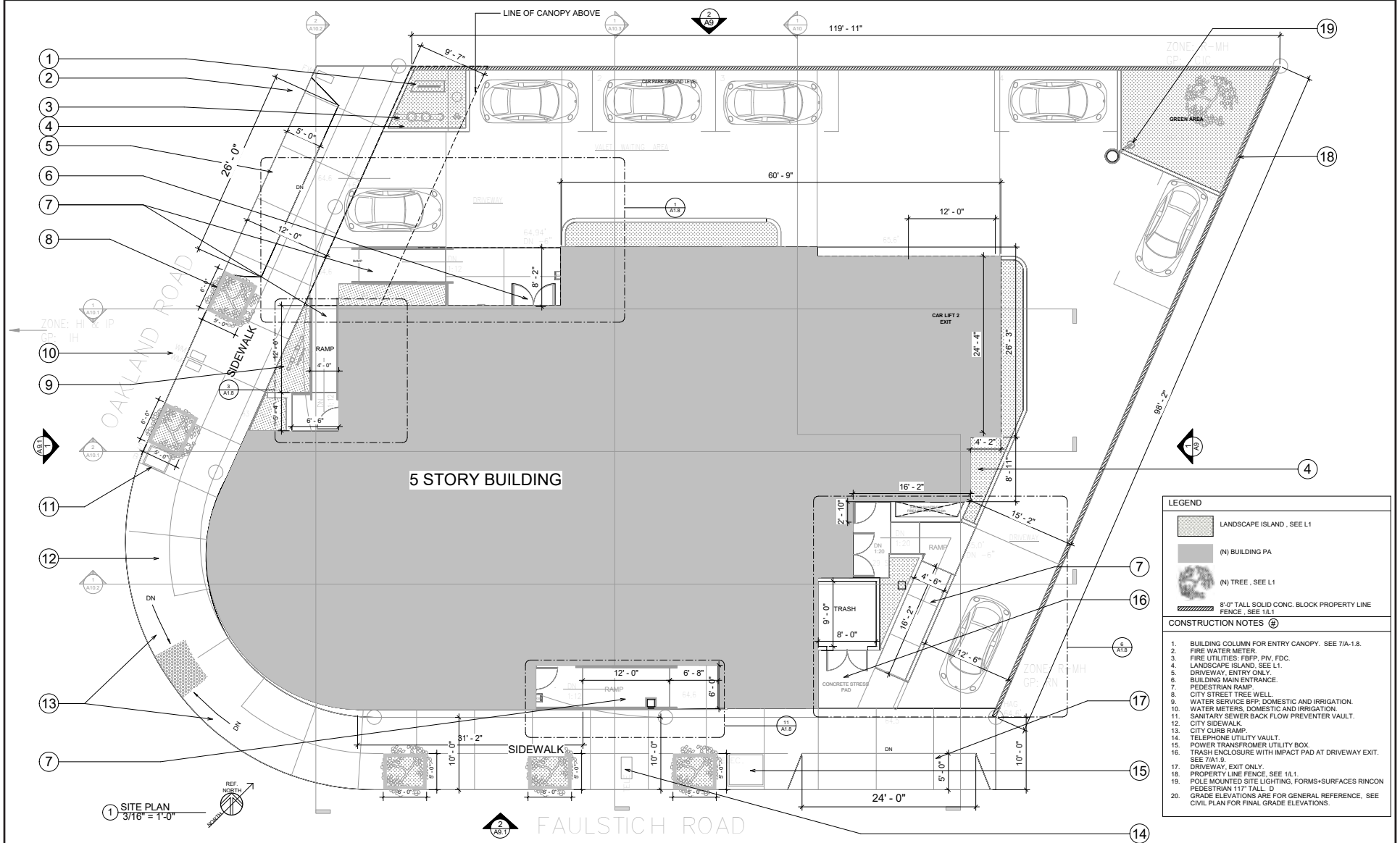
The Project involves rezoning the Project site from Combined Industrial/Commercial zoning district to the Combined Industrial/Commercial Planned Development zoning district to allow for the construction of a five-story hotel that is made up of approximately 36,513 square feet of floor area on approximately 0.25 acre. This includes approximately 1,057 square feet of land that would be purchased from the City and is contiguous to APN 241-13-019. The proposed hotel would include up to 48 guest rooms and other on-site guest amenity areas, such as a fitness room, a meeting room, and dining area. The Project would use an alternative parking design (mechanical, stacked parking) to provide 39 on-site parking spaces. Other site improvements that would be part of the Project include landscaping, utility connections, and construction of pedestrian walkways and internal access driveways. Figure 2-1 shows the proposed site plan.

2.2 PROJECT COMPONENTS

2.2.1 Hotel Building

The Project would involve the development of a five-story hotel building with up to 48 guest rooms, surface parking, and single level basement parking. The maximum height of the building would be approximately 114 feet at the top of the roof parapet and 120 feet at the top of the mechanical area and elevator service room. The total building area on all floors would be approximately 36,513 square feet. The floor area ratio would be 2.47.

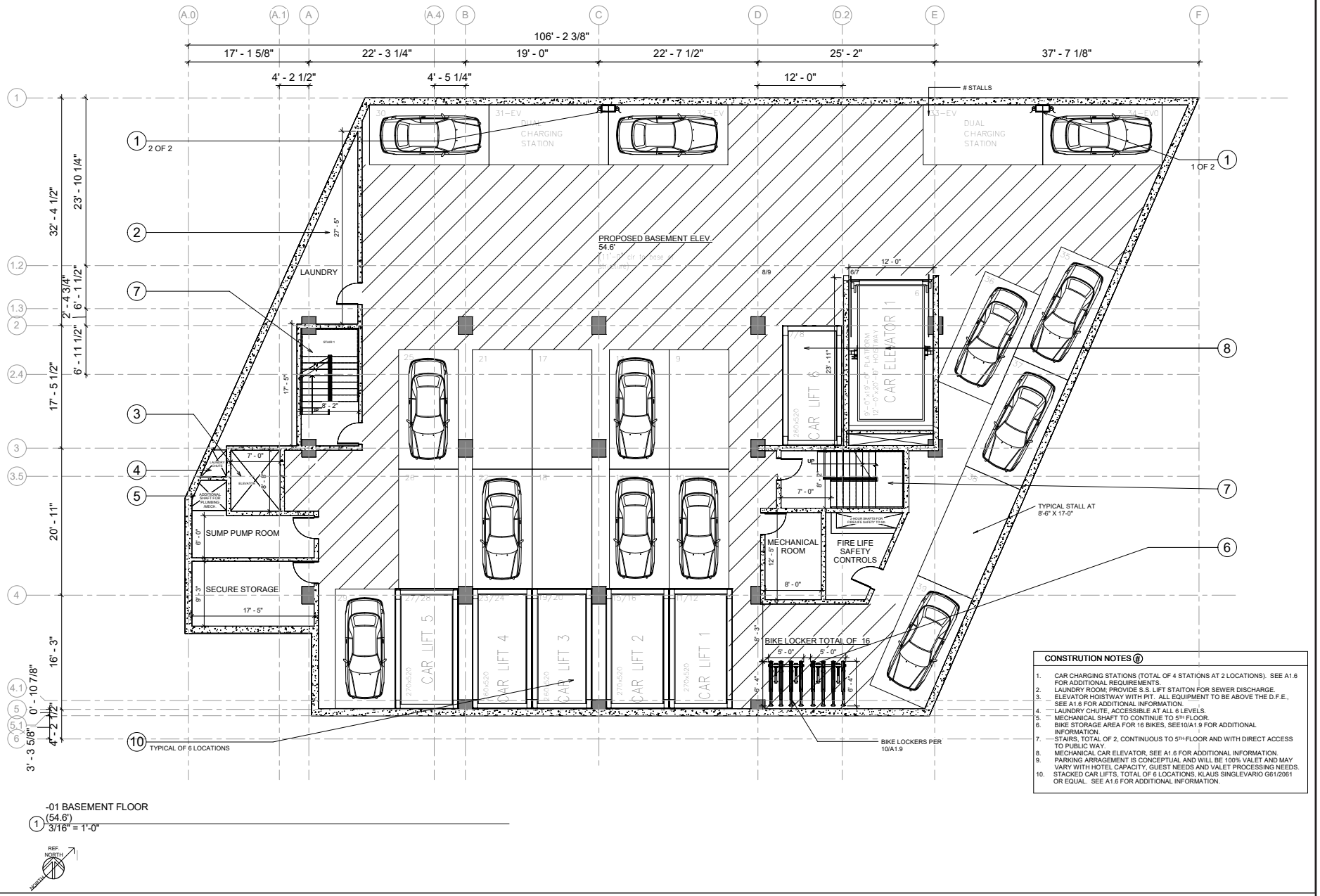
Hotel guest rooms would be provided on the first through fifth floors. The overview of square footage, number of rooms, and room type by each floor is provided in Table 2.2-1. The basement would be approximately 10,057 square feet of floor area and would include 39 valet parking stalls. The first floor would be approximately 4,722 square feet of floor area and would include two rooms consisting of accessible compact suites. The first floor would also include the main lobby reception area, fitness room, dining/cafeteria/breakfast seating area, a food preparation room, a meeting room, an electrical room, mechanical rooms, and an employee office. The second floor would be approximately 6,036 square feet and would have 14 rooms consisting of four standard king suites, one corner king suite, one city corner king suite, one accessible standard king suite, six double queen suites, and one accessible double queen suites. The third floor would be approximately 5,721 square feet of floor area and would have 13 rooms consisting of 11 standard king suites, one corner king suite, and one city corner king suite. The fourth floor would be approximately 5,297 square feet or floor area and would have 11 rooms consisting of three standard king suites, one corner king suite, one city corner king suite, three long-term stay king suites, and three double queen suites. The fifth floor would be approximately 4,680 square feet of floor area and would have eight rooms consisting of six standard king suites, one corner king suite, and one city corner king suite. Figures 2-2 through 2-7 show the floor plans, and the building elevations are provided in Figures 2-8 and 2-9.



Source: Uprear Build LTD. 06/30/2020

PROPOSED SITE PLAN

FIGURE 2-1



-01 BASEMENT FLOOR
(54.6')
3/16" = 1'-0"

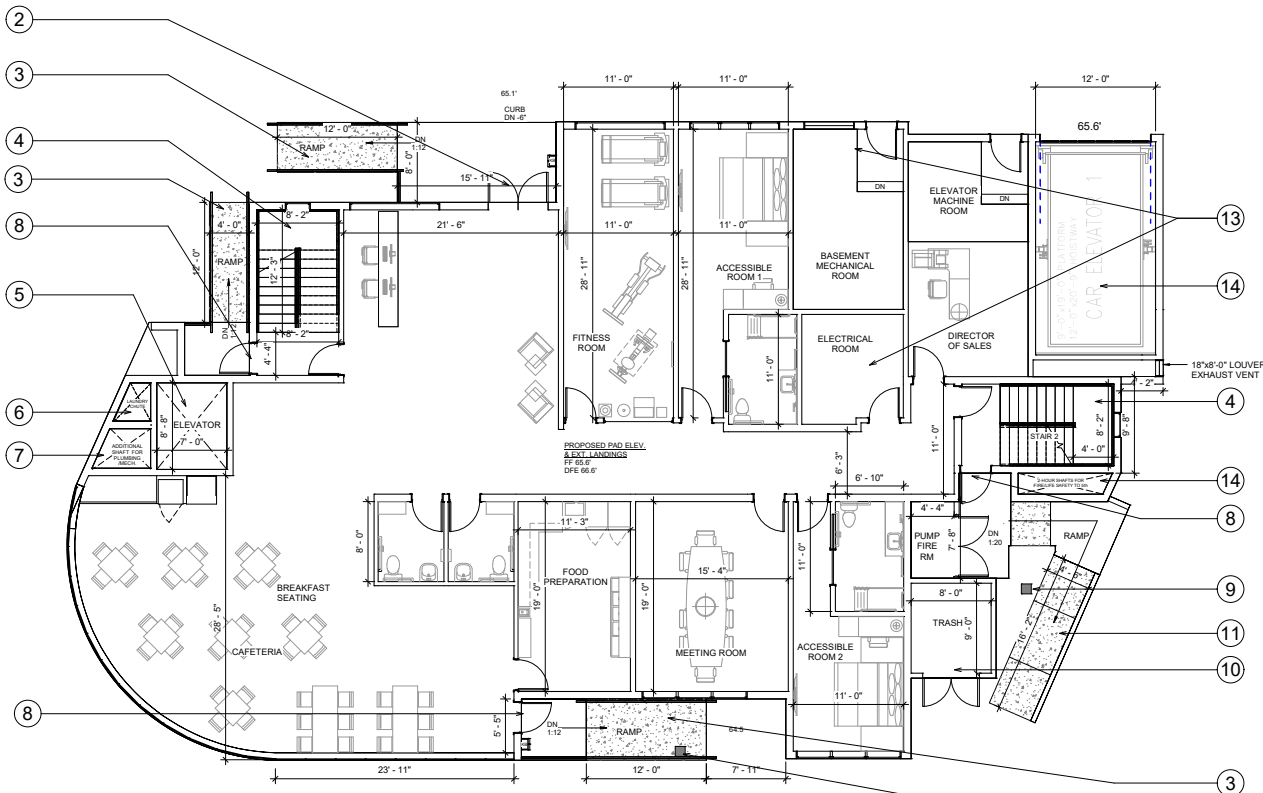
CONSTRUTION NOTES

1. CAR CHARGING STATIONS (TOTAL OF 4 STATIONS AT 2 LOCATIONS). SEE A1.6 FOR ADDITIONAL REQUIREMENTS.
2. LAUNDRY ROOM. PROVIDE S.S. LIFT STAITON FOR SEWER DISCHARGE.
3. ELEVATOR HOISTWAY WITH PIT. ALL EQUIPMENT TO BE ABOVE THE D.F.E., SEE A1.6 FOR ADDITIONAL INFORMATION.
4. LAUNDRY CHUTE. ACCESSIBLE AT ALL 6 LEVELS.
5. MECHANICAL SHAFT TO CONTINUE TO 5TH FLOOR.
6. BIKE STORAGE AREA FOR 16 BIKES, SEE10/A1.9 FOR ADDITIONAL INFORMATION.
7. STAIRS, TOTAL OF 2, CONTINUOUS TO 5TH-FLOOR AND WITH DIRECT ACCESS TO PUBLIC WAY.
8. MECHANICAL CAR ELEVATOR, SEE A1.6 FOR ADDITIONAL INFORMATION.
9. PARKING ARRAGEMENT IS CONCEPTUAL AND WILL BE 100% VALET AND MAY VARY WITH HOTEL CAPACITY, GUEST NEEDS AND VALET PROCESSING NEEDS.
10. STACKED CAR LIFTS, TOTAL OF 6 LOCATIONS, KLAUS SINGLEVARIO G61/2061 OR EQUAL. SEE A1.6 FOR ADDITIONAL INFORMATION.

Source: Uprear Build LTD. 06/30/2020

GARAGE PLAN

FIGURE 2-2



1 01 FIRST FLOOR (65.6')
3/16" = 1'-0"

REF. NORTH
PROJECT NORTH

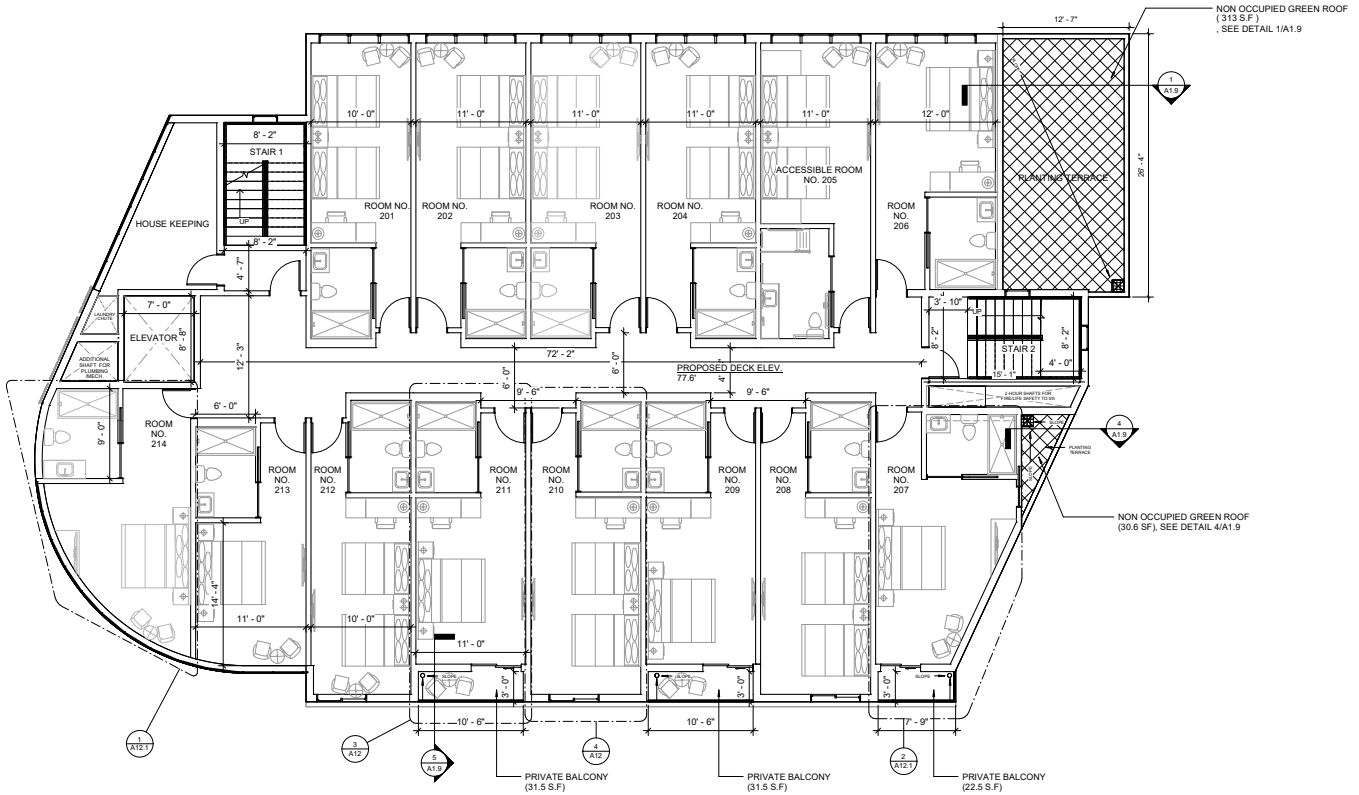
CONSTRUTION NOTES (#)

1. FINAL INTERIOR LAYOUT MAY VARY, FOR GENERAL REFERENCE ONLY.
2. MAIN ENTRANCE.
3. SITE ACCESS RAMP, TOTAL OF 3 LOCATIONS.
4. STAIRS, TOTAL OF 2, CONTINUOUS TO 5TH FLOOR AND WITH DIRECT ACCESS TO PUBLIC WAY.
5. PASSENGER ELEVATOR, TOTAL OF 1.
6. LAUNDRY CHUTE, ACCESSIBLE AT ALL 6 LEVELS.
7. MECHANICAL SHAFT TO CONTINUE TO 5TH FLOOR.
8. EMERGENCY EXIT. TOTAL OF 3.
9. EXPOSED BUILDING COLUMN, CLAD TO MATCH BUILDING COMPOSITE MATERIAL.
10. TRASH ENCLOSURE, SEEE 7/A1.9.
11. SLOPED SIDEWALK FOR SITE ACCESS.
12. MECHANICAL CAR LIFT, HYDRAULIC SYSTEM WITH NO PIT AND OPERATING EQUIPMENT LOCATED ABOVE THE D.F.E. SEE A1.6 FOR ADDITIONAL INFORMATION. TOTAL OF 2 LIFTS.
13. BUILDING MECHANICAL ROOM (FOR BASEMENT GARAGE VENTILATION) AND GENERAL BUILDING ELECTRICAL ROOM. FINAL SIZE AND CONFIGURATION TBD.
14. FIRE LIFE SAFTEY SHAFT, CONTINUOUS TO 5TH FLOOR/BASE OF ROOF STRUCTURE.

Source: Uprear Build LTD. 06/30/2020

PROPOSED FIRST FLOOR PLAN

FIGURE 2-3

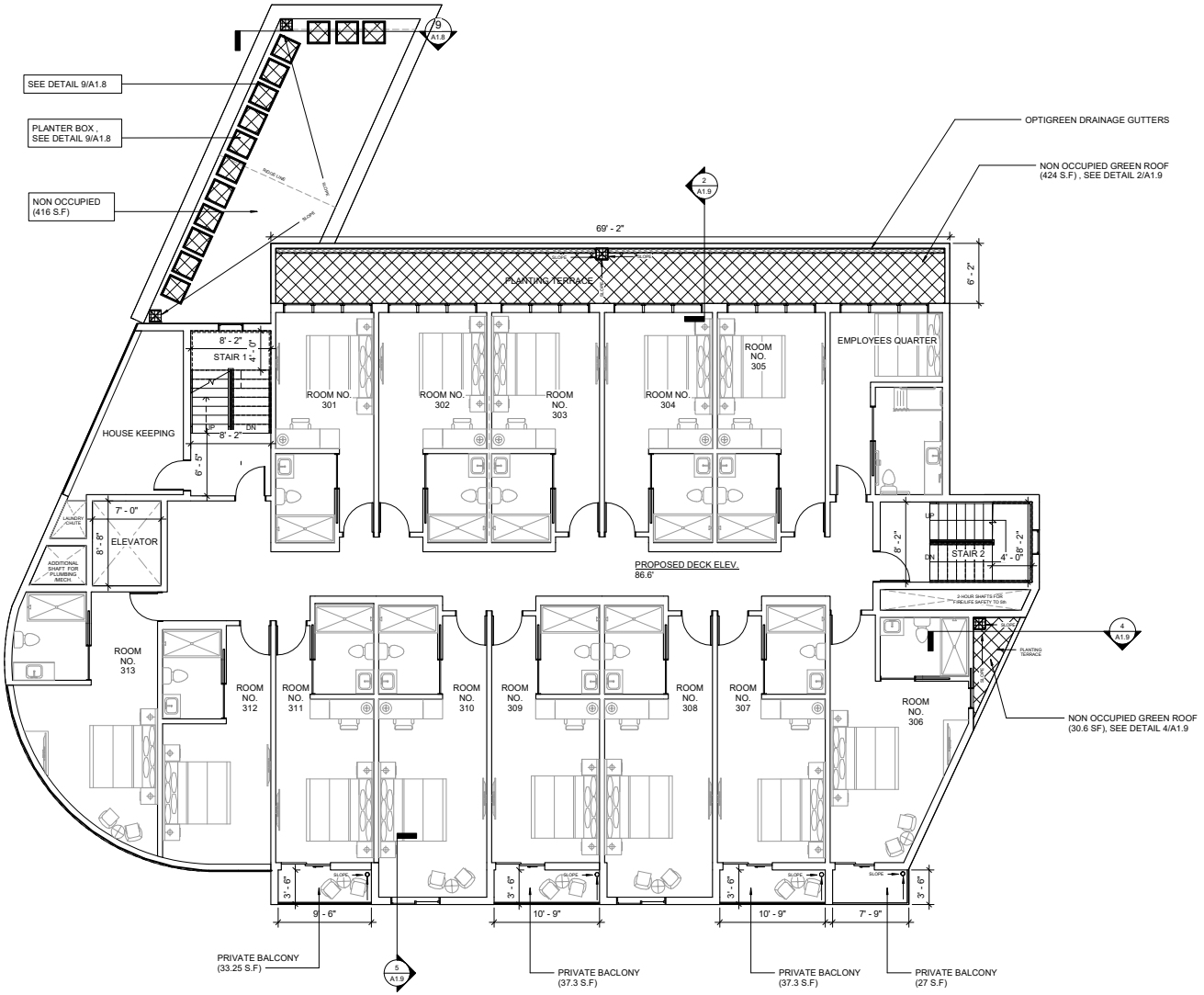


1 02 SECOND FLOOR (77.6')
3/16" = 1'-0"

Source: Uprear Build LTD. 06/30/2020

PROPOSED SECOND FLOOR PLAN

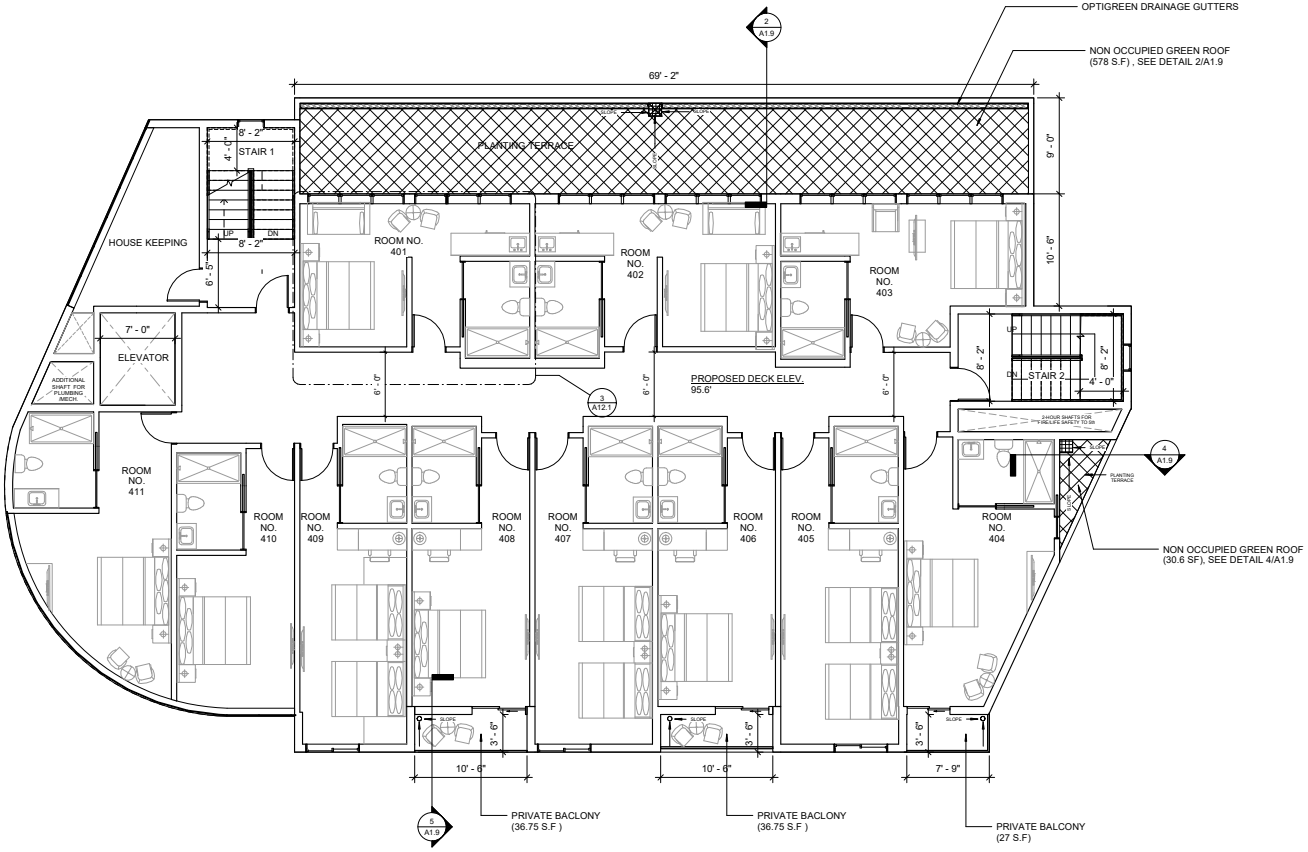
FIGURE 2-4



1 03 THIRD FLOOR (86.6')
3/16" = 1'-0"

Source: Uprear Build LTD. 06/30/2020

PROPOSED THIRD FLOOR PLAN | FIGURE 2-5



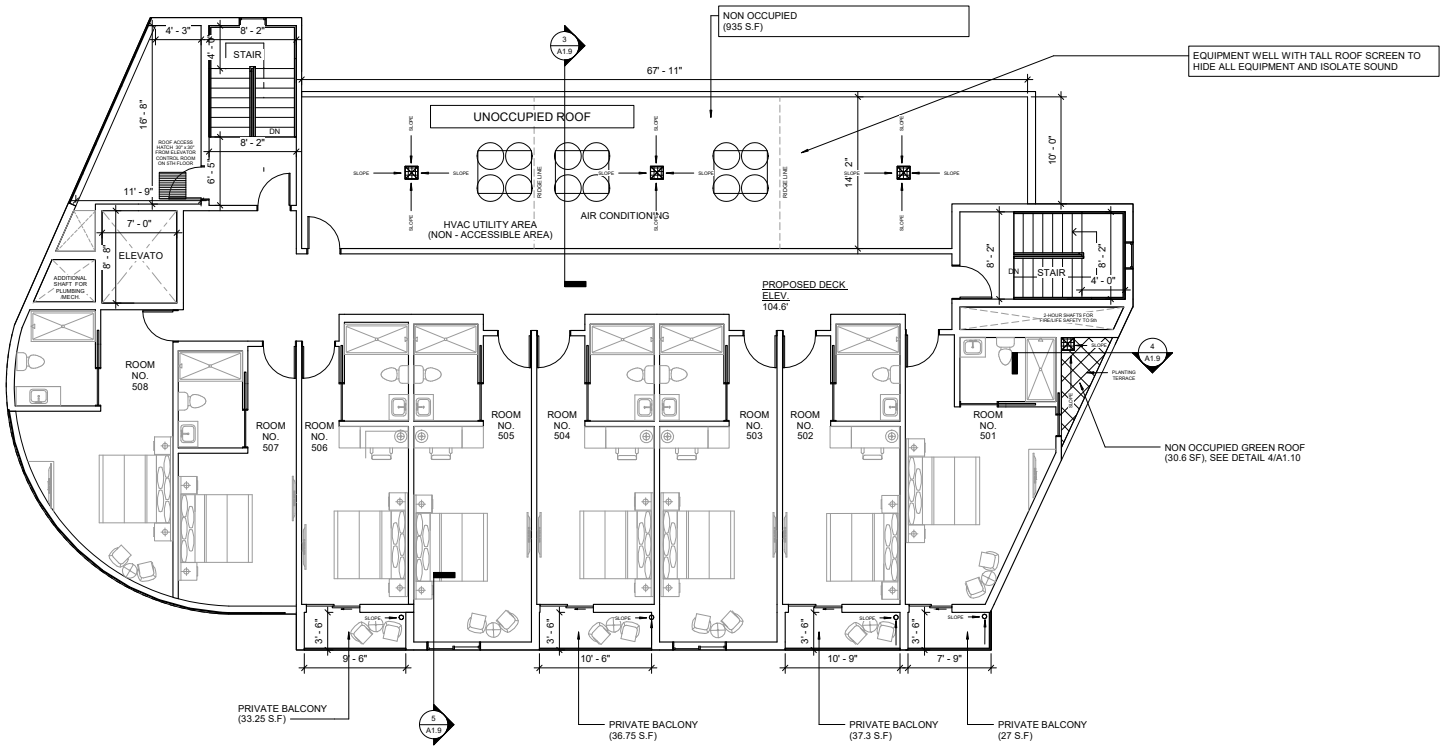
1 04 FOURTH FLOOR (95.6')
3/16" = 1'-0"

REF. NORTH

Source: Uprear Build LTD. 06/30/2020

PROPOSED FOURTH FLOOR PLAN

FIGURE 2-6



1 05 FIFTH FLOOR
3/16" = 1'-0"

Source: Uprear Build LTD. 06/30/2020

PROPOSED FIFTH FLOOR PLAN

FIGURE 2-7

2 South East
1/8" = 1'-0"

Source: Uprear Build LTD. 06/30/2020

PROPOSED ELEVATIONS 1

FIGURE 2-8

2 North West
1/8" = 1'-0"

Source: Uprear Build LTD. 06/30/2020

PROPOSED ELEVATIONS 2

FIGURE 2-9

Table 2.2-1: Proposed Hotel Specifications

Floor	Total Square Feet	Total Rooms by Type
Basement	10,057	-
First Floor	4,722	2 Accessible Compact King Suites
Second Floor	6,036	4 Standard King Suites 1 Corner King Suite 1 City Corner King Suite 1 Accessible Compact King Suite 6 Double Queen Suites 1 Accessible Double Queen Suites
Third Floor	5,721	11 Standard King Suites 1 Corner King Suite 1 City Corner King Suite
Fourth Floor	5,297	3 Standard King Suites 1 Corner King Suite 1 City Corner King Suite 3 Long-Term Stay King Suites 3 Double Queen Suites
Fifth Floor	4,680	6 Standard King Suite 1 Corner King Suite 1 City Corner King Suite
Total	**36,513**	**48 rooms**

The main entrance and exit for the hotel building would be on the north side of the building. Additional exits would be on the east and south sides of the building, with ramp accessible features at all public use entrances and exits. These exits would be secured and would only be accessible to hotel guests. Access to each floor would be available from the elevator on the west side of the building. Stairwells would also be provided on the east and west sides of the building to access each floor.

2.2.2 Site Access, Circulation, and Parking

Site access would include separate entry and exit points. The Project entrance would be from Oakland Road via a 26-foot-wide driveway at the western entrance to the site. The exit would be from Faulstich Court via a 16-foot to 24-foot directional driveway as approved by the City Public Works. The Project would provide 39 valet parking spaces made up of 5 site parking spaces, 1 lift parking space, 17 basement parking stalls, 12 stacked parking stalls, and 4 dedicated electric vehicle parking stalls. A car elevator would be installed in the basement level for valets to move and access the parked vehicles. The Project would also include 16 stacked bicycle lockers in the basement level of the building.

Sidewalks that are continuous with the Project site would be improved as part of the Project. Sidewalk widening and safety features for driveway crossing would be added.

2.2.3 Landscaping and Aesthetics

The Project would provide approximately 580 square feet of landscaping around the perimeter of the building (i.e., on the first floor). On the second floor, approximately 343 square feet of landscaping would be provided. On the third floor, approximately 499 square feet of landscaping would be provided. On the fourth floor, approximately 63 square feet of landscaping would be provided. On the fifth floor, approximately 25 square feet of landscaping would be provided. Additional landscaping, such as green walls and planters, would be included throughout the exterior of the building. An ornamental lemon tree located on the Project site would be removed. Six ornamental trees would be planted as part of the Project to enhance landscaping for the site and on the sidewalks. The exterior of the building would include stone veneer in deep red with a white composite roof material, with the same composite material used in between each floor. An 8-foot-high compound wall would be built along the property line.

2.2.4 Lighting

The Project would provide exterior lighting surrounding the first floor of the building that would highlight the building's entrances, walkways, and landscaping features. Lighting fixtures would include a pole-mounted light near the northern corner of the property, which would be a maximum of 10 feet high and would include motion sensors to turn on between 10:00 p.m. and 6:00 a.m. Additionally, wall lighting and roof lighting would be provided on the exterior of the building. All lighting would be shielded to reduce light spill or glare onto surrounding buildings, in accordance with Chapter 20.75.360 and 20.50.250 of the City of San José Municipal Code. Additionally, one streetlight would be relocated along Oakland Road from the area where the future entrance driveway to the Project site would be located to approximately 10 to 15 feet south of this area. All exterior lighting would be designed to meet safety requirements and energy conservation needs as required by the City's green building standards and policies.

2.2.5 Utilities

Water

The Project would install a new 6-inch main water line extension to connect to the existing water main in Faulstich Court. The Project would implement California Green Building Standards (CALGreen) mandatory measures to reduce overall water use on the site.

Wastewater

The Project would install a new 8-inch sanitary sewer lateral to connect to the existing 8-inch sanitary sewer main in Faulstich Court.

Stormwater

The Project would install a new 6-inch storm drain to connect to the existing 15-inch storm drain in Faulstich Court. Stormwater would flow from the northeast corner of the Project site, either down through the eastern driveway or through the western driveway into flow-through planters, and into the storm

drains. The Project would create approximately 9,933 square feet of new impervious area. It would also include approximately 580 square feet of pervious area consisting of landscaping within the Project site.

Electricity and Natural Gas

Pacific Gas and Electric Company (PG&E) provides electricity and natural gas service to the Project site. Electrical and gas connections would be made to the existing facilities located near the site. Additionally, the Project would include rooftop solar photovoltaic panels.

2.3 PROJECT CONSTRUCTION

2.3.1 Construction Schedule

It is anticipated that Project construction would take approximately 8 months to complete, starting in June 2021 and ending in February 2022. The Project would require up to 30 workers during the peak construction phase. It is anticipated that the construction workforce would be available from nearby areas. The Project would be completed in a single phase. The breakdown of each construction activity is included in Table 2.3-1.

Table 2.3-1: Estimated Construction Schedule

Construction Activity	Anticipated Start Date	Anticipated End Date	Total Number of Days
Site Preparation	6/3/2021	6/4/2021	2
Grading	6/7/2021	7/19/2021	30
Building Construction	7/20/2021	2/14/2022	150
Paving	1/18/2022	2/14/2022	20
Commissioning and Room Fit up	2/15/2022	2/28/2022	10

Project construction activities would occur between 7:00 a.m. and 6:00 p.m. Monday through Friday. Project construction and grading activities would not occur on Saturdays, Sundays, or holidays. Construction hauling would be limited to between 7:00 a.m. and 6:00 p.m. on weekdays.

2.3.2 Construction Equipment, Access, and Staging Areas

The Project would require the use of heavy construction equipment for site work and construction of the hotel building. Construction equipment would include but not be limited to water trucks, graders, backhoes, forklifts, excavators, loaders, rollers, cranes, and air compressors. Project construction equipment and materials would largely be stored on-site; however, some temporary partial street closures may be required for staging of large equipment, such as the crane, before bringing it onto the construction site. The majority of the structure would be fabricated and assembled off-site, limiting the need for on-site construction staging.

2.3.3 Construction Activities

Construction activities associated with the Project would include site clearing, grading, utility connections (e.g., new lateral connections to the existing water, sewer, and storm drain mains), building construction, paving, commissioning, room fit up, and landscaping on the site.

Construction activities would involve grading of the entire Project site and the permanent disturbance of the 0.25-acre site. The estimated amount of cut during Project construction would be 14,524 cubic yards. All of the soil would be exported off-site. No fill is anticipated for the Project. The Project would result in approximately 9,933 square feet of total impervious area.

2.4 PROJECT OPERATION

Operation of the Project would require up to two on-site full-time employees at any given time, except between the hours of 1:00 a.m. and 6:00 a.m., when there would be only one employee. Based on an average of two guests per hotel room, the Project would generate up to 100 guests at maximum capacity. It is expected that the Project would operate 24 hours per day, Monday through Sunday.

A parking strategy has been prepared for the Project that includes specifications for a shuttle service for hotel guests to SJC, discounts for hotel guests that do not bring a personal vehicle to the hotel, and requirements for the valet service. The full text of the Parking Plan Strategy is included in Appendix A of this ISMND.

3.0 ENVIRONMENTAL CHECKLIST AND ENVIRONMENTAL EVALUATION

The environmental factors checked below would be potentially affected by this Project, involving at least one impact that would require mitigation to reduce the impact from "Potentially Significant" to "Less than Significant" as indicated by the checklist on the following pages.

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

Evaluation of Environmental Impacts

This section presents the environmental checklist form found in Appendix G of the CEQA Guidelines. The checklist form is used to describe the impacts of the Project. A discussion follows each environmental issue identified in the checklist. Included in each discussion are Project-specific mitigation measures, if needed.

For the checklist, the following designations are used:

Potentially Significant Impact: An impact that could be significant and for which mitigation has not been identified. If any potentially significant impacts are identified, an EIR must be prepared. An ISMND cannot be used if there are potentially significant impacts that cannot be mitigated.

Less Than Significant with Mitigation Incorporated: This designation applies when applicable and feasible mitigation measures previously identified in prior applicable EIRs or in the General Plan EIR have reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact" and, pursuant to Section 21155.2 of the PRC, those measures are incorporated into the ISMND.

This designation also applies when the incorporation of new Project-specific mitigation measures not previously identified in prior applicable EIRs or in the General Plan EIR have reduced an effect from a "Potentially Significant Impact" to a "Less Than Significant Impact".

Less Than Significant Impact: Any impact that would not be considered significant under CEQA, relative to existing standards.

No Impact: The Project would not have any impact.

Important Note to the Reader

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

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

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

3.1 AESTHETICS

AESTHETICS Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
Except as provided in Public Resources Code Section 21099:				
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? (Public Views are those that are experienced from a publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☒	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☒	☐

3.1.1 Regulatory Setting

3.1.1.1 Federal

There are no federal regulations related to aesthetics that are relevant to the Project.

3.1.1.2 State

State Scenic Highways Program

The State Scenic Highways Program is designed to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. The Project site is not located near any scenic highways. Interstate 280 (I-280) is designated as an “eligible” state-designated highway; however, I-280 is not an officially designated highway and is more than 3 miles from the Project site (Caltrans 2020).

3.1.1.3 Local

Envision San José 2040 General Plan

The General Plan identifies scenic gateways on its Scenic Corridors Diagram, which are locations which announce to a visitor or resident that they are entering the City, or a unique neighborhood. San José Gateways contribute greatly to the overall image of the City and contribute to the quality of life.

Additionally, the following policies in the General Plan have been adopted for the purpose of avoiding or mitigating aesthetic impacts from projects. The following policies are applicable to the Project (City of San José 2018a):

- **Goal CD-1**: Attractive City. Create a well-designed, unique, and vibrant public realm with appropriate uses and facilities to maximize pedestrian activity; support community interaction; and attract residents, business, and visitors to San José.
    - **Policy CD-1.1:** Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
    - **Policy CD-1.8:** Create an attractive street presence with pedestrian-scaled building and 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.
    - **Policy CD-1.11:** To create a more pleasing pedestrian-oriented environment, for new building frontages, include design elements with a human scale, varied and articulated facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Provide windows or entries along sidewalks and pathways; avoid blank walls that do not enhance the pedestrian experience. Encourage inviting, transparent façades for ground-floor commercial spaces that attract customers by revealing active uses and merchandise displays.
    - **Policy CD-1.12:** Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
    - **Policy CD-1.13:** Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.
    - **Policy CD-1.17:** Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.

  - **Policy CD-1.23:** Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.

- **Goal CD-4**: Compatibility. Provide aesthetically pleasing streetscapes and new development that preserves and builds on the unique characteristics of the local area and contributes to a distinctive neighborhood or community identity.
  - **Policy CD-4.9:** For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).

- **Goal CD-8:** Building Height. Regulate the height of new development to avoid adverse land use incompatibility while providing maximum opportunity for the achievement of the Envision General Plan goals for economic development and the provision of new housing within the identified Growth Areas.
  - **Policy CD-8.1:** Ensure new development is consistent with specific height limits established within the City's Zoning Ordinance and applied through the zoning designation for properties throughout the City. Land use designations in the Land Use/ Transportation Diagram provide an indication of the typical number of stories.

Outdoor Lighting Policy (City Council Policy 4-3)

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

3.1.2 Environmental Setting

According to the City's General Plan, the City topography consists of a gently sloping to flat valley that is bounded by the Diablo Mountain Range to the east, the San Francisco Bay to the north, and the Santa Cruz mountains to the southwest. The City itself is largely dominated by developed areas and structures, with the General Plan estimating that 80 percent of the land consists of developed areas (City of San José 2018a). The densest of this development occurs in the Downtown area of the City, with numerous high-rise buildings, freeways, and dense residential and commercial land uses. The remainder of the developed portions of the City consist of suburban development made up of single-family residences and residential-serving commercial areas and open space.

The Project is located in the Berryessa Planning Area of the City, in an area that is surrounded by residential and commercial land uses. Figure 3.1-1 shows the existing conditions of the site. The Project site is currently undeveloped and consists of a relatively flat land with a chain-link fence surrounding it and a sidewalk to the south and west of the site. Surrounding visual characteristics and land uses include the following:

- **North:** South Bay Mobile Home Park, including existing residential uses.
- **East**: South Bay Mobile Home Park, including existing residential uses, Summit Steel Works Corporation, and warehouse buildings associated with commercial operations.
- **South**: Dependable Rooter and Plumbing, and Oakland Road and Faulstich Court intersect at the southern end of the project site.
- **West:** Several commercial buildings along the western side of Oakland Road including R.E. Michael Company, Vortex Doors, Roof Line Supply and Delivery, and Streakwave. There is also some minor landscaping within the parking areas of these businesses and along the sidewalk. Further, the City's General Plan defines scenic vistas in the City of San José as views of and from the Santa Clara Valley, surrounding hillsides, and urban skyline. Scenic urban corridors, such as segments of major highways that provide gateways into the City, can also be defined as scenic resources by the City. The designation of a scenic route applies to routes affording especially aesthetically pleasing views. The Project area is located directly adjacent to a "scenic gateway" which runs along a portion of Oakland Road per the City's Scenic Corridors Diagram (City of San José 2018a). Scenic gateways are defined in the General Plan as "locations which announce to a visitor or resident that they are entering the city, or a unique neighborhood" (City of San José 2018a).

3.1.3 Environmental Impact Analysis

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

The City's General Plan states that San José contains many scenic resources that include the broad sweep of the Santa Clara Valley, the hills and mountains that frame the Valley floor, the baylands, and the urban skyline itself, and particularly high-rise development. The City's General Plan also identifies gateways and urban corridors as important scenic resources. The Project site is located at the corner of Oakland Road and Faulstich Court. Oakland Road in the Project vicinity is a designated gateway (City of San José 2018a). The nearest designated urban corridor is US 101, approximately 0.5 mile to the south. The Project would be approximately 114 feet in height at the top of the roof parapet. The topography of the area is generally flat, and there are no scenic views of designated resources, such as the Santa Clara Valley, the hills and Santa Cruz mountains that frame the Valley floor, or the Baylands available from or through the Project site. Therefore, the Project would not impact scenic vistas, since no scenic vistas are observable from the Project vicinity due to existing, obstructing topography and buildings. Therefore, there would be **no impact** to scenic vistas.

Photo 1: View of the Project site looking west toward Oakland Road.

Photo 2: View of the Project site looking east toward Faulstich Court

Source: Uprear Build LTD. 06/30/2020

SITE PHOTOS

FIGURE 3.1-1

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 State Scenic Highways Program is designed to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. The Project site is not located near any scenic highways (Caltrans 2020). The nearest eligible state scenic highway is I-280, which is located more than 3 miles south of the Project site. Further, although one ornamental lemon tree located on the Project site would be removed, six ornamental trees would be planted on the sidewalks as part of the Project to provide visual relief. Therefore, the Project would have **no impact** to state-designated highways.

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? (Public views are those that are experienced from a publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

The Project site is located in a highly urbanized area. The existing visual character of the Project site consists of an empty lot that is surrounded by residential development directly to the north, commercial development to the east and south, and commercial development to the west across Oakland Road. The Project site itself has a low visual quality, with low grasses and weeds occupying much of the site and a chain link fence surrounding much of the property. Figure 3.1-1 shows the existing site conditions.

The proposed hotel would be five stories, approximately 114 feet in height at the top of the roof parapet, and 120 feet in height at the top of the mechanical area and elevator service room, and 36,513 total square feet of floor area. Additionally, an 8-foot-high compound wall would be built along the property line, and landscaping would be provided on the perimeter of the building as well as on the terraces on the second and third floor that would be visible from Oakland Road. The exterior of the building would include a stone veneer in deep red with a white composite roof material, with the same composite material used in between each floor as shown in Figure 3.1-2. The structure would be painted in muted colors typical of California architecture and would not conflict with the surrounding uses and other structures in the area. In addition, one ornamental lemon tree located on the Project site would be removed, and six ornamental trees would be planted on the sidewalks as part of the Project to provide visual relief.

Although the new hotel structure would be a change from the existing undeveloped condition of the site, it would be consistent with the surrounding commercial land uses. Additionally, the Project would include a 20-foot setback to the north and a 15-foot setback to the east from adjacent residences, thus allowing for adequate visual buffers and preventing the new structure from overwhelming the visual landscape for these residential uses. The wooden fence currently surrounding a portion of the site adjacent to these residences would be converted to an 8-foot-high compound wall which would not substantially alter the visual landscape for these residences.

Although the hotel structure would be much taller than single-family residences to the north and east, and other land uses in the Project area, with the incorporation of the design elements as well as appropriate

EAST

NORTH

SOUTH

WEST

Source: Uprear Build LTD. 06/30/2020

VISUAL SIMULATIONS

FIGURE 3.1-2

setbacks and landscaping, the Project would allow for a compatible structure with the existing land uses and visual character of the area. The visual change in the area from a vacant lot to the hotel would overall enhance the viewscape in the area rather than detract from it. Therefore, there would be a **less than significant impact** related to degradation of the existing visual character or quality of public views of the site and its surroundings.

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

Sources of light and glare currently exist on-site and within the Project area, sources include streetlights, parking lot lights from nearby buildings, security lights, vehicular headlights, internal building lights, and exterior lighting. The Project would include exterior lighting that would highlight the building entrances, walkways, and landscaping features. These light sources would only add incrementally to the existing background light levels from surrounding development, and would comply with City lighting standards, including Municipal Code Section 20.40.530 which limits residential light fixture heights to 8 feet along residential property lines. Exterior lighting fixtures for the Project would include an 8-foot pole-mounted light in the northern corner of the property that would turn on automatically upon sensing motion between 10:00 p.m. and 6:00 a.m. Headlights of vehicles entering and exiting the project site at night would be comparable to existing conditions and would not affect nearby light-sensitive receptors since perimeter walls would interrupt eye-level light sources. Further, all lighting would be shielded to reduce light spill or glare onto surrounding buildings, in accordance with Chapter 20.75.360 and 20.50.250 of the City of San José Municipal Code. Additionally, one streetlight would be relocated along Oakland Road from the area where the future entrance driveway to the Project site would be located to approximately 10 to 15 feet south of this area and would not result in new sources of light and glare. All exterior lighting would be designed to meet safety requirements and energy conservation needs as required by the City's green building standards and policies. San José City Council Policy 4-3 calls for private development to use energy-efficient outdoor lighting that is fully shielded and not directed skyward. All lighting installed by the Project would be full-cutoff lighting, designed in conformance with City Council Policy 4-3. Project signage would adhere to the regulations set under the City's Sign Ordinance Chapter 23.04.

The proposed hotel windows could generate glare from reflected sunlight during certain times of the day. However, the level of glare would be similar to that already experienced at the surrounding commercial areas and residences. Therefore, because the Project would be consistent with the policies, guidelines, and controls in the City of San José Municipal Code, lighting and glare associated with the Project would have **a less than significant impact** on day and nighttime views in the area.

3.2 AGRICULTURE AND FORESTRY RESOURCES

AGRICULTURE AND FORESTRY RESOURCES Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒
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 the 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?	☐	☐	☐	☒

3.2.1 Regulatory Setting

3.2.1.1 Federal

There are no federal regulations related to agriculture and forestry resources that are relevant to the Project.

3.2.1.2 State

There are no state regulations related to agriculture and forestry resources that are relevant to the Project.

3.2.1.3 Local

There are no local regulations or policies related to agriculture and forestry resources that are relevant to the Project.

3.2.2 Environmental Setting

The Project site is located in a highly developed area in the City and does not include any area designated as farmland, Williamson Act contracted lands, forest land, or timberland. The California Department of Conservation administers the Farmland Mapping and Monitoring Program (FMMP) related to California's statewide agricultural land inventory. The Project site, as well as the majority of the City, is designated as "Urban and Built-Up Land" on the Santa Clara County Important Farmlands Map (California Department of Conservation 2016).

3.2.3 Environmental Impact Analysis

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

The Project site is designated as Urban Built-up Land according to the FMMP and is not located on or near any Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. Although the Project site is currently undeveloped, it is surrounded by dense residential and commercial development. Therefore, the Project would not convert any farmland to non-agricultural use. There would be **no impact**.

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

The Project site is not located within or adjacent to a Williamson Act contract site. The Project site is zoned as Combined Industrial/Commercial and is located in a highly developed area of the City. There is no farmland within or surrounding the Project site. Therefore, the Project would not conflict with an existing zoning designation for agriculture use or a Williamson Act contract, and there would be **no impact**.

c) Would the project conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

There is no existing zoning designation for forest land, timberland, or timberland production within the Project area. The Project site is zoned for Combined Industrial/Commercial uses. Therefore, there would be **no impact** related to forest lands or timberlands.

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

There is no forest land within the Project area, as the Project site is zoned for Combined Industrial/Commercial uses. Therefore, there would be **no impact** related to loss of forestland or conversion of forest land to non-forest use.

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?

The Project site would develop a parcel that is surrounded by residential and commercial uses and would not have any potential impacts on farmlands or forest lands. Therefore, there would be **no impact** related to the conversion of farmland or forest lands.

3.3 AIR QUALITY

AIR QUALITY Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
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?	☐	☐	☒	☐

An Air Quality Assessment was completed for the Project site in September 2020 by Stantec (Appendix B). The information contained in this Air Quality Assessment formed the basis of the information and analysis in this section.

3.3.1 Regulatory Setting

3.3.1.1 Federal

U.S. Environmental Protection Agency

The U.S. Environmental Protection Agency (EPA) handles global, international, national, and interstate air pollution issues and policies. EPA sets national vehicle and stationary source emission standards, oversees approval of all State Implementation Plans, provides research and guidance for air pollution programs, and sets National Ambient Air Quality Standards (NAAQS), also known as federal standards or national standards. There are national standards for six common air pollutants, called criteria air pollutants, which were identified from provisions of the Clean Air Act (CAA) of 1970. The criteria pollutants are:

- Ozone
- Particulate matter (particulate matter 10 microns or less in aerodynamic diameter [PM_{10}] and particulate matter 2.5 microns or less in aerodynamic diameter [$PM_{2.5}$])
- Nitrogen dioxide (NO_2)
- Carbon monoxide (CO)
- Lead

- Sulfur dioxide (SO_2)

The national standards were set to protect public health, including that of sensitive individuals; thus, the standards continue to change as more medical research is available regarding the health effects of the criteria pollutants. Primary national standards are the levels of air quality necessary with an adequate margin of safety to protect public health as discussed in Ambient Air Quality Standards (AAQS) summary prepared by the California Air Resources Board (CARB).

3.3.1.2 State

California Air Resources Board

A State Implementation Plan is a document prepared by each state describing existing air quality conditions and measures that will be followed to attain and maintain national standards. The State Implementation Plan for the State of California is administered by CARB, which has overall responsibility for statewide air quality maintenance and air pollution prevention. The CARB also administers California Ambient Air Quality Standards (CAAQS) for the 10 air pollutants designated in the California Clean Air Act (CCAA). The 10 state air pollutants are the six national standards listed above as well as the following: visibility-reducing particulates, hydrogen sulfide, sulfates, and vinyl chloride. The NAAQS and CAAQS are summarized in Table 3.3-1.

Table 3.3-1: California and National Ambient Air Quality Standards

Pollutant	Averaging Time	California Standards[1]	National Standards[2]	
		Concentration	Primary[3]	Secondary[4]
Ozone[5]	1 Hour	0.09 ppm (180 µg/m^3)	—	Same as Primary Standard
	8 Hour	0.070 ppm (137 µg/m^3)	0.070 ppm (137 µg/m^3)	
Respirable Particulate Matter[6]	24 Hour	50 µg/m^3	150 µg/m^3	Same as Primary Standard
	Annual Arithmetic Mean	20 µg/m^3	—	
Fine Particulate Matter[6]	24 Hour	—	35 µg/m^3	Same as Primary Standard
	Annual Arithmetic Mean	12 µg/m^3	12 µg/m^3	
Carbon Monoxide	1 Hour	20 ppm (23 mg/m^3)	35 ppm (40 mg/m^3)	—
	8 Hour	9.0 ppm (10 mg/m^3)	9 ppm (10 mg/m^3)	—
	8 Hour (Lake Tahoe)	6 ppm (7 mg/m^3)	—	—
Nitrogen Dioxide	1 Hour	0.18 ppm (339 µg/m^3)	100 ppb (188 µg/m^3)	—
	Annual Arithmetic Mean	0.030 ppm (57 µg/m^3)	0.053 ppm (100 µg/m^3)	Same as Primary Standard

Pollutant	Averaging Time	California Standards[1]	National Standards[2]	
		Concentration	Primary[3]	Secondary[4]
Sulfur Dioxide[7]	1 Hour	0.25 ppm (655 µg/m^3)	75 ppb (196 µg/m^3)	—
	3 Hour	—	—	0.5 ppm (1300 µg/m^3)
	24 Hour	0.04 ppm (105 µg/m^3)	0.14 ppm (for certain areas)	—
	Annual Arithmetic Mean	—	0.030 ppm (for certain areas)	—
Lead[8, 9]	30-Day Average	1.5 µg/m^3	—	—
	Calendar Quarter	—	1.5 µg/m^3	Same as Primary Standard
	Rolling 3-Month Average	—	0.15 µg/m^3	
Visibility-Reducing Particles[10]	8 Hour	See Footnote 1	No National Standards	
Sulfates	24 Hour	25 µg/m^3		
Hydrogen Sulfide	1 Hour	0.03 ppm (42 µg/m^3)		
Vinyl Chloride[8]	24 Hour	0.01 ppm (26 µg/m^3)		

Notes:

1. California standards for ozone, carbon monoxide (except 8-hour Lake Tahoe), sulfur dioxide (1 and 24 hour), nitrogen dioxide, and particulate matter (PM_{10}, $PM_{2.5}$, and visibility reducing particles), are values that are not to be exceeded. All others are not to be equaled or exceeded. California ambient air quality standards are listed in the Table of Standards in Section 70200 of Title 17 of the CCR.
2. National standards (other than ozone, particulate matter, and those based on annual arithmetic mean) are not to be exceeded more than once a year. The ozone standard is attained when the fourth highest 8-hour concentration measured at each site in a year, averaged over 3 years, is equal to or less than the standard. For PM_{10}, the 24-hour standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 µg/m^3 is equal to or less than one. For $PM_{2.5}$, the 24-hour standard is attained when 98 percent of the daily concentrations, averaged over 3 years, are equal to or less than the standard.
3. National Primary Standards: The levels of air quality necessary, with an adequate margin of safety to protect the public health.
4. National Secondary Standards: The levels of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant.
5. On October 1, 2015, the national 8-hour ozone primary and secondary standards were lowered from 0.075 to 0.070 ppm.
6. On December 14, 2012, the national annual $PM_{2.5}$ primary standard was lowered from 15 µg/m^3 to 12.0 µg/m^3. The existing national 24-hour $PM_{2.5}$ standards (primary and secondary) were retained at 35 µg/m^3, as was the annual secondary standard of 15 µg/m^3. The existing 24-hour PM_{10} standards (primary and secondary) of 150 µg/m^3 also were retained. The form of the annual primary and secondary standards is the annual mean, averaged over 3 years.
7. On June 2, 2010, a new 1-hour SO_2 standard was established, and the existing 24-hour and annual primary standards were revoked. To attain the 1-hour national standard, the 3-year average of the annual 99th percentile of the 1-hour daily maximum concentrations at each site must not exceed 75 ppb. The 1971 SO_2 national standards (24-hour and annual) remain in effect until one year after an area is designated for the 2010 standard, except that in areas designated nonattainment for the 1971 standards, the 1971 standards remain in effect until implementation plans to attain or maintain the 2010 standards are approved.
8. The CARB has identified lead and vinyl chloride as 'toxic air contaminants' with no threshold level of exposure for adverse health effects determined. These actions allow for the implementation of control measures at levels below the ambient concentrations specified for these pollutants.
9. The national standard for lead was revised on October 15, 2008 to a rolling 3-month average. The 1978 lead standard (1.5 µg/m^3 as a quarterly average) remains in effect until one year after an area is designated for the 2008 standard, except that in areas designated nonattainment for the 1978 standard, the 1978 standard remains in effect until implementation plans to attain or maintain the 2008 standard are approved.
10. In 1989, the CARB converted both the general statewide 10-mile visibility standard and the Lake Tahoe 30-mile visibility standard to instrumental equivalents, which are "extinction of 0.23 per kilometer" and "extinction of 0.07 per kilometer" for

Pollutant	Averaging Time	California Standards[1]	National Standards[2]	
		Concentration	Primary[3]	Secondary[4]

the statewide and Lake Tahoe Air Basin standards, respectively.
mg/m^3 = micrograms per cubic meter
CARB = California Air Resources Board
mg/m^3 = milligrams per cubic meter
$PM_{2.5}$ = particulate matter 2.5 microns in diameter or less
PM_{10} = particulate matter 10 microns in diameter or less
ppb = parts per billion
ppm = parts per million
SO_2 = sulfur dioxide
Source: CARB 2016

Applicable Toxic Air Contaminant Regulation

CARB's toxic air contaminant (TAC) program traces its beginning to the criteria pollutant program in the 1960s. For many years, the criteria pollutant control program has been effective at reducing TACs since many volatile organic compounds and PM constituents are also TACs. During the 1980s, the public's concern over toxic chemicals heightened. As a result, citizens demanded protection and control over the release of toxic chemicals into the air. In response to public concerns, the California legislature enacted the Toxic Air Contaminant Identification and Control Act governing the release of TACs into the air. This law charges CARB with the responsibility for identifying substances as TACs, setting priorities for control, adopting control strategies, and promoting alternative processes. CARB has designated almost 200 compounds as TACs. Additionally, CARB has implemented control strategies for a number of compounds that pose high health risk and show potential for effective control.

The CARB's Diesel Risk Reduction Plan has led to the adoption of new state regulatory standards for all new on-road, off-road, and stationary diesel-fueled engines and vehicles to reduce diesel particulate matter (DPM) emissions by about 90 percent overall from year 2000 levels, as stated on page 1 of the Diesel Risk Reduction Plan. The emission benefits associated with the full implementation of the Diesel Risk Reduction Plan, including federal measures, are reductions in DPM emissions and associated cancer risks of 75 percent by 2010 and 85 percent by 2020 (CARB 2000).

In 2005, CARB approved an Air Toxics Control Measure (ATCM) to limit diesel-fueled commercial motor vehicle idling to reduce emissions of toxics and criteria pollutants. The driver of any vehicle subject to this section (1) shall not idle the vehicle's primary diesel engine for greater than 5 minutes at any location and (2) shall not idle a diesel-fueled auxiliary power system for more than 5 minutes to power a heater, air conditioner, or any ancillary equipment on the vehicle if it has a sleeper berth and the truck is located within 100 feet of a restricted area (homes and schools).

Clean Air Plan

The Clean Air Plan guides the region's air quality planning efforts to attain the CAAQS. The Bay Area Air Quality Management District (BAAQMD) 2017 Clean Air Plan is the current Clean Air Plan, which contains district-wide control measures to reduce ozone precursor emissions (i.e., reactive organic gas

[ROG] and nitrogen oxides [NOx]), particulate matter, and greenhouse gas (GHG) emissions (BAAQMD 2017a). The primary goals of the 2017 Clean Air Plan are to protect public health through the attainment air quality standards and protect the climate.

The 2017 Clean Air Plan contains 85 control measures aimed at reducing air and climate pollutants in the Bay Area. For purposes of consistency with climate planning efforts at the state level, the control strategy in the Clean Air Plan is based upon the same economic sector framework used by the CARB for its Climate Change Scoping Plans.

3.3.1.3 Local

Envision San José 2040 General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating air quality impacts from projects. The following policies are applicable to the Project (City of San José 2018a):

- **Goal MS-10-Air Pollutant Emission Reduction:** Minimize air pollutant emissions from new and existing development.
    - **Policy MS-10.1:** Assessed air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to State and federal standards. Identify and implement feasible air emission reduction measures.
    - **Policy MS-10.2:** Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.
    - **Policy MS-10.4:** Encourage effective regulation of mobile and stationary sources of air pollution, both inside and outside of San José. In particular, support federal and State regulations to improve automobile emission controls.
    - **Policy MS-10.7**: Encourage regional and Statewide air pollutant emission reduction through energy conservation to improve air quality.
- **Goal MS-11-Toxic Air Contaminants:** Minimize exposure of people to air pollution and toxic air contaminants such as ozone, carbon monoxide, lead, and particulate matter.
    - **Policy MS-11.1:** Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.
    - **Policy MS-11.2:** For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended

procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.

  - **Policy MS-11.5:** Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.

- **Goal MS-13-Construction Air Emissions:** Minimize air pollutant emissions during demolition and construction activities.

  - **Policy MS-13.1:** Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

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

San José Municipal Code

In addition to the goals and policies of the General Plan, the Project would also be subject to the City's Grading Ordinance, Chapter 17.04.280 of the Municipal Code, which requires that all earth moving activities control fugitive dust through steps such as regular watering of the ground surface, cleaning of nearby streets, and planting any areas left vacant for extensive periods of time.

Bay Area Air Quality Management District

The BAAQMD is the public agency that regulates stationary sources of air pollution in the nine counties that make up the San Francisco Bay Area: Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, southwestern Solano, and southern Sonoma. BAAQMD attains and maintains air quality conditions in Napa County through a comprehensive program of planning, regulation, enforcement, technical innovation, and promotion of the understanding of air quality issues. The clean air strategy of BAAQMD includes the preparation of plans and programs for the attainment of NAAQS and CAAQS, adoption and enforcement of rules and regulations, and issuance of permits for stationary sources. BAAQMD also inspects stationary sources, responds to citizen complaints, monitors ambient air quality and meteorological conditions, and implements other programs and regulations required by the CAA and CCAA.

As mentioned above, BAAQMD adopts rules and regulations. All projects are subject to BAAQMD's rules and regulations in effect at the time of construction. Specific rules applicable to project construction may include, but are not limited to:

- **Regulation 2, Rule 1, General Permit Requirements:** Includes criteria for issuance or denial of permits, exemptions, appeals against decisions of the Air Pollution Control Officer and BAAQMD actions on applications.
- **Regulation 2, Rule 2, New Source Review:** Applies to new or modified sources and contains requirements for Best Available Control Technology and emission offsets. Rule 2 implements federal New Source Review and Prevention of Significant Deterioration requirements.
- **Regulation 6, Rule 1, General Requirements:** Limits the quantity of particulate matter in the atmosphere by controlling emission rates, concentration, visible emissions, and opacity.
- **Regulation 7, Odorous Substances:** Regulation 7 places general limitations on odorous substances and specific emission limitations on certain odorous compounds. A person (or facility) must meet all limitations of this regulation but meeting such limitations shall not exempt such person from any other requirements of BAAQMD, state, or national law. The limitations of this regulation shall not be applicable until BAAQMD receives odor complaints from 10 or more complainants within a 90-day period alleging that a person has caused odors perceived at or beyond the property line of such person and deemed to be objectionable by the complainants in the normal course of their work, travel, or residence. When the limits of this regulation become effective as a result of citizen complaints described above the limits shall remain effective until such time as no citizen complaints have been received by BAAQMD for 1 year. The limits of this regulation shall become applicable again if BAAQMD receives odor complaints from five or more complainants within a 90-day period. BAAQMD staff shall investigate and track all odor complaints they receive and shall attempt to visit the site, identify the source of the objectionable odor, and assist the owner or facility in finding a way to reduce the odor.
- **Regulation 8, Rule 3, Architectural Coatings:** Limits the quantity of volatile organic compounds in architectural coatings supplied, sold, offered for sale, applied, solicited for application, or manufactured for use within BAAQMD.

BAAQMD CARE Program

The Community Air Risk Evaluation (CARE) program was initiated in 2004 to evaluate and reduce health risks associated with exposures to outdoor TACs in the Bay Area. The program examines TAC emissions from point sources, area sources, and on-road and off-road mobile sources with an emphasis on diesel exhaust, which is a major contributor to airborne health risk in California. The CARE program is an ongoing program that encourages community involvement and input. The technical analysis portion of the CARE program is being implemented in three phases that include an assessment of the sources of TAC emissions, modeling and measurement programs to estimate concentrations of TACs, and an assessment of exposures and health risks. Throughout the program, information derived from the technical analyses will be used to focus emission reduction measures in areas with high TAC exposures

and a high density of sensitive populations. Risk reduction activities associated with the CARE program are focused on the most at-risk communities in the Bay Area.

For commercial and industrial sources, the BAAQMD regulates TACs using a risk-based approach. This approach uses a health risk assessment (HRA) to determine what sources and pollutants to control as well as the degree of control. An HRA is an analysis in which human health exposure to toxic substances is estimated and considered together with information regarding the toxic potency of the substances to provide a quantitative estimate of health risks. As part of ongoing efforts to identify and assess potential health risks to the public, BAAQMD has collected and compiled air toxics emissions data from industrial and commercial sources of air pollution throughout the Bay Area. BAAQMD has identified seven impacted communities, including portions of Santa Clara County and areas of San José and the Project site, which have been identified as an affected community.

The Project is located in an area identified as a cumulative impact area (BAAQMD 2013). This is an area where TACs, fine particulate matter, and ozone have the greatest impacts on health.

BAAQMD CEQA Guidelines

The BAAQMD CEQA Air Quality Guidelines (BAAQMD 2017b) were prepared to assist in the evaluation of air quality impacts of projects and plans proposed within the Bay Area. The guidelines provide recommended procedures for evaluating potential air impacts during the environmental review process, consistent with CEQA requirements, and include recommended thresholds of significance, mitigation measures, and background air quality information. They also include recommended assessment methodologies for air toxics, odors, and GHG emissions.

In June 2010, BAAQMD adopted updated draft CEQA Air Quality Guidelines and finalized them in May 2011. These guidelines superseded previously adopted agency air quality guidelines of 1999 and were intended to advise lead agencies on how to evaluate potential air quality impacts.

In May 2017, the BAAQMD published an updated version of the CEQA Air Quality Guidelines. The 2017 CEQA Air Quality Guidelines include thresholds to evaluate project impacts to protectively evaluate the potential effects of the Project on air quality. These protective thresholds are appropriate in the context of the size, scale, and location of the Project.

3.3.2 Environmental Setting

The Project is in the City of San José in Santa Clara County, which lies entirely within the San Francisco Bay Area Air Basin (Air Basin). The Air Basin is approximately 5,600 square miles in area and consists of nine counties that surround the San Francisco Bay, including all of Alameda County, Contra Costa County, Marin County, San Francisco County, San Mateo County, Santa Clara County, and Napa County, the southwestern portion of Solano County and the southern portion of Sonoma County. Its terrain and geographical location determine the distinctive climate of the Air Basin, as the Air Basin is a coastal plain with connecting valleys and low hills. The local agency with jurisdiction over air quality in the Air Basin is the BAAQMD.

Attainment Status

EPA and CARB designate air basins where AAQS are exceeded as "nonattainment" areas. If standards are met, the area is designated as an "attainment" area. If there is inadequate or inconclusive data to make a definitive attainment designation, they are considered "unclassified." National nonattainment areas are further designated as marginal, moderate, serious, severe, or extreme as a function of deviation from standards.

Each standard has a different definition, or "form" of what constitutes attainment, based on specific air quality statistics. For example, the federal 8-hour CO standard is not to be exceeded more than once per year; therefore, an area is in attainment of the CO standard if no more than one 8-hour ambient air monitoring values exceeds the threshold per year. In contrast, the federal annual standard for $PM_{2.5}$ is met if the 3-year average of the annual average $PM_{2.5}$ concentration is less than or equal to the standard.

Table 3.3-2 summarizes the most recent designations for criteria pollutants in the Air Basin.

Table 3.3-2: San Francisco Bay Area Air Basin Attainment Status

Pollutant	Designation/Classification	
	Federal Standards[a]	State Standards[b]
Ozone – One hour	No Federal Standard	Nonattainment
Ozone – Eight Hour	Nonattainment	Nonattainment
PM_{10}	Unclassified	Nonattainment
$PM_{2.5}$	Nonattainment	Nonattainment
Carbon Monoxide	Attainment/Unclassified	Attainment
Nitrogen Dioxide	Attainment/Unclassified	Attainment
Sulfur Dioxide	Attainment/Unclassified	Attainment
Lead	No Designation/Classification	Attainment
Hydrogen Sulfide	No Federal Standard	Unclassified
Sulfates	No Federal Standard	Attainment
Visibility Reducing Particles	No Federal Standard	Unclassified
Vinyl Chloride	No Federal Standard	No information available

Notes:
a See 40 Code of Federal Regulations Part 81
b See CCR Title 17 Sections 60200-60210
Source: BAAQMD 2020

Air Pollutants

Toxic Air Contaminants

A TAC is a hazardous air pollutant (HAP) that is defined as an air pollutant that may cause or contribute to an increase in mortality or serious illness, or that may pose a hazard to human health. TACs are

usually present in minute quantities in the ambient air; however, their high toxicity or health risk may pose a threat to public health even at low concentrations. In general, for those TACs that may cause cancer, there is no concentration that does not present some risk. In other words, there is no threshold level below which adverse health impacts are not expected to occur. This contrasts with the criteria pollutants for which acceptable levels of exposure can be determined and for which the state and federal governments have set AAQS.

According to the California Almanac of Emissions and Air Quality, most of the estimated health risk from TACs for the State of California, can be attributed to relatively few compounds, the most important of which is DPM from diesel-fueled engines.

Asbestos

Asbestos is listed as a TAC by CARB and as a HAP by EPA. Naturally occurring asbestos areas are identified by the type of rock found in the area. Asbestos-containing rocks found in California are ultramafic rocks, including serpentine rocks. Crushing or breaking these rocks, through construction or other means, can release asbestos form fibers into the air. Asbestos emissions can result from the sale or use of asbestos-containing materials, road surfacing with such materials, grading activities, and surface mining. The risk of disease is dependent upon the intensity and duration of exposure. When inhaled, asbestos fibers may remain in the lungs and with time may be linked to such diseases as asbestosis, lung cancer, and mesothelioma.

According to the California Division of Mines and Geology, naturally occurring asbestos (NOA) has been known to be present in 44 of California's 58 counties, including Santa Clara County. Based on the map provided by the Division of Mines and Geology, there is no NOA in the City.

Diesel Particulate Matter

CARB identified the PM emissions from diesel-fueled engines as a TAC in August 1998 under California's TAC program. The State of California, after a 10-year research program, determined in 1998 that DPM from diesel-fueled engines is a human carcinogen and that chronic (long-term) inhalation exposure to DPM poses a chronic (long-term) health risk. The California Office of Environmental Health Hazard Assessment (OEHHA) recommends using a 30-year (residential) and 25-year (worker) exposure duration for determining cancer risks. DPM is emitted from both mobile and stationary sources. In California, on-road diesel-fueled vehicles contribute approximately 40 percent of the statewide total, with an additional 57 percent attributed to other mobile sources such as construction and mining equipment, agricultural equipment, and transport refrigeration units.

Air Quality

The local air quality can be evaluated by reviewing relevant air pollution concentrations near the. Table 3.3-3 summarizes published monitoring data from 2016 through 2018, the most recent 3-year period available for the nearest monitoring station is in San José (Jackson Street). The data shows that during the past few years, the Air Basin has exceeded the ozone, PM_{10}, and $PM_{2.5}$ standards.

Table 3.3-3: Ambient Air Quality Summary

Air Pollutant	Averaging Time	Item	2016	2017	2018
Ozone	1 Hour[a]	Max 1 Hour (ppm)	0.087	0.121	0.078
		Days > State Standard (0.09 ppm)	0	3	0
	8 Hour	Max 8 Hour (ppm)	0.066	0.098	0.061
		Days > State Standard (0.070 ppm)	0	4	0
		Days > National Standard (0.070 ppm)	0	4	0
		Days > National Standard (0.075 ppm)	0	3	0
Inhalable coarse particles (PM_{10})	Annual (National)	Annual Average (µg/m^3)	17.5	20.7	23.0
	Annual (State)	Annual Average (µg/m^3)	18.3	21.3	23.1
	24 Hour	24 Hour (µg/m^3) (National)	40.0	69.4	155.8
		24 Hour (µg/m^3) (State)	41.0	69.8	121.8
		Days > State Standard (50 µg/m^3)	0	19.2	12.2
		Days > National Standard (150 µg/m^3)	0	0	3.1
Fine particulate matter ($PM_{2.5}$)	Annual (National)	Annual Average (µg/m^3)	8.4	9.5	12.8
	Annual (State)	Annual Average (µg/m^3)	8.4	ID	12.9
	24 Hour	24 Hour (µg/m^3) (National)	22.6	49.7	133.9
		24 Hour (µg/m^3) (State)	22.7	49.7	133.9
		Days > National Standard (35 µg/m^3)	0	6.0	15.5

Notes:
Bold = exceedance
> = exceed
µg/m3 = micrograms per cubic meter
a = The Federal 1 hour Ozone Standard was revoked in June 2005; California retained a 1 hour Ozone Standard
ID = insufficient data
max = maximum
ppm = parts per million
State Standard = CAAQS
National Standard = NAAQS
Sulfur dioxide is reported on a statewide basis as it is no longer monitored locally.
Sources: CARB 2016

Local Sources of Air Pollution

The Project site is located within a developed commercial and industrial area north of north San José. The main sources of air pollution are mobile sources traveling along the nearby roadways that surround the Project site, rail traffic from the Union Pacific tracks near the Project site.

Sensitive Receptors

Those who are sensitive to air pollution include children, the elderly, and persons with pre-existing respiratory or cardiovascular illness. For purposes of CEQA, the BAAQMD considers a sensitive receptor to be a location that houses or attracts children, the elderly, people with illnesses, or others who are especially sensitive to the effects of air pollutants. Examples of sensitive receptors include hospitals, residences, convalescent facilities, and schools. Consistent with BAAQMD HRA guidelines, impacts to receptors within 1,000 feet of the Project boundary were evaluated in the HRA. The nearest sensitive receptors are existing residences bordering the Project site to the north and to the east.

3.3.3 Environmental Impact Analysis

The City of San José uses the thresholds of significance established by the BAAQMD to assess air quality impacts of proposed development. The BAAQMD CEQA Guidelines include screening levels and thresholds for evaluating air quality impacts in the Air Basin. The applicable thresholds are presented in Table 3.3-4.

Table 3.3-4: BAAQMD Thresholds of Significance

Pollutant	Construction-Related	Operational-Related	
Criteria Air Pollutants and Precursors (Regional)	**Average Daily Emissions (lbs/day)**	**Average Daily Emissions (lbs/day)**	**Maximum Annual Emissions (tpy)**
ROG	54	54	10
NOx	54	54	10
PM_{10}	82 (exhaust)	82	15
$PM_{2.5}$	54 (exhaust)	54	10
$PM_{10}/PM_{2.5}$ (fugitive dust)	Best Management Practices	None	
GHGs	None	Compliance with a Qualified GHG Reduction Strategy OR 1,100 MT of CO_2e/yr or 4.6 MT CO_2e/SP (for 2020) or 660 MT of CO_2e/yr or 2.76 MT CO_2e/SP (for 2030)*	

Notes:
lbs/day = pounds per day
MT = metric tons
ROG = reactive organic gases
NO_X = oxides of nitrogen
PM_{10} = particulate matter 10 microns or less in aerodynamic diameter
$PM_{2.5}$ = particulate matter 2.5 microns or less in aerodynamic diameter
SP = Service Population
*BAAQMD does not have a recommended post-2020 GHG Threshold.
Source: BAAQMD, CEQA Air Quality Guidelines, May 2017.

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

The applicable air quality plans associated with the Project site include the 2017 BAAQMD Clean Air Plan (BAAQMD 2017a). The primary goals of the 2017 BAAQMD Clean Air Plan are to attain air quality standards and reduce population exposure to unhealthy air and to protect public health in the Bay Area. The BAAQMD has developed its air quality thresholds with the understanding that they are protective of public health.

Consistency with the Clean Air Plan can be determined if the project: 1) supports the goals of the Clean Air Plan; 2) includes applicable control measures from the Clean Air Plan; and 3) would not disrupt or hinder implementation of any control measures from the Clean Air Plan.

Overall, construction and operations of the Project would not result in a significant increase in criteria pollutant emissions. As shown in the Table 3.3-6,

Table 3.3-7, and Table 3.3-8, construction and operational emissions would be well below BAAQMD significance thresholds for criteria pollutants. Furthermore, with the incorporation of Mitigation Measure (MM) AIR-1, the Project would not result in significant health impacts (Table 3.3-10 and Table 3.3-11). 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 Climate Action Plan. Based on this, the Project would not conflict with or obstruct implementation of applicable air quality plans; therefore, with the implementation of mitigation measure AIR-1, impacts would be **less than significant with mitigation incorporated**.

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?

Consistent with its General Plan Goal MS-10: Air Pollutant Emission Reduction, the City of San José has developed standard permit conditions to control dust and exhaust at project sites. The standard permit condition incorporated into the Project and the analysis is provided below.

<u>Standard Permit Conditions</u>

- The following measures shall be implemented during all phases of construction to control dust and exhaust at the Project site:

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

    b. 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.

    c. 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.

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

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

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

g. Replant vegetation in disturbed areas as quickly as possible.

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

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

j. 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.

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

In developing thresholds of significance for air pollutants, BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. If a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions. Project construction and operational impacts are assessed separately below.

Construction Emissions

Emissions from construction-related activities are generally short-term but may still cause adverse air quality impacts. The Project would generate emissions from construction equipment exhaust, worker travel, and fugitive dust. These construction emissions include criteria air pollutants from the operation of heavy construction equipment.

Annual construction emissions are shown in Table 3.3-5. The average daily construction emission results are shown in Table 3.3-6. The construction emissions are well below the recommended thresholds of significance. Emissions from construction would be a **less than significant impact**.

Table 3.3-5: Annual Construction Emissions (Unmitigated)

Construction Year	Tons/Year			
	ROG	NO_X	PM_{10} (Exhaust)	$PM_{2.5}$ (Exhaust)
2021 Construction Emissions	0.14	1.43	0.06	0.06
2022 Construction Emissions	0.03	0.24	0.01	0.01
Total Construction Emissions	**0.16**	**1.67**	**0.07**	**0.07**

Notes:

The emissions estimate was based on 50 rooms, a reduction of two rooms would not substantively decrease emissions.

ROG = reactive organic gases

NO_X = oxides of nitrogen

PM_{10} = particulate matter 10 microns or less in aerodynamic diameter

$PM_{2.5}$ = particulate matter 2.5 microns or less in aerodynamic diameter

Source: CalEEMod Output (Appendix B)

Table 3.3-6: Construction Emissions (Unmitigated Average Daily Rate)

Parameter	Air Pollutants			
	ROG	NO_X	PM_{10} (Exhaust)	$PM_{2.5}$ (Exhaust)
Total Emissions (tons)	0.16	1.67	0.07	0.07
Total Emissions (pounds)	323.80	3338.60	141.20	133
Average Daily Emissions (pounds/day)[1]	1.53	15.75	0.67	0.63
Significance Threshold (pounds/day)	**54**	**54**	**82**	**54**
Exceeds Significance Threshold?	No	No	No	No

Notes:

1. Calculated by dividing the total number of pounds by the total 70 working days of construction for the 2021 construction period.

Calculated by dividing the total number of pounds by the total 232 working days of construction for the 2022 construction period.

Calculations use rounded totals.

The emissions estimate was based on 50 rooms, a reduction of two rooms would not substantively decrease emissions.

NO_X = oxides of nitrogen; ROG = reactive organic gases; PM_{10} = particulate matter 10 microns or less in aerodynamic diameter; $PM_{2.5}$ = particulate matter 2.5 microns or less in aerodynamic diameter

Source of thresholds: BAAQMD 2017b; Source of emissions: CalEEMod Output (Appendix B)

Operational Emissions

Operational emissions would occur over the lifetime of the Project and would be from two main sources: area sources and motor vehicles, or mobile sources. It was assumed that the first full year of operations

would be 2023 to provide a conservative estimate of operational emissions. If a later buildout year were used, the emissions would be lower due to cleaner vehicles from increasing regulations. Therefore, using an earlier year would provide a more conservative scenario of emissions.

Operational emissions are compared to the BAAQMD Criteria Air Pollutant Significance thresholds. Annual emissions from Project operations are provided in

Table 3.3-7, and the estimated average daily net emissions are provided in Table 3.3-8.

Table 3.3-7: Annual Operational Emissions (Unmitigated)

Emissions Source	Tons per Year			
	ROG	**NO_X**	**PM_{10}**	**$PM_{2.5}$**
Area	0.12	0.00	0.00	0.00
Energy	0.01	0.06	0.00	0.00
Mobile (Motor Vehicles)	0.03	0.10	0.09	0.03
Total Project Annual Emissions	0.15	0.15	0.10	0.03
Thresholds of Significance	**10**	**10**	**15**	**10**
Exceeds Significance Threshold?	No	No	No	No

Notes:
The emissions estimate was based on 50 rooms, a reduction of two rooms would not substantively decrease emissions.
NO_X = oxides of nitrogen
ROG = reactive organic gases
PM_{10} = particulate matter 10 microns or less in aerodynamic diameter
$PM_{2.5}$ = particulate matter 2.5 microns or less in aerodynamic diameter
Source: CalEEMod Output (Appendix B)

Table 3.3-8: Average Daily Operational Emissions (Unmitigated)

Emissions Source	Pounds per Day			
	ROG	**NO_X**	**PM_{10}**	**$PM_{2.5}$**
Project Annual Emissions (tons/year)	0.15	0.15	0.10	0.03
Project Annual Emissions (pounds/year)	302.84	309.22	198.14	60.54
Project Annual Emissions (pounds/day)	0.83	0.85	0.54	0.17

Emissions Source	Pounds per Day			
	ROG	**NO_X**	**PM_{10}**	**$PM_{2.5}$**
Thresholds of Significance	**54**	**54**	**82**	**54**
Exceeds Significance Threshold?	No	No	No	No

Notes:
NO_X = oxides of nitrogen; $PM_{2.5}$ = particulate matter 2.5 microns or less in aerodynamic diameter; PM_{10} = particulate matter 10 microns or less in aerodynamic diameter; ROG = reactive organic gases

The emissions estimate was based on 50 rooms, a reduction of two rooms would not substantively decrease emissions.

Source: CalEEMod Output (Appendix B)

The Project would not result in operational-related air pollutants or precursors that would exceed BAAQMD's thresholds of significance, indicating that ongoing Project operations would not have the potential to generate a significant quantity of air pollutants. Therefore, the Project would not 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, and this would be a **less than significant impact**.

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

This discussion addresses whether the Project would expose sensitive receptors to construction-generated fugitive dust (PM_{10}), NOA, construction-generated DPM, operational related TACs, or operational CO hotspots. According to BAAQMD, some land uses are considered more sensitive to air pollution than others due to the types of population groups or activities involved. Heightened sensitivity may be caused by health problems, proximity to the emission's source, or duration of exposure to air pollutants. Children, pregnant women, the elderly, and those with existing health problems are especially vulnerable to the effects of air pollution. Accordingly, land uses that are typically considered to be sensitive receptors include residences, schools, childcare centers, playgrounds, retirement homes, convalescent homes, hospitals, and medical clinics. The Project site is not considered a sensitive receptor. The nearest sensitive receptors are existing residences bordering the Project site to the north and to the east.

Construction Emissions

Fugitive Dust PM_{10}

Fugitive dust (PM_{10}) would be generated from site grading and other earth-moving activities. Most of this fugitive dust would remain localized and would be deposited near the Project site. However, the potential for impacts from fugitive dust exists unless control measures are implemented to reduce the emissions from the Project site. The Project would implement best management practices (BMPs) consistent with the standard permit conditions for Air Quality, which requires fugitive dust control measures. As such, the Project's construction-generated fugitive dust impacts would be less than significant.

Naturally Occurring Asbestos

Construction in areas of rock formations that contain NOA could release asbestos to the air and pose a health hazard. BAAQMD enforces CARB's air toxic control measures at sites that contain ultramafic rock. The air toxic control measures for construction, grading, quarrying and surface mining operations were signed into state law on July 22, 2002, and became effective in the Air Basin in November 2002. The purpose of this regulation is to reduce public exposure to NOA. A review of the map with areas more likely to have rock formations containing NOA in California indicates that there is no asbestos in the immediate Project area (USGS 2011). Therefore, it can be reasonably concluded that the Project would not expose sensitive receptors to NOA. Impacts would be less than significant.

Diesel Particulate Matter

A construction HRA was prepared for the Project. The HRA evaluated DPM, represented as exhaust $PM_{2.5}$ emissions generated during construction of the Project and the related health risk impacts for sensitive receptors located within 1,000 feet of the Project boundary.

According to the BAAQMD, a project would result in a significant impact if it would individually expose sensitive receptors to TACs resulting in an increased cancer risk greater than 10.0 in 1 million, an increased non-cancer risk of greater than 1.0 on the hazard index (chronic or acute), or an annual average ambient $PM_{2.5}$ increase greater than 0.3 micrograms per cubic meter ($\mu g/m^3$). A significant cumulative impact would occur if the Project, in combination with other projects located within a 1,000-foot radius of the Project site, would expose sensitive receptors to TACs, resulting in an increased cancer risk greater than 100.0 in one million, an increased non-cancer risk of greater than 10.0 on the hazard index (chronic), or an ambient $PM_{2.5}$ increase greater than 0.8 $\mu g/m^3$ on an annual average basis.

The Project site is located within 1,000 feet from existing sensitive receptors that could be exposed to diesel emission exhaust during the construction period. The nearest sensitive receptors are existing residences bordering the Project site to the north and to the east. To estimate the potential cancer risk associated with construction of the Project from equipment exhaust (including DPM), a dispersion model was used to translate an emission rate from the source locations to concentrations at the receptor locations of interest (i.e., sensitive receptors at nearby residences and schools). The maximally exposed individual (MEI) was determined to be an existing residence located less than 10 feet northwest of the Project site.

The HRA was conducted in accordance BAAQMD and the OEHHA guidelines. The HRA evaluated potential cancer and non-cancer health risks over the duration of Project construction. As shown in Table 3.3-9 and Table 3.3-10, the Project would be below all BAAQMD health risk thresholds. Appendix B contains detailed information for the HRA.

Results of the analysis of the unmitigated scenario are summarized and compared to the applicable thresholds in Table 3.3-9. Calculations and AERMOD output data used in the construction HRA are included in Appendix B. Annual $PM_{2.5}$ emissions were estimated assuming compliance with MM AIR-1. It should be noted that inclusion of MM AIR-1 only reduces $PM_{2.5}$ total and not $PM_{2.5}$ exhaust.

Table 3.3-9: Health Risks from Unmitigated Project Construction at the Maximally Exposed Individual

Health Impact Metric	Carcinogenic Inhalation Health Risk in One Million	Chronic Inhalation Hazard Index	Annual $PM_{2.5}$ Concentration ($\mu g/m^3$)
Risks and Hazards at the MEI[1] – Unmitigated (Includes Incorporation of Standard Conditions)			
Risks and Hazards at the MEI: Infant (3rd Trimester)	34.17	0.073	0.380
Risks and Hazards at the MEI: Infant (Age Zero)	44.15	0.073	0.380
Risks and Hazards at the MEI: Child	5.00	0.073	0.380
Risks and Hazards at the MEI: Adult	0.77	0.073	0.380
BAAQMD Significance Threshold	**10**	**1.0**	**0.3**
Exceeds Individual Source Threshold?	**Yes**	**No**	**Yes**

Notes:

$\mu g/m^3$ = micrograms per cubic meter

MEI = maximally exposed individual

$PM_{2.5}$ = particulate matter 2.5 microns or less in aerodynamic diameter

1. The MEI is located at an existing residence located less than 10 feet northwest of the Project site.

2. Chronic non-cancer hazard index was estimated by dividing the annual DPM concentration (as $PM_{2.5}$ exhaust) by the REL of 5 $\mu g/m^3$.

Source: Appendix B.

As indicated in Table 3.3-9, construction of the Project would exceed the applicable BAAQMD thresholds for two of the three health impact metrics prior to incorporation of mitigation. Specifically, the cancer risk from construction of the Project would exceed the applicable cancer risk significance threshold at the MEI for both infant scenarios, and the annual $PM_{2.5}$ concentration would exceed the annual $PM_{2.5}$ concentration threshold for all age group scenarios. Therefore, the Project would be required to implement MM AIR-1 to reduce health risk impacts. MM AIR-1 would require the use of cleaner off-road construction equipment that would reduce particulate matter exhaust emissions.

Table 3.3-10 summarizes the health and hazard impacts at the maximum impacted sensitive receptor from construction of the Project after the incorporation of MM AIR-1.

Table 3.3-10: Health Risks from Mitigated Project Construction at the Maximally Exposed Individual

Health Impact Metric	Carcinogenic Inhalation Health Risk in One Million	Chronic Inhalation Hazard Index	Annual $PM_{2.5}$ Concentration ($\mu g/m^3$)
Risks and Hazards at the MEI[1] – Mitigated (Tier IV Option)			
Risks and Hazards at the MEI: Infant (3rd Trimester)	2.28	0.005	0.041
Risks and Hazards at the MEI: Infant (Age Zero)	2.95	0.005	0.041
Risks and Hazards at the MEI: Child	0.33	0.005	0.041

Health Impact Metric	Carcinogenic Inhalation Health Risk in One Million	Chronic Inhalation Hazard Index	Annual $PM_{2.5}$ Concentration ($\mu g/m^3$)
Risks and Hazards at the MEI: Adult	0.05	0.005	0.041
BAAQMD Significance Threshold	10	1.0	0.3
Exceeds Individual Source Threshold?	No	No	No
Risks and Hazards at the MEI[1] – Mitigated (Level 3 Filters Option)			
Risks and Hazards at the MEI: Infant (3rd Trimester)	5.66	0.012	0.077
Risks and Hazards at the MEI: Infant (Age Zero)	7.31	0.012	0.077
Risks and Hazards at the MEI: Child	0.83	0.012	0.077
Risks and Hazards at the MEI: Adult	0.13	0.012	0.077
BAAQMD Significance Threshold	**10**	**1.0**	**0.3**
Exceeds Individual Source Threshold?	**No**	**No**	**No**

Notes:

$\mu g/m^3$ = micrograms per cubic meter

MEI = maximally exposed individual

$PM_{2.5}$ = particulate matter 2.5 microns or less in aerodynamic diameter

1. The MEI is located at an existing residence located less than 10 feet northwest of the Project site.

2. Chronic non-cancer hazard index was estimated by dividing the annual DPM concentration (as $PM_{2.5}$ exhaust) by the REL of 5 $\mu g/m^3$.

Source: Appendix B

As indicated in Table 3.3-10, construction of the Project would not expose nearby sensitive receptors to substantial pollutant concentrations after incorporation of MM AIR-1, and impacts would be **less than significant with mitigation incorporated**.

IMPACT AIR-1: Construction activities associated with the proposed project would expose the off-site receptors to cancer risk and PM2.5 emissions in excess of BAAQMD thresholds.

MM AIR-1: **Cleaner Off-road Construction Equipment.** The following mitigation measure shall be implemented during all phases of construction to reduce potential exposure of diesel particulate matter (DPM) and particulate matter less than 2.5 micrometers in aerodynamic diameter ($PM_{2.5}$) emissions to sensitive receptors located near the Project site. Prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest), the project applicant shall prepare and submit a construction - operations plan that includes specifications of the equipment to be used during construction to the Director of Planning, Building and Code Enforcement or the Director's designee. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth below:

- For all construction equipment larger than 25 horsepower used at the site, equipment shall meet U.S. EPA Tier 4 emission standards. Tier 4 Interim engines

shall, at a minimum, meet United States Environmental Protection Agency or California Air Resources Board (CARB) particulate matter emissions standards for Tier 4 Interim engines.

- Alternatively, use of CARB-certified Level 3 diesel particulate filters on off-road equipment with engines greater than 75 horsepower can be used in lieu of Tier 4 Interim engines or in combination with Tier 4 Interim engines.
- The construction contractor shall maintain records documenting its efforts to comply with this requirement, including equipment lists. Off-road equipment descriptions and information shall include, but are not limited to, equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, and engine serial number. The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest).

The BAAQMD recommends assessing the potential cumulative impacts from sources of TACs within 1,000 feet of a project. A cumulative HRA was performed that examined the cumulative impacts of the Project's construction emissions and sources of TAC emissions within 1,000 feet of the Project. For a project-level analysis, BAAQMD provides several tools for use in screening potential sources of TACs. The BAAQMD-provided tools that were used to assess the potential cumulative impacts from TACs during Project construction at the MEI are described below.

- **Stationary Source Risk and Hazard Screening Tools.** The BAAQMD prepared a Geographic Information System (GIS) tool with the location of permitted sources. For each emissions source, the BAAQMD provides conservative estimates of cancer risk and $PM_{2.5}$ concentrations. Based on information from the GIS tool, there are three BAAQMD-permitted stationary sources within 1,000 feet of the Project site.
- **Health Risks for Local Roadways.** The BAAQMD pre-calculated concentrations and the associated potential cancer risks and $PM_{2.5}$ concentration increases for each county within their jurisdiction for roadways that carry at least 30,000 average daily trips. For certain areas, the BAAQMD also included local roadways that meet BAAQMD's "major roadway" criteria of 10,000 vehicles or 1,000 trucks per day. The latest available screening tool is in the form of a GIS raster file.
- **Freeway Screening Analysis Tool.** The BAAQMD prepared a GIS raster file that contains pre-estimated cancer risk and $PM_{2.5}$ concentration increases for highways within the Bay Area.
- **Rail Screening Tool.** The BAAQMD prepared a GIS raster file that contains estimated cancer risks and $PM_{2.5}$ concentrations from railroad operations at any point within the Air Basin.

The cumulative health risk results, including health risks from the existing TAC sources, are summarized during Project construction in Table 3.3-11. Cumulative health risk results shown therein are

representative of the health risks to the MEI, which would experience the highest concentration of pollutants.

Table 3.3-11: Summary of the Cumulative Health Impacts at the Maximally Exposed Individual during Project Construction

Source	Cancer Risk in One Million	Chronic Inhalation Hazard Index	Annual $PM_{2.5}$ Concentration ($\mu g/m^3$)
Project Construction			
Project Construction – Unmitigated	44.15	0.073	0.380
Project Construction – Mitigated (Tier IV Option)	2.95	0.005	0.041
Project Construction – Mitigated (Level 3 Filters Option)	7.31	0.012	0.077
Existing Sources			
Gorilla Circuits (Existing Stationary Source)	0.33	0.000	0.000
Xcel Collision Center Inc. (Existing Stationary Source)	0.00	0.000	0.000
Challenger Schools (Existing Stationary Source)	0.00	0.000	0.000
Existing Major Local Roadways	1.452	ND	0.037
Existing Highways	21.79	ND	0.455
Existing Railways	2.60	ND	0.004
Cumulative Health Risks at the MEI[1]			
Cumulative Total with Unmitigated Project Construction	70.32	0.073	0.876
BAAQMD's Cumulative Thresholds of Significance	**100**	**10**	**0.8**
Threshold Exceedance in Unmitigated Scenario?	**No**	**No**	**Yes**
Cumulative Total with Mitigated Project Construction (Tier IV Option)	29.12	0.005	0.537
Cumulative Total with Mitigated Project Construction (Level 3 Filters Option)	33.48	0.012	0.573
BAAQMD's Cumulative Thresholds of Significance	**100**	**10**	**0.8**
Threshold Exceedance in Either Mitigated Scenario?	**No**	**No**	**No**

Notes:

$\mu g/m^3$ = micrograms per cubic meter

MEI = maximally exposed individual

ND = no data available

$PM_{2.5}$ = particulate matter 2.5 microns or less in aerodynamic diameter

1. The MEI is located at an existing residence located less than 10 feet northwest of the Project site.

Source: Appendix B

As noted in Table 3.3-11, the cumulative impacts from the Project construction and existing sources of TACs would be less than the BAAQMD's cumulative thresholds of significance after incorporation of MM

AIR-1. Thus, with the implementation of mitigation measure AIR-1, the cumulative health risk from Project construction would be **less than significant with mitigation incorporated**.

Operations

The Project is not considered a sensitive receptor. The CARB Air Quality and Land Use Handbook contains recommendations that will "help keep California's children and other vulnerable populations out of harm's way with respect to nearby sources of air pollution" (CARB 2005), including recommendations for distances between sensitive receptors and certain land uses. The Project is not identified as a land use of concern by CARB and is not located within the screening distances for sources of toxic air contaminants. Therefore, it would be a **less than significant impact** from Project operations.

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

Project Construction

Diesel exhaust and ROGs/volatile organic compounds would be emitted during construction of the Project from equipment exhaust, painting, and paving activities, which are objectionable to some; however, emissions would disperse rapidly from the Project site and therefore would not create objectionable odors affecting a substantial number of people. As such, construction odor would be a **less than significant impact**.

Project Operation

Land uses typically considered associated with odors include wastewater treatment facilities, waste-disposal facilities, or agricultural operations. The Project does not contain land uses typically associated with emitting objectionable odors.

The BAAQMD's 2017 Air Quality Guidelines Table 3-3 provides recommended odor screening distances for a variety of land uses. Projects that would site an odor source or a receptor farther than the applicable screening distance would not likely result in a significant odor impact. The Project site is not located within the screening distances recommended by BAAQMD to any potential odor sources and is not a source of odors itself, and as such, this would be **less than significant impact**.

3.4 BIOLOGICAL REOSURCES

BIOLOGICAL RESOURCES Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or regulated by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	☐	☒	☐	☐
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	☐	☐	☐	☒
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?	☐	☐	☒	☐

3.4.1 Regulatory Setting

3.4.1.1 Federal

Federal Endangered Species Act

The Federal Endangered Species Act (FESA) of 1973 was established to protect and recover endangered and threatened species and the ecosystems upon which they depend. According to the FESA, “endangered” indicates a species that is in danger of extinction throughout all or a significant portion of its range. In addition, the FESA defines a species as “threatened” if that species is likely to become endangered within the foreseeable future. The U.S. Fish and Wildlife Service (USFWS) maintains a list of endangered and threatened species. USFWS and the National Marine Fisheries Service (NMFS) administer FESA and are responsible for consulting with other federal agencies pursuant

to FESA. Consultation with the USFWS would be necessary if a Project action has the potential to affect federally listed species, their habitat, as well as areas of Designated Critical Habitat. This consultation would proceed under Section 7 of the FESA if a federal action is required for the Project or it would proceed through Section 10 of the FESA if no such federal nexus were available.

Clean Water Act

The objective of the Clean Water Act (CWA) of 1977, as amended, is to maintain and restore the chemical, physical, and biological integrity of the nation's waters. The discharge of dredged or fill material into waters of the U.S., including jurisdictional wetlands, is regulated under Section 404 of the CWA by the U.S. Army Corps of Engineers (USACE) via a permitting process. Surface water quality is further regulated by EPA; in California, this authority is delegated to the State Water Resources Control Board (SWRCB) or the Regional Water Quality Control Board (RWQCB). Applicants for Section 404 permits are also required to comply with Section 401 of the CWA by obtaining Water Quality Certification (WQC) through the state.

Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) of 1918 enacts the provisions of treaties between the United States, Great Britain, Mexico, Japan, and the Soviet Union and authorizes the U.S. Secretary of the Interior to protect and regulate the taking of migratory birds. This treaty prohibits "take," which has been variously defined to include harming any migratory bird listed under the MBTA, including nests, eggs, and/or young.

Executive Orders

Federal agencies are required to demonstrate that their actions comply with Presidential Executive Orders (EOs) established to protect the environment. Relevant EOs include the following:

- EO 11990 (Wetlands): For projects that could affect wetlands, federal agencies are required to demonstrate that no practicable alternative exists to avoid the wetland(s) and that all practicable avoidance, mitigation, and/or preservation measures have been incorporated into a project to minimize impacts to wetlands. Federal agencies are also required to provide opportunity for early public review of any plans or proposals for new construction in wetlands.

- EO 11988 (Floodplain Management): For projects that may be located in a floodplain, federal agencies are required to evaluate the effects of the action on the floodplain and identify practicable alternatives or measures to avoid long- and short-term adverse impacts associated with the occupancy and modification of the floodplain and to avoid incompatible development in the floodplain.

- EO 13112 (Invasive Species): Federal agencies are required to prevent the introduction of invasive species and not authorize actions that could cause or promote the introduction or spread of invasive species. Federal agencies need to identify feasible and prudent measures to minimize the risk of harm caused by invasive species.

- EO 13186 (Migratory Birds): Federal agencies are required to evaluate the effects of their actions on migratory birds, with emphasis on species of concern, and to minimize the take of migratory birds through development of procedures for evaluating such take and conservation efforts in coordination with the USFWS. This Executive Order further implements the MBTA and requires coordination between the USFWS and federal agencies.

3.4.1.2 State

California Endangered Species Act

The California Endangered Species Act (CESA) prohibits "take" of plants or animals listed as endangered or threatened and protects native species of fish, amphibians, reptiles, birds, mammals, invertebrates, and plants, and their habitats, that are threatened with extinction or experiencing a significant decline which, if not halted, would lead to a threatened or endangered designation. "Take" is defined in Section 86 of the California Fish and Game Code (FGC) as to "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." CESA authorizes the California Department of Fish and Wildlife (CDFW) to issue incidental take permits for state-listed species when specific criteria are met.

California Fish and Game Code

The California FGC has several provisions for the protection of waters of the state, and common as well as special-status plant, fish, and wildlife resources, including their habitat. The applicable California FGCs are as follows:

- Sections 1600-1616 (Streambed Alteration): CDFW is responsible for the protection and conservation of fish and wildlife resources in California. Under Section 1602, CDFW has the authority to issue Lake or Streambed Alteration Agreements (LSAA) for construction activities that substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank of any river, stream, or lake designated by the CDFW as providing resources for fish or wildlife.

- Sections 1900-1913 (Native Plant Protection Act): The Native Plant Protection Act (NPPA) of 1977 prohibits the taking, possessing, or sale within the State of any plants that the CDFW has determined are rare, threatened, or endangered. The CDFW has the authority to enforce the provisions of this act and authorize measures to salvage native plants that may otherwise be affected by project activities, if deemed appropriate.

- Sections 3500-3516 (Game Birds and Birds of Prey): The CDFW protects game birds, birds of prey, migratory birds, and fully protected birds and their nests, eggs, and young from take or possession, except as otherwise provided by the code (e.g., incidental take under CESA).

- Sections 3511, 4700, 5050, and 5515 (Fully Protected Species): California statutes accord a "fully protected" status to specific birds, mammals, reptiles, amphibians, and fish. These species cannot be "taken," and no process exists for issuance of incidental take permits for fully protected species.

3.4.1.3 Local and Regional

Envision San José 2040 General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating biological impacts from projects. The following policies are applicable to the Project (City of San José 2018a):

- **Goal ER-4:** Special-Status Plants and Animals. Preserve, manage, and restore habitat suitable for special-status species, including threatened and endangered species.
    - **Policy ER-4.1:** Preserve and restore, to the greatest extent feasible, habitat areas that support special-status species. Avoid development in such habitats unless no feasible alternatives exist and mitigation is provided of equivalent value.
    - **Policy ER-4.2:** Limit recreational uses in wildlife refuges, nature preserves and wilderness areas in parks to those activities which have minimal impact on sensitive habitats.
    - **Policy ER-4.3**: Prohibit planting of invasive non-native plant species in natural habitats that support special-status species.
    - **Policy ER-4.4**: Require that development projects incorporate mitigation measures to avoid and minimize impacts to individuals of special-status species.
- **Goal ER-5:** Migratory Birds: Protect migratory birds from injury or mortality.
    - **Policy ER-5.1:** Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
    - **Policy ER-5.2:** Require that development projects incorporate measures to avoid impacts to nesting migratory birds.

Santa Clara Valley Habitat Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (Habitat Plan) covers an area of 519,506 acres, or approximately 62 percent of Santa Clara County. It was developed and adopted through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (SCVWD), Santa Clara Valley Transportation Authority (VTA), US Fish and Wildlife Service (USFWS), and CDFW.

The Habitat Plan is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan.

3.4.2 Environmental Setting

Regionally, the Project site has a Mediterranean climate characterized by cool, dry summers and moderate winters, with average annual temperatures ranging from 70.4 to 49.8 degrees Fahrenheit (°F). Historical data used to describe the climate was collected at the SJC Station, approximately 1.5 miles west of the Biological Study Area (BSA) (Western Regional Climate Center 2020). Precipitation in the Project site occurs as rain. Average annual rainfall is 12.37 inches and primarily occurs from October through May.

Methodology

A Stantec biologist conducted a desktop analysis based on a review of reasonably obtainable information about sensitive biological resources known to occur near the BSA to determine whether biological resources are absent, present, and/or are likely to be present. The BSA is defined as a 100-foot buffer around the Project site (Appendix C1, Figure 2). For the purpose of this evaluation, special-status plant species include plants that are as follows: 1) listed as threatened or endangered under the CESA or FESA; 2) proposed for federal listing as threatened or endangered; 3) state or federal candidate species; 4) designated as rare by CDFW; or 5) California Rare Plant Rank 1A, 1B, 2A or 2B species. Special-status animal species include species that are as follows: 1) listed as threatened or endangered under CESA or FESA; 2) proposed for federal listing as threatened or endangered; 3) state or federal candidate species; or 4) identified by CDFW as species of special concern or fully protected species.

Sensitive natural communities are those communities that are highly limited in distribution and may or may not contain rare, threatened, or endangered species. The California Natural Diversity Database (CNDDB) ranks natural communities according to their rarity and endangerment in California. Habitats are considered sensitive if they are identified on the CDFW List of Vegetation Alliances and Associations as being highly imperiled or classified by CDFW in the CNDDB as natural communities of special concern – Ranks S1 to S3.

The potential for special-status species to occur within the BSA were classified under one of five categories, as described below. Only those special-status species with an occurrence potential of moderate or greater are evaluated in detail.

- **Present:** The species is known to be present or has been recently observed in the BSA.
- **High:** The species has been observed and documented within 5 miles of the BSA within the last 5 years, and suitable habitat for the species is present.
- **Moderate:** The Project is located within the range of the species, there are documented occurrences within 5 miles of the BSA, and/or potential habitat for the species exists in the BSA.
- **Low:** The Project is located within the range of the species, and low-quality (e.g., disturbed, agricultural) habitat is present.

- **Absent:** The proposed BSA is located outside of the species range, and/or potential habitat to support the species is not present in the study area.

A CNDDB and California Native Plant Society (CNPS) database search for special-status species included the U.S. Geological Survey (USGS) 7.5-minute quadrangles within a 5-mile radius of the Project site. In this case, the Milpitas, Calaveras Reservoir, San José East, and San José West topographic quadrangles were queried.

Other information sources consulted to determine which special-status species could potentially occur in the Project site included the following:

- USGS California 7.5-minute topographic quadrangles for Milpitas, Calaveras Reservoir, San José East, and San José West;
- Aerial photographs of the Project site and surrounding vicinity (Google Earth 2020);
- United States Fish and Wildlife Service (USFWS) list of endangered and threatened species that may occur in the Project site (USFWS 2020a) (Appendix C2);
- USFWS Designated Critical Habitat (USFWS 2020a)
- USFWS National Wetlands Inventory (USFWS 2020b)
- The CDFW CNDDB plant and animal records within 5 miles of the Project site (CDFW 2020a) (Appendix C2);
- Special Animals List (CDFW 2020b);
- CNPS online Inventory of Rare and Endangered Plants (CNPS 2020) (Appendix C2);
- California Wildlife Habitat Relationships System (WHRS) (CDFW 2014).

Based on this review, a list of special-status species that have the potential to occur or are known to occur in the Project site and vicinity was developed. The list was refined based on the habitat within and adjacent to the BSA to determine the potential for those species to occur.

Habitat Communities

Habitat types within the BSA were classified based on descriptions provided in *A Guide to Wildlife Habitats of California* (Mayer and Laudenslayer 1988), as well as the California Natural Community List (CDFW 2020c), which is adapted from the technical approach and vegetation alliance classification system described in *A Manual of California Vegetation* (Sawyer et al. 2009). The habitat community present in the Project site includes barren and ruderal and urban. No aquatic resources were identified within or adjacent to the BSA. A description of the habitat within the Project site is provided below.

Barren and Ruderal

The Project site consists of a single vacant parcel that is generally flat, with urban development adjacent to the site on all sides. The southeastern half of the site is covered with short, dense herbaceous and grass species. A concrete foundation, possibly a driveway, is situated near the middle of the property. A second concrete pad, possibly the remnant of a foundation slab, is also located near the northeast end of the driveway. A single mature ornamental lemon tree (*Citrus limon*) is present on the northwest edge of the parcel.

Urban

Within the BSA, urban habitat adjacent to the Project site consists of residential and commercial buildings with paved roads and sidewalks. Minimal landscaped areas occur within the BSA and include ornamental trees planted adjacent to buildings, mobile homes, and sidewalks and a few small ornamental grass lawns.

Special-Status Species

Plants

Regionally occurring special-status plant species were identified based on a review of pertinent literature, the USFWS species list, and CNDDB and CNPS database records. CNDDB special-status plant species occurrences within 5 miles of the Project site are illustrated in Appendix C1, Figure 3. For each species, habitat requirements were assessed and compared to the habitats in the Project site and immediate vicinity to determine if potential habitat occurs in the Project site. Based on database records, twenty-six special-status plants were evaluated for their potential to occur within the Project site. However, the Project site does not provide suitable habitat for any of these special-status plant species (See Appendix C3, Table 1 for special-status plant species).

Wildlife

Regionally occurring special-status animal species were identified based on a review of pertinent literature, the USFWS species list, CNDDB database records, and a query of the California Wildlife Habitat Relationships System (CDFW 2014). CNDDB special-status animal species occurrences within 5 miles of the Project site are illustrated in Appendix C1, Figure 4. For each species, habitat requirements were assessed and compared to the habitats in the Project site and the immediate vicinity to determine the species' potential to occur in or near the Project site. Based on database records, 33 special-status animals were evaluated for their potential to occur within the Project site. However, the Project site does not provide suitable habitat for any of these special-status animal species (See Appendix C3, Table 2 for special-status animal species).

Critical Habitat

The Project site is not within USFWS designated critical habitat. There is critical habitat within the vicinity of the Project site, including steelhead (*Oncorhynchus mykiss*) critical habitat located approximately 0.29

mile northeast of the Project site in Coyote Creek and approximately1.48 miles southwest in the Guadalupe River. There is no suitable aquatic habitat present on the Project site for steelhead.

3.4.3 Environmental Impact Analysis

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 regulated by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

Special-Status Plant Species

There is no potential habitat within the BSA for special-status plant species to occur. The Project site consists of disturbed ruderal and barren habitat with herbaceous and grass species. In addition, two concrete pads cover a portion of the Project site, with some vegetation growing on top of the concrete. Based on the lack of suitable habitat, the Project site does not provide potential habitat for special-status plant species to occur, and there would be no impacts to special-status plants.

Special-Status Wildlife Species

Although there are CNDDB occurrence records within 5 miles of the Project site for special-status animal species, the Project site does not provide suitable habitat (i.e., aquatic features, annual grassland, or woodland) for potential special-status animal species to occur. Due to the Project site having a single lemon tree and adjacent ornamental trees, there is potential foraging and nesting habitat for migratory birds under the MBTA or California FGC.

Avoidance and minimization measures will be incorporated into the Project to avoid direct and indirect effects to special-status species and their habitat. If Project activities occur during the nesting bird season (generally considered from February 1 to August 31), construction may cause direct effects (e.g., tree removal and vegetation clearing) and indirect effects to nesting birds (e.g., noise and vibration) by causing adults to abandon active nests, resulting in nest failure and reduced reproductive success. MM BIO-1 requires preconstruction nesting bird surveys to document all nests on and adjacent to the Project site and implementation of protective buffers around documented nests during construction to minimize disturbance to nesting birds. Based on potential suitable nesting habitat in and adjacent to the Project site, there is low potential for migratory nesting bird species to occur; however, with the implementation of MM BIO-1, impacts to migratory nesting bird species would be **less than significant with mitigation incorporated**.

IMPACT BIO-1: Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes abandonment and/or loss of reproductive effort is considered a taking by the CDFW. Construction activities such as tree removal and site grading that disturb a nesting bird on-site or immediately adjacent to the construction zone would constitute a significant impact.

MM BIO-1: **Nesting Birds.** 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 1st through August 31st, 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.

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

The project, with the implementation of the above mitigation measures, would not result in significant impacts to nesting birds by avoiding construction activities during the nesting season, inhibiting nesting, and conducting preconstruction surveys in order to avoid disturbance of active nests that may be affected by project construction.

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, and regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

The Project site does not contain any sensitive natural communities as classified by the CDFW. In addition, no aquatic habitats were identified within the Project site that could be considered waters of the U.S. and subject to the USACE and RWQCB jurisdiction under Sections 404 and 401 of the CWA, or subject to CDFW jurisdiction under Section 1600 of the California FGC. Therefore, the Project would have **no impact** on any riparian habitat or other sensitive natural community identified in local or regional plans, policies and regulations or by the CDFW or USFWS.

c) Would the project have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

No aquatic resources or potential wetlands covered under the jurisdiction of the USACE or RWQCB occur within the Project site. As such, there would be **no impact** to state or federally protected wetlands.

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?

Habitat corridors are segments of land that provide linkages between otherwise separated habitats while also providing cover. On a broader level, corridors also function as avenues along which wide-ranging animals can travel, plants can propagate, genetic interchange can occur, populations can move in response to environmental changes and natural disasters, and threatened species can be replenished from other areas. Habitat corridors often consist of riparian areas along streams, rivers, or other natural features. Habitat corridors have been recognized by federal agencies, such as the USFWS, and the state as important habitats worthy of conservation. In general, movement corridors consist of areas of undisturbed land cover that connect larger, contiguous habitats. The Project site does not act as a corridor for species dispersal or provide migration habitat connectivity to adjacent habitat and is not part of any defined essential connectivity areas as identified in the California Essential Habitat Connectivity Project (Spencer et al. 2010); therefore, the Project would have **no impact** in this regard.

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

The Project would not conflict with any local policies or ordinances protecting biological resources, including tree preservation policies or ordinances. Only one lemon tree occurs on site and would be directly impacted by development and would require removal during construction. The Project would comply with the City's Tree Removal Controls, Chapter 13.32 of the San José Municipal Code, and obtain a tree removal permit prior to removing the lemon tree. In addition, six trees would be planted on site as part of the landscaping for the new development. Therefore, a **less than significant impact** would occur with regard to tree preservation or other policies and ordinances.

Below are the City's standard permit conditions that the Project would implement to mitigate tree removal impacts:

Standard Permit Conditions

- **Tree Replacement.** The removed trees would be replaced according to tree replacement ratios required by the City, as provided in Table 3.4-1 below, as amended.

Table 3.4-1: 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.

- Because the lemon tree on-site would be removed, 1 tree 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 Planning, Building, and Code Enforcement (PBCE). As stated above, six trees would be planted on site as part of the landscaping for the new development.

The Project is currently proposing to plant six 24-inch box trees. Thus, the Project would be in compliance with the City's tree replacement standards and there would be a **less than significant impact** to trees.

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?

The Project site is within the boundary of the Santa Clara Valley Habitat Plan (SCVHP). The Local Partners (County of Santa Clara, the City, City of Morgan Hill, City of Gilroy, Santa Clara Valley Water

District, and Santa Clara Valley Transportation Authority) prepared this plan, and it was adopted in 2013 by all local participating agencies. The USFWS and CDFW have issued permits for the SCVHP. The Local Partners have incidental take of covered species and their habitats authorized under Section 10(a)(1)(B) of the FESA and Section 2081 of CESA, pursuant to an accompanying Incidental Take Permit for authorized covered activities. The SCVHP establishes procedures, conditions, and conservation requirements to authorize take of 18 plant and animal species with federal and/or state listing and in compliance with Section 10 of the FESA and Section 2081 of the CESA, resulting from covered activities undertaken by the Local Partners.

The Project falls under the covered activity Urban Development. With implementation of the following standard permit conditions, impacts related to conflict with an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan would be **less than significant impact**:

Standard Permit Conditions

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

3.5 CULTURAL RESOURCES

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

A Cultural Resources Inventory Report was completed for the Project site in August 2020 by Stantec Consulting Services. The report is on record with the City of San José Planning Department and will not be attached to this report for sensitivity reasons.

3.5.1 Regulatory Setting

3.5.1.1 Federal

National Historic Preservation Act

Federal protection is legislated by the National Historic Preservation Act of 1966 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 National Historic Preservation Act and related regulations (36 Code of Federal Regulations 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. The NRHP is the nation's master inventory of historic resources that are considered significant at the national, state, or local level.

3.5.1.2 State

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 PRC Section 5024.1(c), a resource may be eligible for listing in the CRHR if it meets any of the NRHP criteria.

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.

Archaeological Resources and Human Remains

Archaeological and historical sites are protected by a number of state policies and regulations under the California PRC, CCR (Title 14 Section 1427), and California Health and Safety Code. California PRC Sections 5097.9-5097.991 require notification of discoveries of Native American remains and provides for the treatment and disposition of human remains and associated grave goods. Section 15064.5 of the CEQA Guidelines specifies procedures to be used in the event of an unexpected discovery of Native American human remains to protect them from disturbance, vandalism, and inadvertent destruction.

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

3.5.1.3 Local

Envision San José 2040 General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating cultural and tribal impacts from projects. The following policies are applicable to the Project (City of San José 2018a):

- **Goal ER-10:** Archaeology and Paleontology. Preserve and conserve archaeologically significant structures, sites, districts and artifacts in order to promote a greater sense of historic awareness and community identity.
    - **Policy ER-10.1:** For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
    - **Policy ER-10.2**: Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
    - **Policy ER-10.3**: Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

- **Goal IP-12:** Environmental Clearance. Use the Environmental Clearance process to further implement Envision General Plan goals and policies related to the minimization of environmental impacts, improving fiscal sustainability and enhancing the delivery of municipal services.
    - **Policy IP-12.3:** Use the Environmental Clearance process to identify potential impacts and to develop and incorporate environmentally beneficial actions, particularly those dealing with the avoidance of natural and human-made hazards and the preservation of natural, historical, archaeological and cultural resources.

3.5.2 Environmental Setting

Prehistoric and Ethnographic Overview

The Project is within the traditional tribal territory of the Ohlone. Ancestors of the Ohlone have likely inhabited the San Francisco and Monterey Bay areas for around 1,500 years. Their territory stretched from the San Francisco Bay to just south of Carmel and extended as far as 60 miles inland from the Pacific Coast (Levy 1978). The Ohlone concentrated near village sites located along creeks and streams as well at seasonal villages located on the shores of the Pacific Ocean and San Francisco Bay.

The Ohlone lived in an area extending from San Francisco Bay to Monterey Bay, and inland as far east as the Diablo Range (Kroeber 1925). A wide variety of ecological zones, including foothills, valleys, sloughs, and coastal areas, were exploited by the Ohlone to obtain subsistence resources.

Historic Overview

The City of San José was founded in 1777 as a farming community known as El Pueblo de San José de Guadalupe. In the late 1840s, San José was divided into large privately held land grants called Ranchos, and agriculture and ranching continued to dominate the local economy. During the Gold Rush, San José became a trading hub for the gold mining industry. The railroad arrived from San Francisco in the 1860s, which, together with the fertile soils of the valley, facilitated renewed regional agricultural development (Britannica Encyclopedia 2016).

From 1920 through 1941, San José was the financial business center for the Santa Clara Valley in a wider agricultural area known as the “Valley of Heart’s Delight” (Past Consultants, LLC 2009: 12). The fruit industry dominated Santa Clara Valley and became the primary source of revenue for San José during this time. In the 1930s, prunes production dominated, with more than 120,000 acres under cultivation. At its peak, approximately 285,700 tons of prunes were produced in the San José area (Past Consultants, LLC 2009:12).

In the years post-World War II, the City of San José grew and so did its City limits. Historically, the boundary between City and Santa Clara County was Coyote Creek. All areas east of Coyote Creek were primarily undeveloped and used for agricultural growth and production.

3.5.3 Environmental Impact Analysis

a) Would the project cause a substantial adverse change in the significance of a historical resource as identified in Section 15064.5?

A search of all available records for the Project area and a 0.25-mile buffer around the Project was conducted on May 15, 2020, as part of the Cultural Resources Inventory Report (on record with the City). The search also included a review of the Office of Historic Preservation's California Historical Landmarks database, the NRHP, and available historic topographic maps, Sanborn fire insurance maps, and aerial photographs. The record search did not identify any previously recorded resources within the Project area or the 0.25-mile research buffer. Furthermore, the Project site currently consists of an empty lot, and there are no existing structures on the Project site. Therefore, the Project would have no potential to damage, disturb, or otherwise impact historic resources. Therefore, there would be **no impact** to historic resources.

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

As discussed under impact threshold 3.5.a, the record search did not identify any previously recorded resources within the Project area or the 0.25-mile research buffer. Additionally, a field survey was conducted for the Project area on May 19, 2020, which found no evidence of cultural resources within the Project area. A concrete pad and driveway were identified during this survey; however, the age of the concrete pad and driveway could not be determined due to a lack of diagnostic features and/or associated artifacts.

While no immediate evidence of buried cultural resources has been found, there is a chance of encountering buried cultural resources during construction activities, particularly during excavations. The disturbance of these resources, if unexpectedly encountered during excavation and construction, could result in a potential impact. The Project would be required to comply with the City's standard permit conditions, which include measures to avoid or reduce impacts to unknown cultural resources. With implementation of the City's standard permit conditions, the Project would result in a **less than significant impact** to unknown archaeological resources.

Standard Permit Conditions

- **Subsurface Cultural Resources.** If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist shall examine the find. The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to Director of PBCE or the Director's designee and the City's Historic Preservation Officer and the Northwest

Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

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

Similar to the discussion under impact threshold 3.5.b, while there is no evidence of human remains in the area, there is a possibility that human remains could be discovered during earth movement construction activities. The Project would be required to comply with the City's standard permit conditions, which include measures to avoid or reduce impacts to human remains encountered during construction activities. With implementation of the City's standard permit conditions, the Project would result in a **less than significant impact** to disturbance to human remains.

Standard Permit Conditions

- **Human Remains.** If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:
    - The NAHC is unable to identify an MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
    - The MLD identified fails to make a recommendation; or
    - The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.

3.6 ENERGY

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

3.6.1 Regulatory Setting

3.6.1.1 Federal

There are no federal regulations related to energy that are relevant to the Project.

3.6.1.2 State

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. In 2008, Executive Order 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 Senate Bill (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.

California Building Standards Code

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6 of the CCR (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every 3 years, and the 2016 Title 24 updates went into effect on January 1, 2017. Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.

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. The most recent update to CALGreen went into effect on January 1, 2017, and covers five

categories: planning and design, energy efficiency, water efficiency and conservation, material and resource efficiency, and indoor environmental quality.

3.6.1.3 Local

Envision San José 2040 General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating energy impacts from projects. The following policies are applicable to the Project (City of San José 2018a):

- **Goal MS-1:** Green Building Policy Leadership. Demonstrate San José's commitment to local and global Environmental Leadership through progressive use of green building policies, practices, and technologies to achieve 100 million square feet of new or retrofitted green buildings by 2040.
    - **Policy MS-1.1:** Continue to demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with and/or exceed the City's Green Building Ordinance and City Council Policies as well as state or regional policies which require that projects incorporate various green building principles into their design and construction.
- **Goal MS-2:** Energy Conservation and Renewable Energy Use. Maximize the use of green building practices in new and existing development to maximize energy efficiency and conservation and to maximize the use of renewable energy sources.
    - **Policy MS-2.2:** Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.
    - **Policy MS-2.3:** Utilize solar orientation, (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
    - **Policy MS-2.4**: Promote energy efficient construction industry practices.
    - **Policy MS-2.7:** Encourage the installation of solar panels or other clean energy power generation sources over parking areas.
    - **Policy MS-2.11:** Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g. design to maximize cross ventilation and interior daylight) and through site design techniques (e.g. orienting buildings on sites to maximize the effectiveness of passive solar design).

San José Municipal Code

The City's Municipal Code includes regulations associated with energy efficiency and energy use. City regulations include a Green Building Ordinance (Chapter 17.84) to foster practices to minimize the use

and waste of energy, water and other resources in the City of San José, Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10), requirements for Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105), and a Construction and Demolition Diversion Deposit Program that fosters recycling of construction and demolition materials (Chapter 9.10).

3.6.2 Environmental Setting

Energy use is typically quantified using the British Thermal Unit (BTU). The BTU is the amount of energy that is required to raise the temperature of 1 pound of water by 1 degree Fahrenheit. As points of reference, the approximate amount of energy contained in a gallon of gasoline, a cubic foot of natural gas, and a kilowatt hour (kWh) of electricity are 123,000 BTUs, 1,000 BTUs, and 3,400 BTUs, respectively. Natural gas usage is expressed in therms. A therm is equal to 100,000 BTU. PG&E transmits and delivers electricity and natural gas to residents and businesses in the City of San José and provides natural gas and electric service to approximately 15 million people throughout a 70,000 square-mile service area in northern and central California. PG&E's operations are regulated by the California Public Utilities Commission. Electricity and natural gas supplies, including those supplied to San José by PG&E, are also regulated by the California Energy Commission.

Total energy usage in California was approximately 7,967 trillion BTU in the year 2018, the most recent year for which this data was available. Out of the 50 states, California was ranked second in total energy consumption and [4]8th in energy consumption per capita. This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power (EIA 2020).

Electricity

In 2018, a total of approximately 16,668 gigawatt hours of electricity was consumed in Santa Clara County, with 77 percent consumed by the non-residential sector, and approximately 23 percent by the residential sector (CEC 2016).

San José Clean Energy (SJCE) is the electricity provider for residents and businesses in the City of San José. SJCE sources the electricity and the 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. By 2021, SJCE electricity will be 100 percent GHG emission free. The Project site is undeveloped and does not currently consume any electricity.

Natural Gas

PG&E provides natural gas services within Santa Clara County. In 2020, approximately 2.2 percent of California's natural gas supply came from in-state production, while the remaining supply was imported from out of state (California Gas and Electric Utilities 2020). The number of commercial customers in the PG&E service area is projected to grow on an average by 0.3 percent per year from 2020 to 2035. PG&E anticipated new construction and retrofit building electrification, coupled with continuing energy efficiency

and climate change would lead to a long-term decline in commercial demand. As a result, total commercial gas demand is projected to decline at 1.9 percent per year over the next 15 years (California Gas and Electric Utilities 2020).

3.6.3 Environmental Impact Analysis

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 use consumed by the Project was estimated as part of the air quality/GHG analysis prepared for the Project. The energy estimates include mobile sources, natural gas and electricity consumption. The discussion presents construction (short-term) and operational (long-term) energy use.

Construction

Construction would occur over 9 months between June 2021 and February 2022. The construction phase would require energy for the manufacture and transportation of building materials, preparation of the site (e.g., excavation, and grading), and the actual construction of the building. Petroleum-based fuels such as diesel fuel and gasoline would be the primary sources of energy for these tasks. Table 3.6-1 provides a summary of the fuel use from construction offroad equipment (generally diesel) and onroad equipment (generally gasoline). The construction schedule is designed to be energy efficient to avoid excess monetary costs associated with equipment rental, maintenance, and fuel. There are no unusual Project characteristics that would necessitate the use of construction equipment that would be less energy-efficient than at comparable construction sites in other parts of the state. Therefore, it is expected that construction fuel consumption associated with the Project would not be any more inefficient, wasteful, or unnecessary as compared to other construction sites in the region. Additionally, the standard permit conditions for Air Quality will help reduce fuel consumption by limiting idling of equipment to 5 minutes or less. This would be a **less than significant impact** with regard to wasteful energy consumption.

Table 3.6-1: Construction Fuel Consumption

Phase	Offroad Fuel Consumption (gallons)	Onroad Fuel Consumption (gallons)
Site Preparation	93	4
Site Grading	6,174	6,541
Building Construction	12,498	4,479
Paving	999	134
Commissioning and Room Fit Up	0	138
Total Fuel Consumption	**19,763**	**11,296**

Operation

Long-term operational energy use for the Project is associated with transportation sources traveling to and from the Project site and building energy demands. Each source is described separately below.

Transportation Energy Demand

Table 3.6-2 provides an estimate of the daily and annual fuel consumption associated with the Project. These estimates were derived using the same assumptions used in the operational air quality analysis for the Project.

In terms of land use planning decisions, the Project would constitute development within an established community and would not be opening up a new geographical area for development such that it would draw mostly new trips, or substantially lengthen existing trips. The Project would be well positioned to accommodate existing population and reduce vehicle miles traveled (VMT). For these reasons, it would be expected that vehicular fuel consumption associated with the Project would not be any more inefficient, wasteful, or unnecessary than for any other similar land use activities in the region.

Table 3.6-2: Long-Term Operational Vehicle Fuel Consumption

Vehicle Type	Percent of Vehicle Trips	Daily VMT	Annual VMT	Average Fuel Economy (miles/gallon)	Total Daily Fuel Consumption (gallons)	Total Annual Fuel Consumption (gallons)
Passenger Cars	61	96	35,118	31.2	3.1	1,125.6
Light Trucks	22	34	12,525	25	1.4	501.0
Light-Heavy to Heavy-Heavy Diesel Trucks	16	25	9,070	13	1.9	697.7
Other	0.5	0.8	289	6	0.1	48.2
Motorcycles	0.5	0.8	303	37	0.02	8.2
Total	100	157	57,305		6.5	2,380.6

Notes:

Percent of vehicle trips and VMT provided by CalEEMod.

Average fuel economy is provided by United States Department of Transportation, Bureau of Transportation Statistics and reflects fuel economy of overall fleet, not just new vehicles.

"Other" consists of buses and motor homes.

CalEEMod = California Emissions Estimator Model

VMT = vehicle miles traveled

Building Energy Demand

Buildings and infrastructure constructed pursuant to the Project would comply with the versions of CCR Titles 20 and 24, including CALGreen, that are applicable at the time that building permits are issued.

As shown in Table 3.6-3 and Table 3.6-4, the Project is estimated to demand 550 kWh of electricity and 2,215-thousands of BTUs of natural gas, respectively, on an annual basis.

It would be expected that building energy consumption associated with the Project would not be any more inefficient, wasteful, or unnecessary than for any other similar buildings in the region. Current state regulatory requirements for new building construction contained in the 2016 CALGreen and Title 24 would increase energy efficiency and reduce energy demand in comparison to existing residential structures, and therefore, would reduce actual environmental effects associated with energy use from the Project.

For the above reasons, the Project would not result in wasteful, inefficient, or unnecessary consumption of energy resources during construction or operations; therefore, Project impacts would be **less than significant**.

Table 3.6-3: Long-Term Electricity Usage

Land Use	Size	Title 24 Electricity Energy Intensity (kWh/size/ year)	Nontitle 24 Electricity Energy Intensity (kWh/size/ year)	Lighting Energy Intensity (kWh/size/ year)	Total Electricity Energy Demand (kWh/size/ year)	Total Electricity Demand (kWh/year)
Enclosed Parking with Elevator	29 spaces	3.92	0.19	1.72	5.83	169
Hotel	48 rooms	2.05	3.22	2.35	7.62	381
Total						550

Notes:

The Project could potentially include a variety of uses consistent with the development standards; however, the land use selections above were based on estimating the “worst-case” scenario demand for electricity.

The energy use estimate was based on 50 rooms, which is more conservative. A reduction of two rooms would not substantively decrease electricity usage.

ksf = 1,000 square feet

kWh = kilowatt hour

Source: Stantec 2019, Appendix B

Table 3.6-4: Long-Term Natural Gas Usage

Land Use	Size	Title 24 Natural Gas Energy Intensity (KBTU/size/year)	Nontitle 24 Natural Gas Energy Intensity (KBTU/size/year)	Total Natural Gas Energy Demand (KBTU/size/year)	Total Natural Gas Demand (KBTU/year)
Hotel	48 rooms	39.56	4.75	44.31	2,215.50
Total					2,215.50

Notes:

The Project could potentially include a variety of uses consistent with the development standards; however, the land use selections above were based on estimating the “worst-case” scenario demand for electricity.

Land Use	Size	Title 24 Natural Gas Energy Intensity (KBTU/size/year)	Nontitle 24 Natural Gas Energy Intensity (KBTU/size/year)	Total Natural Gas Energy Demand (KBTU/size/year)	Total Natural Gas Demand (KBTU/year)

The energy use estimate was based on 50 rooms, which is more conservative. A reduction of two rooms would not substantively decrease electricity usage.

ksf = 1,000 square feet

KBTU= 1,000 British Thermal Units

Source: Stantec 2019, Appendix B

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

The City's General Plan and the Greenhouse Gas Reduction Strategy (GHGRS) include energy goals and policies to reduce the reliance on nonrenewable energy sources in existing and new commercial, industrial, and public structures through implementation of energy resource policies to encourage the use of renewable energy and decrease energy demand. The City's GHGRS includes strategies focused on green building, renewable energy, transportation and land use, education, and waste management.

The Project would not conflict with the energy objectives of the General Plan, nor the strategies in its GHGRS. The Project would constitute development within an established community and would not be opening up a new geographical area for development such that it would draw mostly new trips, or substantially lengthen existing trips.

The Project would comply with the versions of CCR Titles 20 and 24, including CALGreen, that are applicable at the time that building permits are issued and with all applicable City measures.

For the above reasons, the Project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency; and this would be a **less than significant impact**.

3.7 GEOLOGY AND SOILS

GEOLOGY AND SOILS Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Directly or indirectly cause substantial adverse effects, including the risk of loss, injury, or death involving:				
i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☒	☐
ii. Strong seismic ground shaking?	☐	☐	☒	☐
iii. Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
iv. Landslides?	☐	☐	☒	☐
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
c) Be located on strata 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 Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	☐	☐	☒	☐
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	☐	☐	☐	☒
f) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?	☐	☐	☒	☐

A Geotechnical Investigation was completed for the Project site in May 2018 by Silicon Valley Soil Engineering (Appendix D, Silicon Valley Soil Engineering 2018). The information contained in this Geotechnical Investigation formed the basis of the information and analysis in this section.

3.7.1 Regulatory Setting

3.7.1.1 Federal

There are no federal regulations or policies related to geology and soils that are relevant to the Project.

3.7.1.2 State

Alquist-Priolo Earthquake Fault Zoning Act

In 1972, the Alquist-Priolo Earthquake Fault Zoning Act was passed to mitigate the effects of surface faulting on structures designed for human occupancy. This act required the State Geologist to delineate Earthquake Fault Zones along known active faults that have a relatively high potential for ground rupture. Faults that are zoned under the Alquist-Priolo Earthquake Fault Zoning Act must meet the strict definition of being “sufficiently active” and “well-defined” for inclusion as an Earthquake Fault Zone. The Earthquake Fault Zones are revised periodically, and they extend 200 to 500 feet on either side of identified fault traces. No structures for human occupancy may be built across an identified active fault trace. An area of 50 feet on either side of an active fault trace is assumed to be underlain by the fault, unless proven otherwise. Proposed construction in an Earthquake Fault Zone is permitted only following the completion of a fault location report prepared by a California Registered Geologist.

Seismic Hazards Mapping Act

The Seismic Hazard Mapping Act governs the responsibilities of city, county, and state agencies in identifying and mapping seismic hazard zones and mitigation seismic hazards to protect public health and safety in accordance with the provision of the California PRC, Division 2. Geology, Mines and Mining, Seismic Hazards Mapping – Chapter 7.8. The intent of this publication is to delineate zones where earthquakes could cause hazardous ground shaking and ground failure, including liquefaction and landslides. Currently, zones near the San Andreas Fault in the urban centers of the Greater San Francisco Bay Area and Los Angeles have been delineated. Local cities and counties within these zones regulate building construction to minimize loss associated with these seismic hazards.

California Building Standards Code

The California Building Standards Code (CBC) prescribes standards for constructing safer 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 3 years; the current version is the 2019 CBC.

Paleontological Resources Regulations

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. They range from mammoth and dinosaur bones to impressions of ancient animals and plants, trace remains, and microfossils. These are valued for the information they yield about the history of the earth and its past ecological settings. The California PRC (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.

3.7.1.3 Local

Envision San José 2040 General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating geology and soils impacts from projects. The following policies are applicable to the Project (City of San José 2018a):

- **Goal EC-3:** Seismic Hazards. Minimize the risk of injury, loss of life, property damage, and community disruption from seismic shaking, fault rupture, ground failure (liquefaction and lateral spreading), earthquake-induced landslides, and other earthquake-induced ground deformation.
    - **Policy EC-3.1:** Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
- **Goal EC-4:** Geologic and Soil Hazards. Minimize the risk of injury, loss of life, and property damage from soil and slope instability including landslides, differential settlement, and accelerated erosion.
    - **Policy EC-4.1:** Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.
    - **Policy EC-4.2:** 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.
    - **Policy EC-4.4:** Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
    - **Policy EC-4.5:** Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil 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.

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.

3.7.2 Environmental Setting

Regional Geology

San José is located within the Santa Clara Valley, a broad alluvial 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.

Local Geology

Topography and Soils

The Project site is relatively flat with elevations ranging from 57 to 63 feet above mean sea level. According to the Geotechnical Investigation (Appendix D), soil conditions on the site consist of 4 inches of organic material on the surface, followed by a stiff clayey silt layer to a depth of 5 feet, then from 5 feet to 10 feet the soil consists of stiff clay/clayey sand that is moist, from 10 feet to 40 feet the silt turns to a hard silty clay layer, and then from 40 feet to 55 feet the soil consisted of a very stiff clayey silt. Finally, the soil from 60 feet and below consisted of dense gravely sand. Groundwater on-site was encountered at a depth of 13 feet and 15 feet. The highest expected groundwater table is at the depth of 5 feet below existing ground surface.

Liquefaction

Soil liquefaction occurs when ground shaking from an earthquake causes a sediment layer saturated with groundwater to lose strength and take on the characteristics of a fluid, thus becoming similar to quicksand. Factors determining the liquefaction potential are soil type, the level and duration of seismic ground motions, the type and consistency of soils, and the depth to groundwater. Loose sands and peat deposits, along with recent Holocene age deposits, are more susceptible to liquefaction, while older deposits of clayey silts, silty clays, and clays deposited in freshwater environments are generally stable under the influence of seismic ground shaking. According to the Geotechnical Investigation, the Project would be located within a state-designated liquefaction hazard zone. However, no suspected liquefaction

soils were discovered on-site from further investigation and the Project site is not within the Santa Clara County Geologic Hazard Zone (Santa Clara County 2012).

Seismicity and Seismic-Related Hazards

The San Francisco Bay Area is one of the most seismically active regions in the United States. Faults in the region are capable of generating earthquakes of magnitude 6.7 or higher, and strong to very strong ground shaking would be expected to occur at the Project site during a major earthquake on one of the nearby faults. Based on a 2015 forecast completed by USGS, there is a 72 percent probability that one or more major earthquakes would occur in the San Francisco Bay Area by 2044 (USGS 2015).

The site is not located within a designated Alquist-Priolo Earthquake Zone, Santa Clara County Fault Hazard Zone, or Santa Clara County Geologic Hazard Zone (Santa Clara County 2012). Nearby active faults include the Hayward, Calaveras, and San Andreas faults (Table 3.7-1). No active faults have been mapped on the Project site, therefore, the risk of fault rupture at the site is low.

Table 3.7-1 Active Faults Near the Project Site

Fault	Distance from Project Site
Hayward	4.5 miles
Calaveras	5 miles
San Andreas	15 miles

Landslides and Lateral Spreading

Any incline where relatively large masses of material are supported by soil that is likely to soften under strain is prone to a landslide. The risk increases in areas where the ground is steep, weak or fractured; is saturated by heavy rain; or is compromised by historical ground movements (Branz 2019). Landslides most frequently occur during or following large storms or seismic activity and most likely take place in areas where they have previously occurred.

Lateral movement (i.e., displacement, spreading, etc.) occurs when seismic shaking causes a mass of soil to lose cohesion and move relative to the surrounding soil. Lateral movement can be entirely horizontal and occur on flat ground, but it is more likely to occur on or around sloping ground, such as adjacent to hillsides and waterways (Branz 2019).

In general, the potential for landslide, slope failure, and/or lateral displacement in the Project area in its current condition is very low because the Project site contains stable soils and consists of flat ground. A desktop review of the California Department of Conservation Landslide Inventory showed that the Project site, and a majority of the City, is not in a landslide hazard area (California Department of Conservation 2020).

Paleontological Resources

Geologic units of Holocene age are generally not considered sensitive for paleontological resources, because biological remains younger than 10,000 years are not usually considered fossils; however, mammoth remains were found along the nearby Guadalupe River in San José in 2005. These sediments have low potential to yield fossil resources or to contain significant nonrenewable paleontological resources. However, these recent sediments may overlie older Pleistocene sediments with high potential to contain paleontological resources. These older sediments, often found at depths of greater than 10 feet below the ground surface, have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates. According to the Geotechnical Investigation completed for the Project area, the Project site is underlain by young alluvial fan deposits, with Late Quaternary deposits filling much of the San Francisco Bay region (Silicon Valley Soil Engineering 2018). However, because depths of construction would exceed depths of 10 feet below the ground surface, paleontological resources could be encountered during construction activities.

3.7.3 Environmental Impact Analysis

a) Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:

i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

ii. Strong seismic ground shaking?

iii. Seismic-related ground failure, including liquefaction?

iv. Landslides?

The Project site is not located within an Alquist-Priolo Earthquake Fault Zone, or an area susceptible to earthquake-induced landslides or landslide hazard zone according to the Santa Clara County Geologic Hazard Zone Map (Santa Clara County 2012). However, the Project site is located in a seismically active region of California, and strong ground shaking would be expected during the lifetime of the Project. Depending upon the intensity and magnitude of a seismic event, the new building may experience shaking due to the site's proximity to the active Hayward and Calaveras Faults. The Project would comply with the following standard permit conditions to ensure that potential impacts due to seismic hazards would remain less than significant. Therefore, a **less than significant impact** would occur related to seismic hazards.

Standard Permit Conditions

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

San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The Project shall be designed to withstand soil hazards identified on the site and the Project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.

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

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

The Project could result in erosion or the loss of topsoil during demolition and grading. The estimated amount of cut during Project construction would be 14,524 cubic yards. All of the soil would be exported off-site. Erosion and loss of topsoil could occur during these construction activities if the materials and exposed soils are not handled appropriately. The Project would be required to comply with the San José Municipal Code Chapter 17.04, City's Grading Ordinance (Section 3.10, Hydrology and Water Quality), which includes the implementation of erosion and dust control during site preparation. In addition, standard permit conditions required by the City would be implemented to ensure that only a **less than significant impact** would remain.

Standard Permit Conditions

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

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?

As described under impact threshold 3.7.a, the Project site is not located within a liquefaction zone or landslide zone. In addition, the Project site is relatively flat and is not adjacent to a creek or any other unsupported face; therefore, the risk of lateral spreading is low. According to the Geotechnical Investigation, the Project site has a low potential for liquefaction and contains soils that are suitable for the Project (Appendix D). Further, the Project would comply with the standard permit conditions noted under impact threshold 3.7.a related to standard engineering and seismic safety design techniques. With implementation of these standard permit conditions, the Project would not result in significant on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse, and there would be a **less than significant impact**.

d) Would the project be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?

Expansive or collapsible soils are characterized by the ability to undergo significant volume change (shrink and swell) as a result of variation in soil moisture content. Expansive soils are commonly very fine-grained with a high to very high percentage of two-to-one clays. Soil moisture content can change due to many factors, including perched groundwater, landscape irrigation, rainfall, and utility leakage. Engineering standards govern expansion potential evaluations and the Expansion Index (Uniform Building Code [UBC] Table 18-I-B) and is calculated pursuant to the UBC Test Standard 18-1 (ASTM D-4829) in the 1994 UBC. Section 1803.2 of the 1994 Uniform Building Code directs expansive soil tendency be graded by this method. The UBC mandates that "special [foundation] design consideration" be employed if the Expansion Index is 20, or greater (UBC Table 18-1-B).

The Geotechnical Investigation completed for the Project site concluded a moderate potential for expansive soils on the site and therefore should incorporate engineering specifications into the foundation of the structure. These design considerations would be implemented through the standard permit conditions as specified under impact threshold 3.7.a. Therefore, with compliance with the standard permit conditions, there would be a **less than significant impact** related to expansive soils.

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

The Project site is located within an urban area of the City with access to sanitary sewer lines and would not involve the use of septic tanks. Therefore, there would be **no impact**.

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

Although the Project site is directly underlain by younger alluvial fan deposits (i.e., a low potential to contain paleontological resources), construction activities would require excavations that could exceed 10 feet below the ground surface and thus could reach older deposits that have a higher potential to contain paleontological resources. Therefore, the following standard permit conditions would be implemented during construction of the Project if any paleontological resources are discovered during excavations or trenching activities. Compliance with the standard permit conditions would reduce potential impacts to previously undiscovered paleontological resources to a **less than significant impact**.

Standard Permit Conditions

- Paleontological Resources. If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement (PBCE) shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may

also include preparation of a report for publication describing the finds. The Project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning or Director's designee of the PBCE.

3.8 GREENHOUSE GAS EMISSIONS

GREENHOUSE GAS EMISSIONS Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Generate greenhouse gas 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 greenhouse gases?	☐	☐	☒	☐

3.8.1 Regulatory Setting

3.8.1.1 Federal

The federal government administers a wide array of programs to address GHGs generated in the United States. These programs focus on energy efficiency, renewable energy, methane and other non-carbon dioxide (CO_2) GHGs, agricultural practices, and implementation of technologies to achieve GHG reductions.

At the federal level, EPA is responsible for implementing federal policy to address GHGs. EPA implements numerous voluntary programs that contribute to the reduction of GHG emissions. These programs (e.g., the ENERGY STAR labeling system for energy-efficient products) play a significant role in encouraging voluntary GHG reductions from large corporations, consumers, industrial and commercial buildings, and many major industrial sectors.

In Massachusetts v. Environmental Protection Agency (Docket No. 05–1120), the U.S. Supreme Court held in 2007 that EPA has statutory authority under Section 202 of the CAA to regulate GHGs. The Court did not hold that the EPA was required to regulate GHG emissions; however, it indicated that the agency must decide whether GHGs cause or contribute to air pollution that is reasonably anticipated to endanger public health or welfare.

In 2009, a national policy between the National Highway Traffic Safety Administration and the EPA was adopted for fuel efficiency and emissions standards in the U.S. auto industry, which applies to passenger cars and light-duty trucks for model years 2012 - 2016. The standards surpass the prior Corporate Average Fuel Economy standards and requires an average fuel economy standard of 35.5 miles per gallon and 250 grams of CO_2 per mile by model year 2016, based on EPA calculation methods. In 2012, standards were adopted for model year 2017–2025 for passenger cars and light-duty trucks. By 2025, vehicles are required to achieve 54.5 miles per gallon (if GHG reductions are achieved exclusively through fuel economy improvements) and 163 grams of CO_2 per mile.

Fuel economy and carbon dioxide standards were updated through the Safe Affordable Fuel-Efficient Vehicles Rule in March 2020.The Safe Affordable Fuel-Efficient Vehicles Rule would apply to passenger

and light trucks with model years 2021 to 2026 and would increase stringency of Corporate Average Fuel Economy and carbon dioxide standards by 1.5 percent each year through 2026.

In 2009, regarding GHGs under Section 202(a) of the CAA, the EPA adopted a Final Endangerment Finding for the six defined GHGs (CO_2, methane [CH_4], nitrogen dioxide [N_2O], hydrofluorocarbons [HFCs], perfluorocarbons [PFCs], and sulfur hexafluoride [SF_6]). The Endangerment Finding is required before EPA can regulate GHG emissions under Section 202(a)(1) of the CAA consistently with the U.S. Supreme Court decision. EPA also adopted a Cause or Contribute Finding in which the EPA Administrator found that GHG emissions from new motor vehicle and motor vehicle engines are contributing to air pollution, which is endangering public health and welfare. These findings do not, by themselves, impose any requirements on industry or other entities. However, these actions were a prerequisite for implementing GHG emissions standards for vehicles.

3.8.1.2 State

In the absence of federal regulations, control of GHGs is generally regulated at the state level and is typically approached by setting emission reduction targets for existing sources of GHGs, setting policies to promote renewable energy and increase energy efficiency, and developing statewide action plans.

California has adopted statewide legislation addressing various aspects of climate change and GHG emissions mitigation. Much of this legislation establishes a broad framework for the state's long-term GHG reduction and climate change adaptation program. The governor has also issued several EOs related to the state's evolving climate change policy. Of particular importance are the following:

Assembly Bill 32

Assembly Bill (AB) 32, also known as the Global Warming Solutions Act of 2006 (codified in Health and Safety Code, Division 25.5), requires CARB to establish a statewide GHG emissions cap for 2020 based on 1990 emission levels. AB 32 required CARB to adopt regulations that identify and require selected sectors or categories of emitters of GHGs to report and verify their statewide GHG emissions, and CARB is authorized to enforce compliance with the program. Under AB 32, CARB was also required to adopt a statewide GHG emissions limit equivalent to the statewide GHG emissions levels set in 1990, which must be achieved by 2020. The 2020 GHG emissions limit is 431 million metric tons of carbon dioxide equivalent ($MTCO_2e$).

Toward achieving the maximum technologically feasible and cost-effective GHG emission reductions, AB 32 permits the use of market-based compliance mechanisms and requires CARB to monitor compliance with and enforce any rule, regulation, order, emission limitation, emissions reduction measure, or market-based compliance mechanism that it adopts. CARB has adopted nine Early Action Measures for implementation, including:

- Ship electrification at ports
- Reduction of high global-warming-potential gases in consumer products

- Heavy-duty vehicle GHG emission reduction (aerodynamic efficiency)
- Reduction of perfluorocarbons from semiconductor manufacturing
- Improved landfill gas capture, reduction of hydroflourocarbon-134a from do-it-yourself motor vehicle servicing
- Sulfur hexafluoride reductions from the non-electric sector, a tire inflation program, and a low-carbon fuel standard

Senate Bill 32

On September 8, 2016, SB 32 was signed by Governor Brown; this bill would require the state board to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030.

B-30-15

B-30-15 provides an interim 2030 goal with the ultimate goal of reducing emissions by 80 percent below 1990 levels by 2050. The B-30-15 interim 2030 emission reduction goal is consistent with SB 32 and represents substantial progress towards the 2050 emissions reduction goal.

Executive Order S-03-05

EO S-03-05 directs the state to reduce GHG emissions to 80 percent below 1990 levels by 2050.

Climate Change Scoping Plan

In December 2008, CARB approved the AB 32 Scoping Plan outlining the state's strategy to achieve the 2020 GHG emissions limit. The Scoping Plan estimates a reduction of 174 million $MTCO_2e$ (about 191 million U.S. tons) from the transportation, energy, agriculture, forestry, and high climate-change-potential sectors, and proposes a comprehensive set of actions designed to reduce overall GHG emissions in California, improve the environment, reduce dependence on oil, diversify California's energy sources, save energy, create new jobs, and enhance public health. The Scoping Plan must be updated every 5 years to evaluate the implementation of AB 32 policies to ensure that California is on track to achieve the 2020 GHG reduction goal. The First Update to the Climate Change Scoping Plan was approved by the CARB on May 22, 2014. In 2016, the Legislature passed SB 32, which codified a 2030 GHG emissions reduction target of 40 percent below 1990 levels. With SB 32, the Legislature passed companion legislation AB 197, which provides additional direction for developing the Scoping Plan. On December 14, 2017, the CARB approved the Second Update to the Climate Change Scoping Plan, the 2017 Climate Change Scoping Plan: The Strategy for Achieving California's 2030 Greenhouse Gas Target.

Clean Air Plan

The Clean Air Plan guides the region's air quality planning efforts to attain the CAAQS. The BAAQMD 2017 Clean Air Plan is the current Clean Air Plan, which contains district-wide control measures to reduce ozone precursor emissions (i.e., ROG and NOx), particulate matter, and GHG emissions (BAAQMD

2017a). The primary goals of the 2017 Clean Air Plan are to protect public health through the attainment air quality standards and protect the climate.

The 2017 Clean Air Plan contains 85 control measures aimed at reducing air and climate pollutants in the Bay Area. For purposes of consistency with climate planning efforts at the state level, the control strategy in the Clean Air Plan is based upon the same economic sector framework used by the CARB for its Climate Change Scoping Plans.

3.8.1.3 Local

Envision San José 2040 General Plan

Multiple policies and actions in the General Plan have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings. The GHG Reduction Strategy is intended to meet the mandates as outlined in the CEQA Air Quality Guidelines and standards for “qualified plans” as set forth by BAAQMD.

On December 15, 2015, the San José City Council certified a Supplemental Program EIR to the Envision San José 2040 Final Program Environmental Impact Report and readopted the City’s GHG Reduction Strategy in the General Plan. Projects that conform to the General Plan Land Use/Transportation Diagram and supporting policies are considered consistent with the City’s GHG Reduction Strategy. The GHG Reduction Strategy identifies GHG emissions reduction measures to be implemented by development projects in three categories: built environment and energy, land use and transportation, and recycling and waste reduction. Some measures are mandatory for all proposed developments and others are voluntary. Voluntary measures could be incorporated as mitigation measures for Project, at the City’s discretion.

2030 Greenhouse Gas Reduction Strategy (2030 GHGRS)

The City of San José has updated its strategy for greenhouse gas reduction in alignment with SB 32, which established an interim statewide greenhouse gas reduction goal for 2030 to meet the long-term target of carbon neutrality by 2045 (EO B-55-18).

SB 32 expands upon AB 32, the Global Warming Solutions Act of 2006, and requires a reduction in greenhouse gas emissions of at least 40% below the 1990 levels by 2030.

The City’s 2030 Greenhouse Gas Reduction Strategy (2030 GHGRS) is a comprehensive update to the city’s original GHGRS and reflects the plans, policies, and codes as approved by the City Council. The strategy builds on the City’s Envision San José 2040 General Plan and Climate Smart San José -- these plans expanded the City’s Green Vision to advance urban sustainability. Leveraging these existing plans and supporting policy and program frameworks, the 2030 GHGRS provides a set of strategies and additional actions for achieving the 2030 target.

The 2030 GHGRS serves as a Qualified Climate Action Plan for purposes of tiering and streamlining under CEQA. The Development Compliance Checklist serves to apply the relevant General Plan and 2030 GHGRS policies through a streamlined review process for proposed new development projects that

are subject to discretionary review and that trigger environmental review under CEQA. The Project would be required to submit a completed checklist and comply with applicable measures to be consistent with the GHGRS.

Green Vision

In 2007, the City adopted the Green Vision, a 15-year sustainability plan that focused on economic growth while reducing GHG emissions. The strategy included goals to increase energy efficiency and reduce consumption along with creating clean tech jobs, diverting waste from landfills and converting waste into energy, increase electricity consumption from renewable sources, and plant 100,000 new trees. Significant progress has been made and as the program approaches its horizon year, the City plans to incorporate goals of the Green Vision into its Climate Smart San José's program.

Climate Smart San José

This program was adopted in 2018 to continue the City's efforts to reduce the impacts of climate change. In addition to addressing climate change issues, the program's strategies would reduce air pollution, save water, and improve the quality of life communitywide. The program is the first in the country to provide a plan for achieving greenhouse gas reductions consistent with those in the Paris Agreement.

San José Municipal Code

The City's Municipal Code includes the Green Building Regulations for Private Development which are intended to advance GHG reductions and other sustainability strategies in the City's Green Vision. The Green Building regulation would reduce energy and water consumption, divert waste from landfills, and provide power from renewable sources. The City determined that reduction of total energy and peak energy use as a result of incremental energy efficiency measures resulted in positive cost-benefits for building owners.

3.8.2 Environmental Setting

Global climate change is the observed increase in the average temperature of the Earth's atmosphere and oceans in recent decades. There is a general scientific consensus that global climate change is occurring, caused in whole or in part by increased emissions of GHGs that keep the Earth‘s surface warm by trapping heat in the Earth‘s atmosphere, in much the same way as glass traps heat in a greenhouse. The Earth's climate is changing because human activities, primarily the combustion of fossil fuels, are altering the chemical composition of the atmosphere through the buildup of GHGs. GHGs are released by the combustion of fossil fuels, land clearing, agriculture, and other activities, and lead to an increase in the greenhouse effect. Just as the glass in a greenhouse lets heat from sunlight in and reduces the heat escaping, greenhouse gases like carbon dioxide, methane, and nitrous oxide in the atmosphere keep the Earth at a relatively even temperature. Without the greenhouse effect, the Earth would be a frozen globe; thus, although an excess of greenhouse gas results in global warming, the naturally occurring greenhouse effect is necessary to keep our planet at a comfortable temperature.

Carbon Dioxide (CO_2)

In the atmosphere, carbon generally exists in its oxidized form as CO_2. Natural sources of CO_2 include the respiration (breathing) of humans, animals, and plants; volcanic outgassing; decomposition of organic matter; and evaporation from the oceans. Anthropogenic sources of CO_2 include the combustion of fossil fuels and wood, waste incineration, mineral production, and deforestation. Anthropogenic sources of CO_2 amount to more than 30 billion tons per year, globally. Natural sources release substantially larger amounts of CO_2. Nevertheless, natural removal processes, such as photosynthesis by land and ocean-dwelling plant species, cannot keep pace with this extra input of man-made CO_2, and consequently, the gas is building up in the atmosphere.

Methane (CH_4)

CH_4 is produced when organic matter decomposes in environments lacking sufficient oxygen. Natural sources include wetlands, termites, and oceans. Decomposition occurring in landfills accounts for the majority of human-generated CH_4 emissions in California and in the United States as a whole. Agricultural processes such as intestinal fermentation, manure management, and rice cultivation are also significant sources of CH_4 in California.

Nitrous Oxide (N_2O)

N_2O is produced naturally by a wide variety of biological sources, particularly microbial action in soils and water. Tropical soils and oceans account for the majority of natural source emissions. Nitrous oxide is a product of the reaction that occurs between nitrogen and oxygen during fuel combustion. Both mobile and stationary combustion produce N_2O, and the quantity emitted varies according to the type of fuel, technology, and pollution control device used, as well as maintenance and operating practices. Agricultural soil management and fossil fuel combustion are the primary sources of human-generated N_2O emissions in California.

Hydrofluorocarbons (HFCs), Perfluorocarbons (PFCs), and Sulfur Hexafluoride (SF_6)

HFCs are primarily used as substitutes for ozone depleting substances regulated under the Montreal Protocol (Montreal Protocol 1987). The Montreal Protocol is an international treaty that was approved on January 1, 1989 and was designated to protect the ozone layer by phasing out the production of several groups of halogenated hydrocarbons believed to be responsible for ozone depletion. PFCs and SF_6 are emitted from various industrial processes including aluminum smelting, semiconductor manufacturing, electric power transmission and distribution, and magnesium casting. There is no primary aluminum or magnesium production in California; however, the rapid growth in the semiconductor industry leads to greater use of PFCs.

The magnitude of the impact on global warming differs among the GHGs. The effect each GHG has on climate change is measured as a combination of the volume of its emissions, and its global warming potential, expressed as a function of how much warming would be caused by the same mass of CO_2. Thus, GHG emissions are typically measured in terms of pounds or tons of CO_2 equivalents. HFCs, PFCs, and SF_6 have a greater “global warming potential” than CO_2. In other words, these other GHGs

have a greater contribution to global warming than CO_2 on a per mass basis. However, CO_2 has the greatest impact on global warming, because of the relatively large quantities of CO_2 emitted into the atmosphere.

3.8.3 Environmental Impact Analysis

The GHGRS prepared by the City of San José' was designed to align the General Plan with AB 32. The City uses the following 'Plan-level' GHG significance threshold to reduce GHG emissions to meet the 2020 goal of AB 32: 6.6 $MTCO_2e$ per year per service population (SP). SP is defined as the number of residents plus the number of people working within San José. The City has also estimated an efficiency threshold of 3.04 $MTCO_2e$ per SP for 2035. However, since this Project would be operational post-2020, the 2020 efficiency threshold is not appropriate.

BAAQMD Significance Thresholds

The BAAQMD's CEQA Air Quality Guidelines do not use quantified thresholds for projects that are in a jurisdiction with a qualified GHG reductions plan (i.e., a Climate Action Plan). The plan has to address emissions associated with the period that the Project would operate (e.g., beyond year 2020). For quantified emissions, the guidelines recommended a GHG threshold of 1,100 metric tons (MT) or 4.6 MT per capita. These thresholds were developed based on meeting the 2020 GHG targets set in the scoping plan that addressed AB 32. Development of the Project would occur beyond 2020, so a threshold that addresses a future target is appropriate.

Although BAAQMD has not published a quantified threshold for 2030 yet, this analysis uses a "Substantial Progress" bright-line threshold of 660 $MTCO_2e$ per year based on the GHG reduction goals of EO B-30-15. The 2030 bright-line threshold is a 40 percent reduction of the 2020 1,100 $MTCO_2e$ per year threshold.

An efficiency threshold is calculated by dividing the allowable GHG emissions inventory in a selected calendar year by the service population (residents plus employees). This calculation identifies the quantity of emissions that can be permitted on a per service population basis without significantly impacting the environment. According to the BAAQMD CEQA Guidelines, the efficiency threshold is appropriate for mixed-use projects that include both residential and non-residential land uses. Therefore, this approach is not appropriate for the proposed project because there are no residents.

Although the BAAQMD has not yet quantified a threshold for 2030, reduction of the 1,100 $MTCO_2e$ bright-line threshold by 40 percent to 660 $MTCO_2e$/year would be consistent with state goals detailed in SB 32. As such, the adjusted bright-line threshold of 660 $MTCO_2e$ is the most appropriate threshold for the project.

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

Construction

As shown in Table 3.8-1, GHG emissions associated with construction were estimated to be 313 $MTCO_2e$ for the total construction period. These are the emissions from on-site operation of construction equipment, vendor and hauling truck trips, and worker trips. Neither the City nor BAAQMD have an adopted threshold of significance for construction-related GHG emissions, though BAAQMD recommends quantifying emissions and disclosing that GHG emissions would occur during construction.

Table 3.8-1: Annual Construction GHG Emissions (Unmitigated)

Construction Year	Metric Tons CO_2e/Year
2021 Construction Emissions	268
2022 Construction Emissions	45
Total GHG Emissions	**313**

Notes:
CO_2e = carbon dioxide equivalent
Source: CalEEMod Output (Appendix B)

Operations

The long-term operational GHG emissions are shown in Table 3.8-2. As shown, the 2023 emissions are estimated to be 249 MTCO2e and 233 MTCO2e in 2030. The SP Emissions for the year 2023 would be 2.44 MTCO2e per SP and 2.28 for MTCO2e per SP for 2030. Neither the 2023 or 2030 emissions would exceed the 2030 “bright-line” threshold of 660 MTCO2e/year or the “Substantial Progress” efficiency metric of 2.76 MTCO2e per year for 2030.

To be determined a significant impact, the Project must exceed both the GHG “bright-line” threshold and the SP efficiency threshold. The Project does not exceed either threshold; as such there would be a **less than significant impact**.

Table 3.8-2: Annual Operational GHG Emissions (Unmitigated)

Emissions Source	2023 $MTCO_2e$ per Year	2030 $MTCO_2e$ per Year
Area	0	0
Energy	139	139

Emissions Source	2023 $MTCO_2e$ per Year	2030 $MTCO_2e$ per Year
Mobile	91	76
Waste	14	14
Water	4	4
Total GHG Emissions $MTCO_2e$	249	233
Significance Threshold	660	
Exceeds Threshold?	No	No

Notes:
GHG = greenhouse gas
$MTCO_2e$ = metric tons carbon dioxide equivalent
SP = Service Population (defined as customers + employees)

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

The Project would not conflict or otherwise interfere with the statewide GHG reduction measures identified in the CARB Scoping Plan. Notably, the City's GHGRS include goals and policies to reduce GHG emissions from existing and new land use development consistent with CARB's reduction targets in its Scoping Plan.

Consistency with the GHGRS

The City's GHGRS includes strategies focused on green building, renewable energy, transportation and land use, education, and waste management. The Project would not conflict with the GHG reduction objectives and strategies of the GHGRS. The Project would constitute development within an established community and would not be opening up a new geographical area for development such that it would draw mostly new trips, or substantially lengthen existing trips.

The General Plan and the City's GHG Reduction Strategy contains goals and policies adopted for the purpose of reducing GHG emissions. Measures are either mandatory for proposed development projects, or they are voluntary. Voluntary measures can be incorporated as mitigation measures for projects at the discretion of the City. Mandatory GHG reduction criteria and its applicability to the project is detailed below.

- Consistency with the Land Use/Transportation Diagram (Land Use and Density)
- Implementation of Green Building Measures (GP Policies: MS-2.2, -2.3, -2.7, -2.11, -16.2)
    - Renewable Energy

  - Solar Orientation
  - Solar Panels
  - Architectural Design
  - Construction Techniques
  - Consistency with Green Building Ordinance and Policies

- Pedestrian, Bicycle and Transit Site Design Measures (GP Policies: CD-2.1, - 2.5, -2.11, -3.2, -3.4, LU-3.5, TR-2.8, -7.1, -8.5)
- Water Conservation and Urban Forestry Measures (GP Policies: MS-3.1, -3.2, -19.4, -21.3, -26.1, ER-8.7)

The Project would be constructed in compliance with the San José Green Building Policy. The Project would include bicycle parking spaces and encourage bicycle usage. In addition, shuttle service would be available for customers. The Project would not alter or inhibit pedestrian or bicycle circulation patterns in the surrounding areas or interfere with planned expansions of the City's multimodal infrastructure. The proposed fixtures would be high efficiency and use less water resources The Project is an infill development and would not impact any urban forests. Therefore, the Project would be consistent with the GHGRS Criteria listed above.

The following Table 3.8-3 provides a summary of the City's GHGRS Compliance Checklist and describes the project's compliance with each criterion.

Table 3: GHGRS Compliance Checklist

Consistency Options	Project Measure	Project Conformance
Renewable Energy Development		
1. Install solar panels, solar hot water, or other clean energy power generation sources on development sites, or 2. Participate in community solar programs to support development of renewable energy in the community, or 3. Participate in San José Clean Energy at the Total Green Level (i.e., 100% carbon free electricity) for electricity accounts associated with the project.	The Project would include rooftop solar photovoltaic panels.	☒ Proposed ☐ Not Applicable ☐ Not Feasible ☐ Alternative Measure Proposed
Building Retrofits – Natural Gas		
This strategy only applies to projects that include a retrofit of an existing building. If the proposed project does not include a retrofit,	The Project is a new construction and not a retrofitting project.	☐ Proposed ☒ Not Applicable ☐ Not Feasible

Consistency Options	Project Measure	Project Conformance
select "Not Applicable" in the Project Conformance column. 1. Replace an existing natural gas appliance with an electric alternative (e.g., space heater, water heater, clothes dryer), or 2. Replace an existing natural gas appliance with a high-efficiency model		☐ Alternative Measure Proposed
Zero Waste Goal		
1. Provide space for organic waste (e.g., food scraps, yard waste) collection containers, and/or 2. Exceed the City's construction & demolition waste diversion requirement.	The increase in solid waste generation from development of the Project would be minimized through implementation of the City's Zero Waste Strategic Plan, which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022. The Project would conform to City plans and policies to reduce solid waste generation and would be served by landfills with adequate capacity.	☒ Proposed ☐ Not Applicable ☐ Not Feasible ☐ Alternative Measure Proposed
Caltrain Modernization		
1. For projects located within ½ mile of a Caltrain station, establish a program through which to provide project tenants and/or residents with free or reduced Caltrain passes or 2. Develop a program that provides project tenants and/or residents with options to reduce their vehicle miles traveled (e.g., a TDM program), which could include transit passes, bike lockers and showers, or other strategies to reduce project-related VMT.	The Project would operate a shuttle service between the hotel and Mineta San José International Airport. The shuttle would be available 24 hours per day and would run approximately every half hour.	☒ Proposed ☐ Not Applicable ☐ Not Feasible ☐ Alternative Measure Proposed
Water Conservation		
1. Install high-efficiency appliances/fixtures to reduce water use, and/or include water-sensitive landscape design, and/or 2. Provide access to reclaimed water for outdoor water use on the project site.	The Project would install high efficiency fixtures in compliance with CALGreen requirements. The proposed plants would be drought tolerant.	☒ Proposed ☐ Not Applicable ☐ Not Feasible ☐ Alternative Measure Proposed

The Project is consistent with the existing General Plan land use designation and would comply with applicable mandatory measures of the GHG Reduction Strategy. For the above reasons, the Project

would not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases, therefore, there would be a **less than significant impact**.

3.9 HAZARDS AND HAZARDOUS MATERIALS

HAZARDS AND HAZARDOUS MATERIALS Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐
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, would the project 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?	☐	☐	☐	☒

A Phase I ESA was completed for the Project site in June of 2019 by Enviro Assessment (Appendix E). The information contained in this Geotechnical Investigation formed the basis of the information and analysis in this section.

3.9.1 Regulatory Setting

3.9.1.1 Federal

Resources Conservation and Recovery Act

The Federal Toxic Substances Control Act and the Resource Conservation and Recovery Act (RCRA), signed in 1976, established a program administered by EPA to regulate the generation, transportation, treatment, storage, and disposal of hazardous waste. The RCRA was amended in 1984 by the Hazardous and Solid Waste Act, which affirmed and extended the “cradle to grave” system of regulating hazardous wastes. This regulatory system includes tracking all generators of hazardous waste.

Comprehensive Environmental Response, Compensation, and Liability

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) was enacted in 1980 and amended by the Superfund Amendments and Reauthorization Act in 1986. This law provides broad federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. CERCLA established 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. CERCLA also enabled revision of the National Contingency Plan, which provided the guidelines and procedures needed to respond to releases and threatened releases of hazardous substances, pollutants, or contaminants. The National Contingency Plan also established the National Priorities List.

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. Any penetrations of the FAR Part 77 surface are subject to review on a case-by-case basis by the Federal Aviation Administration. The FAR Part 77 zone is defined by an imaginary slope radiating outward for several miles from an airport’s runways. For the Project site, FAR Part 77 would require any proposed structure higher than approximately 212 feet above ground to be submitted to the Federal Aviation Administration for airspace safety review (SCC ALUC 2016).

Hazardous Materials Transportation Act

The transport of hazardous materials is regulated by the United States Department of Transportation under the Hazardous Materials Transportation Act. To accomplish this, the Federal Aviation Administration, Federal Motor Carrier Safety Administration, Federal Railway Administration, Pipeline and Hazardous Materials Safety Administration, and the United States Coast Guard have been given authority to enforce hazardous material transport regulations.

Occupational Safety and Health Administration

The Occupational Safety and Health Act of 1970 created the Occupational Safety and Health Administration, which is responsible for protecting the health of workers, such as during the handling of hazardous materials. The Occupational Safety and Health Administration has created regulation to set federal standards of workplace safety including exposure limits, mandatory workplace training, accident and injury reporting, and safety procedures. These regulations are recorded in the Code of Federal Regulations Title 29.

3.9.1.2 State

Department of Toxic Substances Control

The Department of Toxic Substances Control (DTSC) is part of the California Environmental Protection Agency and is the primary state agency that regulates hazardous waste and cleans up existing contamination. DTSC regulates hazardous waste in California primarily under the authority of RCRA and the California Health and Safety Code. DTSC also administers the California Hazardous Waste Control Law (HWCL) to regulate hazardous wastes. While the HWCL is generally more stringent than RCRA, until EPA approves the California program, both federal and state laws apply in California. The HWCL lists 791 chemicals and approximately 300 common materials that may be hazardous; establishes criteria for identifying, packaging, and labeling hazardous wastes; proscribes management controls; provides permit requirements for treatment, storage, disposal, and transportation; and identifies some wastes that cannot be disposed of in landfills.

Government Code Section 65962.5 requires DTSC, the state Department of Health Services, the SWRCB, and CalRecycle to compile and annually update lists of hazardous waste sites and land designated as hazardous waste sites throughout the state. The Secretary for Environmental Protection consolidates the information submitted by these agencies and distributes it to each city and county where sites on the lists are located. Before the lead agency accepts an application for any development project as complete, the applicant must consult these lists to determine if the site at issue is included.

Cortese List Government Code Section 65962

Government Code Section 65962 was enacted in 1985 and was amended in 1992. It is used as a planning tool to comply with CEQA and requires information about locations of hazardous materials release sites. It states that through the combined efforts of the DTSC, the Department of Health Services, the SWRCB and local enforcement agencies a list of potentially hazardous areas and sites will be compiled and remain up to date (at a minimum, updated annually). The list is consolidated by the Secretary for Environmental Protection and is distributed to each city and county in which sites on the list are located. The list can be found on the DTSC's data management system known as EnviroStor, which includes information from the SWRCB GeoTracker database.

3.9.1.3 Local

Envision San José 2040 General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating hazards and hazardous materials impacts from projects. The following policies are applicable to the Project (City of San José 2018a):

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

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

- **Goal EC-7:** Environmental Contamination. Protect the community and environment from exposure to hazardous soil, soil vapor, groundwater, and indoor air contamination and hazardous building materials in existing and proposed structures and developments and on public properties, such as parks and trails.
  - **Policy EC-7.1:** For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
  - **Policy EC-7.2:** Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.
  - **Policy EC-7.5:** 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.
  - **Policy EC-7.11**: Require sampling for residual agricultural chemicals, based on the history of land use, on sites to be used for any 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.
- **Goal TR-14:** Safe Airport. Ensure that airport facilities in San José are safe by removing potential conflicts between land use and airport operations.
  - **Policy TR-14.2**: Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.

San José Emergency Operations Plan

An Emergency Operations Plan (EOP) is required for each local government in California. The guidelines for the plan come from the Federal Emergency Management Agency (FEMA), and are modified by the State Office of Emergency Services for California needs and issues. The purpose of the plan is to provide

a legal framework for the management of emergencies and guidance for the conduct of business in the Emergency Operations Center. San José City Council adopted their EOP in August 2004, and the latest revision to the EOP was in November of 2018. The EOP addresses emergencies such as floods, heat waves, power outages, terrorism, earthquakes, and fires (City of San José 2018b).

3.9.2 Environmental Setting

Existing Conditions

Current and Historic Setting

A Phase I ESA was completed for the Project site in June of 2019 by Enviro Assessment, PC (Appendix E). As noted in the Phase I ESA, the Project site was developed between 1949 through 999. The historic use of the site consisted of a single-family residence, agricultural land, and presumed storage area for vehicles. The site currently exists as a vacant lot.

On-Site and Off-Site Hazardous Materials

According to the Phase I ESA, no evidence of current or historic contamination was found to be present on the Project site. In addition, the Project site is not located on any Cortese listed sites, nor are there any actively listed sites within 0.25 mile of the Project site (DTSC 2020; SWRCB 2020).

Schools

There is one school within 0.25 mile of the Project site, Challenger School – Berryessa, located approximately 0.16-mile northwest from the Project at 711 E Gish Road, San José, California 95112.

Airports

The SJC is located approximately 1.5 miles west of the Project site at 1701 Airport Boulevard, San José, California 95110. Development within the Airport Influence Area (AIA) can be subject to hazards from aircraft and also pose hazards to aircraft travelling to and from the airport. The AIA is a composite of areas surrounding the airport that are affected by noise, height and safety considerations. These hazards are addressed in federal and State regulations as well as in land use regulations and policies in the Airport Comprehensive Land Use Plan (CLUP). The Project site is not located within the AIA nor the safety zones designated by the CLUP (SCC ALUC 2016). There are no other airports within 2 miles of the Project.

Fire Hazard

There are no wildlands located within the City. According to the California Department of Forestry and Fire Protection (CAL FIRE), there are not any very high fire hazard severity zones within the Local Responsibility Area in proximity to the Project site. Likewise, there are no moderate, high, or very high fire hazard severity zones in the State Responsibility Areas (SRAs) in the vicinity of the Project site (CAL FIRE 2008).

3.9.3 Environmental Impact Analysis

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

Hazardous materials used in hotels are those commonly found in residential and office uses, such as cleaning products, pesticides, paint, oil, and batteries. The proposed hotel would not use acutely or extremely hazardous materials. The Project would not use, store, transport, or dispose of hazardous materials other than those used for routine business operation, cleaning, maintenance and landscaping. These cleaning materials would be stored and used in accordance with the manufacturer's specifications. Materials such as solvents, paints, and fuels would also be used during Project construction. All construction activities would comply with applicable federal, state, and local handling, storage, and disposal requirements. Therefore, there would be a **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?

As discussed under impact threshold 3.9.a, Project construction and operation activities would involve limited use of common hazardous materials, including paints, solvents, fuels, oils, cleaners, and pesticides. The use of these substances is not expected to create a significant hazard to the public or the environment through reasonably foreseeable upset or accident. The Project would be required to comply with applicable federal, state, and local laws pertaining to the safe handling, storage, and transport of hazardous materials. According to the Phase I ESA that was prepared for the Project site, the site is not listed on any environmental databases and does not contain any known hazardous materials or conditions. However, since the Project site had an agricultural history (i.e., an orchard dating back to 1948), the Project would have to comply with the General Plan Policy EC-7.11 to address potential health risk from residual agricultural chemicals that could be present in the soil. As such, MM HAZ-1 would be implemented, which would require soil testing prior to construction activities for organochlorine pesticides and pesticide-based metals (e.g. lead and arsenic). If contaminated soils are found, a soil management plan would be prepared. The potential health risk impacts to both construction workers and future workers and visitors to the Project site would reduce impacts to **less than significant with mitigation incorporated**.

IMPACT HAZ-1: Historic agricultural activities on the Project site may have impacted subsurface soil with pesticide residuals, which could be released during excavation and construction activities for the Project.

MM HAZ-1: **Soil Sampling.** The Project applicant shall retain a qualified environmental consultant to conduct soil sampling to test shallow soils on the site for organochlorine pesticides and pesticide-based metals (e.g., lead and arsenic). The qualified environmental consultant shall compare results to the Regional Water Quality Control Board Environmental Screening Levels and prepare documentation to outline the soil sample data and testing and submit the results to the Director of Planning, Building, and Code Enforcement or

Director's designee and the Environmental Compliance Officer in the City of San Jose's Environmental Services Department.

If residual contaminants are found and are above environmental screening levels, the Project applicant shall implement appropriate management procedures, such as removal of the contaminated soil and/or capping the contaminated soil under clean soil or hardscape must be implemented under regulatory oversight from the SCCDEH or DTSC. Copies of all environmental investigations shall be submitted to the City's Environmental Services Department and the Director of Planning, Building and Code Enforcement, or Director's designee prior to issuance of any grading permits.

If contaminated soils are found in concentrations above established regulatory environmental screening levels, the Project applicant shall enter into the Santa Clara County Department of Environmental Health's (SCCDEH) Site Cleanup Program or equivalent to formalize regulatory oversight of the mitigation of contaminated soil to ensure the site is safe for construction workers and the public after development. The SCCDEH (or equivalent oversight agency) may require development of a Removal Action Plan, Soil Mitigation Plan, or other similarly titled report to document the removal and /or capping of contaminated soil. A copy of any reports prepared along with proof of regulatory oversight shall be submitted to the Director of Planning, Building, and Code Enforcement, or Director's designee, and the Municipal Compliance Officer of the City of San José Environmental Services Department. All work and reports produced shall be performed under the regulatory oversight and approval of the SCCDEH (or equivalent oversight agency).

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?

As discussed in Section 3.9.2.2, Schools, there is one school within 0.25 mile of the Project site, Challenger School – Berryessa, which is located approximately 0.16-mile northwest from the Project at 711 E Gish Road, San José, California 95112. As discussed under impact threshold 3.9.a, hotel uses are not typically associated with the use acutely or extremely hazardous materials aside from common cleaning products. These common cleaning products would be stored and used in accordance with the manufacturer's specifications. In addition, construction activities would use nominal amount of solvents, paints, and fuels that would comply with applicable federal, state, and local regulations for handling, storage, transportation, and disposal requirements. Therefore, impacts to schools would be **less than significant**.

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 in Section 3.9.2.1, Existing Conditions, there are no active Cortese listed sites on the Project site (DTSC 2020; SWRCB 2020). Therefore, there would be **no impact** related to being located

on a site which is included in a list of hazardous materials pursuant to Government Code Section 95962.5.

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 or private 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?

As discussed in Section 3.9.2.3, Airports, SJC is located approximately 1.5 miles west of the Project site. However, the Project site is not located within the AIA nor the safety zones designated by the CLUP (SCC ALUC 2016). The Project's location is outside of the takeoff and landing areas of the airport (i.e., which run in a general north to south direction). However, the Project site lies within the height restriction area as identified under FAR Part 77 surfaces that limits the height of any structure on the Project site to 212 feet. The proposed hotel building would be 120 feet at its highest point and would not result in a safety hazard to people residing or working in the Project area. Therefore, **no impact** would occur.

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

The Project would not substantially change circulation or access routes that could potentially impair implementation of or physically interfere with an adopted emergency response plan (i.e., the San José EOP) or emergency evacuation plan. The design of the new access points associated with the development of the hotel would be reviewed and approved by the San José Fire Department to ensure that emergency access meets City standards. During construction, temporary partial street closures may be required for staging of large equipment, such as the crane, before bringing it onto the construction site. However, these closures would be limited to few hours and would be coordinated with the City of San José Department of Transportation. Therefore, there would a **be 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 is located in the central area of the City and is surrounded on all sides by existing development including roads, structures, and infrastructure. Therefore, the Project would result in **no impact** related to wildland fires.

3.10 HYDROLOGY AND WATER QUALITY

HYDROLOGY AND WATER QUALITY Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Violate water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater 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: i. Result in substantial erosion or siltation on- or off-site; ii. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; iii. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or iv. Impede or redirect flood flows.	☐	☐	☒	☐
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?	☐	☐	☒	☐

3.10.1 Regulatory Setting

3.10.1.1 Federal

Federal Clean Water Act

The CWA (33 United States Code Section 1251 et seq.), formerly the Federal Water Pollution Control Act of 1972, was enacted with the intent of restoring and maintaining the chemical, physical, and biological integrity of the waters of the United States. The CWA requires states to set standards to protect, maintain, and restore water quality through the regulation of point source and certain non-point source discharges to surface water. Those discharges are regulated by the National Pollutant Discharge Elimination System (NPDES) permit process (CWA Section 402). Section 401 of the CWA regulates surface water quality, and a Water Quality Certification is required for federal actions (including construction activities) that may entail impacts to surface water. In California, NPDES permitting authority is delegated to, and administered by, the SWRCB and the nine RWQCBs.

National Flood Insurance Program

FEMA is responsible for managing the National Flood Insurance Program, which makes federally-backed flood insurance available for communities that agree to adopt and enforce floodplain management ordinances to reduce future flood damage.

The National Flood Insurance Program, established in 1968 under the National Flood Insurance Act, requires that participating communities adopt certain minimum floodplain management standards, including restrictions on new development in designated floodways, and a requirement that new structures in the 100-year flood zone be elevated to or above the 100-year flood level known as base flood elevation. To facilitate identifying areas with flood potential, FEMA has developed Flood Insurance Rate Maps that can be used for planning purposes, including floodplain management, setting flood insurance premiums, and enforcement of mandatory flood insurance purchase requirements.

3.10.1.2 State

Porter Cologne Water Quality Control Act

The State of California established the SWRCB, which oversees the nine RWQCBs, through passage of the Porter-Cologne Water Quality Control Act in 1969. Through the enforcement of the act, the SWRCB determines the beneficial uses of the waters (surface and groundwater) of the State, establishes narrative and/or numerical water quality standards, and initiates policies relating to water quality. The SWRCB and, more specifically, each RWQCB, is authorized to prescribe Waste Discharge Requirements, which may impact the waters of the state. Furthermore, the development of water quality control plans, or Basin Plans, are required by the Porter-Cologne Water Quality Control Act to protect water quality in the state's watersheds.

The SWRCB issues both General Construction Permits and individual permits under the auspices of the federal NPDES program. Projects disturbing more than 1 acre of land during construction are required to file a Notice of Intent (NOI) with the SWRCB to be covered under the State NPDES General Construction Permit for discharges of stormwater associated with construction activity. Construction activities that are subject to this General Permit include: clearing, grading, disturbances to the ground such as stockpiling, or excavation that results in soil disturbances of at least 1 acre of total land area. The Project proponent must implement control measures that are consistent with the State General Permit. A Stormwater Pollution Prevention Plan (SWPPP) must be developed and implemented for each site covered by the General Permit. A SWPPP describes BMPs that the discharger would use to protect stormwater runoff and reduce potential impacts to surface water quality through the construction period. The SWPPP must contain the following: a visual monitoring program, a chemical monitoring program for "non-visible" pollutants to be implemented if there is a failure of BMPs, and a sediment monitoring plan if the site discharges directly to a water body listed on the CWA Section 303(d) (303(d)) list for sediment.

Statewide Construction General Permit

The SWRCB has implemented a NPDES General Construction Permit for the State of California. For projects disturbing 1 acre or more, a NOI and a SWPPP must be prepared by a qualified professional

prior to commencement of construction. The General Construction Permit for the State of California includes requirements for training, inspection, record keeping, and for projects of certain risk levels, monitoring. The general purpose of the requirements is to minimize the discharge of pollutants and to protect beneficial uses and receiving waters from the adverse effects of construction-related storm water discharges.

3.10.1.3 Local

Envision San José 2040 General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating hydrology and water quality impacts from projects. The following policies are applicable to the Project (City of San José 2018a):

- **Goal ER-8**: Stormwater. Minimize the adverse effects on ground and surface water quality and protect property and natural resources from stormwater runoff generated in the City of San José.
    - **Policy ER-8.1:** Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
    - **Policy ER-8.3:** Ensure that private development in San José includes adequate measures to treat stormwater runoff.
    - **Policy ER-8.4:** Assess the potential for surface water and groundwater contamination and require appropriate preventative measures when new development is proposed in areas where storm runoff will be directed into creeks upstream from groundwater recharge facilities.
    - **Policy ER-8.5:** Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.
    - **Policy EC-4.1:** Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls.
- **Goal EC-5:** Flooding Hazards. Protect the community from flooding and inundation and preserve the natural attributes of local floodplains and floodways.
    - **Policy EC-5.7:** Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.
    - **Policy EC-5.16:** Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

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

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

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

The City of San José's Policy No. 8-14 implements the stormwater treatment requirements of Provision C.3 of the MRP. Policy No. 8-14 requires all new and redevelopment projects that create or replace 1 acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan.

The Project site is exempt from the NPDES hydromodification requirements related to preparation of an Hydromodification Management Plan because it would create or replace less than 1 acre of impervious surfaces.

San Francisco Bay Basin Plan

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

Municipal Regional Stormwater Permit

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

- Projects that create or replace 10,000 square feet or more of impervious surface.

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

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

Santa Clara Valley Dam Safety Program

The Santa Clara Valley Water District (SCVWD) includes a Dam Safety Program which ensures the continued operation of the 10 major dams that the SCVWD owns and operates. The SCVWD works closely with state and federal regulators and downstream emergency partners to meet stringent safety and emergency planning goals. The Dam Safety Program includes four main components: 1) periodic special engineering studies, 2) Surveillance and monitoring, 3) dam inspections and maintenance, and 4) emergency response and preparedness. A dam retrofit project for the Anderson Dam was recently voter approved as part of the Safe, Clean Water and Natural Flood Protection program (SCVWD 2020).

3.10.2 Environmental Setting

Surface Water and Water Quality

The Project is located within the Coyote Creek watershed, the largest watershed in Santa Clara County (City of San José ND). The water quality of the river is directly affected by pollutants contained in stormwater runoff from a variety of urban and non-urban uses. Stormwater from urban uses contains metals, pesticides, herbicides, and other contaminants, such as oil, grease, asbestos, lead, and animal wastes. Pollutants from unidentified sources, known as "non-point" source pollutants, are washed from streets, construction sites, parking lots, and other exposed surfaces into storm drains.

Under Section 303(d) of the 1972 CWA, states are required to identify impaired surface water bodies and develop total maximum daily loads (TMDLs) for contaminants of concern (EPA 2020). The TMDL is the quantity of pollutant that can be safely assimilated by a water body without violating water quality standards. Listing of a water body as impaired does not necessarily suggest that the water body cannot support the beneficial uses; rather, the intent is to identify the water body as requiring future development of a TMDL to maintain water quality and reduce the potential for future water quality degradation. Coyote Creek is listed on the 303(d) Impaired Water Bodies watch list and is listed as having a 2007 EPA-approved TMDL for diazinon, whose sources include urban runoff and storm sewers that carry pesticide residue.

Groundwater

Groundwater levels fluctuate seasonally depending on variations in rainfall, tidal influences, and other factors. Based on the Geotechnical Report prepared by Silicon Valley Soil Engineering, groundwater was encountered at a depth of 13 and 15 feet below the ground surface. However, the highest expected groundwater table is at the depth of 5 feet below the ground surface. The Project site is located within the Santa Clara Plain Recharge area of the Santa Clara Valley Basin where groundwater occurs under unconfined conditions. However, The Project site is not located within any of the SCVWD's percolation facilities for groundwater recharge (SCVWD 2016).

Stormwater

The City of San José Public Works Department owns and maintains the municipal storm drainage system which serves the Project site. Stormwater from the Project site drains into the 15-inch storm drain located in Faulstich Court.

Flooding and Dam Failure

Based on FEMA's Flood Insurance Rate Maps (Map 06085C0232H), the Project site is located in Flood Zone AO (FEMA 2009). Zone AO is an area subject to a one percent flood with a depth of 1 foot, and mandatory flood insurance requirements apply. Additionally, the Project site is located within the Anderson dam failure inundation zone (City of San José 2016).

Seiches, Tsunamis, and Mudflows

A seiche is an oscillation of the surface of a lake or landlocked sea varying in period from a few minutes to several hours. There are no landlocked bodies of water near the Project site that in the event of a seiche will affect the sites.

A tsunami or tidal wave is a series of water waves caused by the displacement of a large volume of a body of water, such as an ocean or a large lake. Due to the immense volumes of water and energy involved, tsunamis can devastate coastal regions. The Project sites do not lie within a tsunami inundation hazard area (MTC/ABAG 2020a).

A mudflow is the rapid movement of a large mass of mud formed from loose soil and water. The Project sites are not susceptible to mudflows (MTC/ABAG 2020b).

3.10.3 Environmental Impact Analysis

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

The Project would disturb less than 1 acre (i.e. a total of 0.25 acre for the Project site); therefore, compliance with the NPDES General Permit for Construction Activities (including submitting an NOI to the RWQCB and development of a SWPPP to control discharge associated with construction activities) is not required.

Construction activities would result in a temporary increase in stormwater pollutants and runoff during ground disturbing activities. The Project applicant would be required to comply with the City of San José Grading Ordinance, including implementation of 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. In addition, the City's standard permit conditions would be required as a condition of Project approval to reduce potential construction-related water quality impacts.

During operation, the Project would comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and Provision C.3 of the MRP, as applicable. TCMs would be included to direct stormwater runoff into treatment areas to protect water quality. Details of specific site design, pollutant source control, and stormwater treatment control measures would be included in the Project design to the satisfaction of the Director of PBCE. Since the Project site is an infill development in an area that is greater than or equal to 65 percent impervious, the Project is located in a non-hydromodification management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14) (City of San José 2010). Compliance with standard permit conditions and TCMs would ensure that there would be a **less than significant impact** related to water quality from runoff during both operation and construction.

Standard Permit Conditions

Construction-related water quality.

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

Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

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 would create approximately 9,933 square feet of new impervious area; however, it would not include installation of any new groundwater wells and would not deplete groundwater supplies. The General Plan Final EIR concluded that development and redevelopment of new residential, commercial, or industrial uses allowed under the General Plan is not proposed to occur within any of the SCVWD's percolation facilities for groundwater recharge nor would it otherwise affect the operation of the percolation or recharge facilities. The Project site is not within or adjacent to a SCVWD groundwater recharge facility, such as a SCVWD recharge pond. The groundwater level at the Project site is expected at the depth of 5 feet below the ground surface; therefore, dewatering may be required. Although dewatering may temporarily reduce groundwater levels at the site, the Project would not significantly affect the levels of the region's aquifer. The Project would include flow-through planters which would catch some stormwater runoff from leaving the Project site and would allow for percolation back into the groundwater table. Therefore, while the Project would result in an increase in impervious surface on the sites, the Project's design would allow for runoff to be directed toward areas that support groundwater recharge and therefore, a **less than significant impact** would occur related to groundwater recharge.

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;

i. Result in substantial erosion or siltation on- or off-site;

ii. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;

iii. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or

iv. Impede or redirect flood flows.

The Project would increase the amount of impervious surfaces in the area by 9,933 square feet. As discussed under impact threshold 3.10.a, construction of the Project would comply with the City of San José Grading Ordinance, including implementation of 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 as well as the standard permit condition included under impact threshold 3.10.a.

During operation, the Project would include flow-through planters which would catch some stormwater runoff from leaving the Project site and would allow for controlled collection and percolation of stormwater

flows into the groundwater table. Any additional stormwater flows would flow into the City's drainage system via a 6-inch stormwater pipe which would be conveyed to existing 15-inch storm drain in Faulstich Court. Thus, the Project would not substantially alter the existing drainage pattern of the sites such that erosion or siltation would occur, nor would the Project substantially increase the rate or amount of surface runoff beyond the capacity of available storm drain facilities. The Project construction and operation would not substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site nor would it cause the City's existing storm drainage system to exceed capacity. Therefore, this would be a **less than significant impact**.

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

As discussed under Section 3.10.2, Environmental Setting, the Project area is not located within a seiche, tsunami, or mudflow hazard area (MTC/ABAG 2020a, 2020b). However, the Project site is located within a FEMA AO Zone, which could be subject to a based floods with flood depths of 1 to 3 feet (usually sheet flow on sloping terrain), as well as within the dam failure inundation zone of the Anderson dam (City of San José 2016; FEMA 2009). Based on the Project's civil engineering data, the highest adjacent grade (HAG) to the Project is determined to be 64.6 feet. Per the City of San José, design flood elevation (DFE) is set at one foot above the HAG. The Project's DFE would be set at 1 foot above the HAG, plus 1 foot of freeboard or 2 feet above the HAG, with a DFE of 66.6 feet. In addition, a Flood Proofing Pan would be submitted as part of the building plans.

The SCVWD Dam Safety Program (Section 3.10.1.3, Local) makes such a risk extremely low, and the Project would not trigger or exacerbate the risk of Anderson Dam failure, an existing condition that could affect the site and this issue is outside the bounds of CEQA, as outlined in the California Supreme Court December 2015 opinion [*California Building Industry Association v. Bay Area Air Quality Management District,* 62 Cal. 4th 369 (No. S 213478)], in that CEQA is concerned with a project's effects on the environment and not the environment's potential effects on a project. Further, as part of this Dam Safety Program, retrofits for the Anderson Dam have been identified and the Anderson Dam Seismic Retrofit Project was recently voter approved (SCVWD 2020). Therefore, the Project site is not subject to a significant risk of loss, injury, or death involving dam inundation and this would be a **less than significant impact.**

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

As discussed in response to impact threshold 3.10.b, groundwater at the Project site could be encountered at the site during construction of the underground parking. The Project would, however, not significantly affect groundwater levels of the region's aquifer. The Project site is not in a designated groundwater recharge area and, therefore, would not affect groundwater recharge. In addition, The Project would comply with the City of San José Grading Ordinance, including implementation of 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, as well as the standard permit conditions listed under impact threshold 3.10.a; therefore, implementation of the Project would not

significantly impact water quality. Further, the Project site is not located within a groundwater recharge area and would not interfere with groundwater recharge (SCVWD 2016). For these reasons, the Project would not conflict with implementation of a water quality or groundwater management plan. This would a be **less than significant impact**.

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3.11 LAND USE AND PLANNING

LAND USE AND PLANNING Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Physically divide an established community?	☐	☐	☒	☐
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?	☐	☐	☒	☐

3.11.1 Regulatory Setting

3.11.1.1 Federal

There are no federal regulations or policies related to land use and planning that are relevant to the Project.

3.11.1.2 State

General Plans

The land use planning and zoning authority of local jurisdictions in California is set forth in the state's planning laws. California Government Code Section 65300, et seq. obliges cities and counties to adopt and implement general plans. The general plan is a comprehensive, long-term, and general document that describes plans for the physical development of a city or county and of any land outside its boundaries that, in the city's or county's judgment, bears relation to its planning. The general plan addresses a broad range of topics including, at a minimum, land use, circulation, housing, conservation, open space, noise, and safety. In addressing these topics, the general plan identifies the goals, objectives, policies, principles, standards, and plan proposals that support the City's or county's vision for the area. The general plan is a long-range document that typically addresses the physical character of an area over a 20-year period. Although the general plan serves as a blueprint for future development and identifies the overall vision for the planning area, it remains general enough to allow flexibility in the approach taken to achieve the plan's goals.

State Zoning Law

The State Zoning Law (California Government Code Section 65800, et seq.) establishes that zoning ordinances, which are laws that define allowable land uses within a specific district, are required to be consistent with the general plan and any applicable specific plans. When amendments to the general plan are made, corresponding changes in the zoning ordinance may be required within a reasonable time to ensure the land uses designated in the general plan would also be allowable by the zoning ordinance (California Government Code Section 65860, sub.[c]).

3.11.1.3 Local

Envision San José 2040 General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating land use and planning impacts from projects. The following policies are applicable to the Project (City of San José 2018a):

- **Goal LU-4:** Commercial. Establish commercial uses that maximize revenue to the City and provide employment for its residents in order to achieve fiscal sustainability and our desired jobs per employed resident ratio.
    - **Policy LU-4.1:** Retain existing commercial lands to provide jobs, goods, services, entertainment, and other amenities for San José's workers, residents, and visitors.
    - **Policy LU-9.2:** Facilitate the development of complete neighborhoods by allowing appropriate commercial uses within or adjacent to residential and mixed-use neighborhoods.
    - **Policy LU-11.4:** Locate new commercial uses in established residential neighborhoods on busier streets or at street intersections. Discourage new commercial uses on small existing residential streets unless it can be clearly demonstrated that the commercial use can integrate with the existing residential neighborhood without creating adverse impacts. Discourage primary access to large commercial parking lots and structures through residential neighborhoods.
- **Goal IP-1:** Land Use / Transportation Diagram. Make land use and permit decisions to implement the Envision General Plan Land Use / Transportation Diagram and to further the vision, goals and policies of the Envision General Plan.
    - **Policy IP-1.7**: Use standard Zoning Districts to promote consistent development patterns when implementing new land use entitlements. Limit use of the Planned Development Zoning process to unique types of development or land uses which cannot be implemented through standard Zoning Districts, or to sites with unusual physical characteristics that require special consideration due to those constraints.
- **Goal IP-8:** Zoning. Use rezoning of property to directly implement the land use designations as shown on the Land Use/Transportation Diagram. By City Council policy, the rezoning of property should ordinarily conform to the Envision General Plan.
    - **Policy IP-8.5:** Use the Planned Development zoning process to tailor such regulations as allowed uses, site intensities and development standards to a particular site for which, because of unique circumstances, a Planned Development zoning process will better conform to Envision General Plan goals and policies than may be practical through implementation of a conventional Zoning District. These development standards and

other site design issues implement the design standards set forth in the Envision General Plan and design guidelines adopted by the City Council. The second phase of this process, the Planned Development permit, is a combined site/architectural permit and conditional use permit which implements the approved Planned Development zoning on the property.

3.11.2 Environmental Setting

The Project site currently consists of an undeveloped site that is surrounded by commercial and residential land uses. The General Plan Land Use and zoning designations for the Project site are discussed in further detail below.

General Plan Land Use Designation

The Project site is designated Combined Industrial/Commercial by the City's General Plan. This land use designation is intended for a mix of commercial, office, and industrial uses, including hospitals and private community gathering facilities. This designation occurs in areas where the existing development pattern exhibits a mix of commercial and industrial land uses or in areas on the boundary between commercial and industrial uses. Development intensity can vary in this designation based on the type of uses to occur. In order to maintain an industrial character, small, suburban strip centers are discouraged in this designation, although larger big-box type developments may be allowed, because they mix elements of retail commercial and warehouse forms and uses. While this designation potentially accommodates a wide variety of uses and building forms, more specific guidance should be provided through the application of the Zoning Ordinance to establish use and form standards that will promote the development of a cohesive employment area across multiple adjoining properties that share this designation (City of San José 2018a).

Zoning

The Project site is within the City's Combined Industrial/Commercial zoning district. The applicant is proposing to rezone the Project site from the Combined Industrial/Commercial zoning district to the Combined Industrial/Commercial Planned Development zoning district to allow development of the Project.

The Combined Industrial/Commercial zoning district is intended for commercial or industrial uses, or a compatible mixture of these uses, that support the goals of the combined industrial/commercial general plan designation. The district allows for a broad range of commercial uses with a local or regional market, including big box retail, and a narrower range of industrial uses, primarily industrial park in nature, but including some low-intensity light industrial uses. Hotel uses are permitted in the Combined Industrial/Commercial zoning district (City of San José 2019).

3.11.3 Environmental Impact Analysis

a) Would the project physically divide an established community?

Projects that have the potential to physically divide an established community are those that would create physical barriers resulting in the separation or division and existing community or neighborhood, such as the construction of new freeways, highways, roadways, or other similar linear infrastructure projects. The Project consists of a five-story hotel development at 1338 Oakland Road within an area that is surrounded with residential and commercial development and would not divide an existing community by proposing new roadways or modifying existing access routes. Therefore, the Project would result in a **less than significant impact** related to physically dividing an established community.

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

The Project would construct a five-story hotel on one parcel that has a zoning designation of Combined Industrial/Commercial. The applicant is proposing to rezone the Project site from the Combined Industrial/Commercial zoning district to the Combined Industrial/Commercial Planned Development zoning district to allow for development of the Project. The Combined Industrial/Commercial zoning district is intended for commercial or industrial uses, or a compatible mixture of these uses, which support the goals of the combined industrial/commercial general plan designation. The Combined Industrial/Commercial zoning district allows for a broad range of commercial uses with a local or regional market, including big box retail, and a narrower range of industrial uses, primarily industrial park in nature but including some low-intensity light industrial uses. The City limits the use of Planned Development Zonings to unique situations and those projects that exhibit high quality architectural design. The Project would be subject to a design review for setbacks, massing, façade treatments, and other development standards. Pursuant to approval of a Planned Development designation, the Project would be consistent with the proposed zoning designation.

The Project site is designated Combined Industrial/Commercial by the City's General Plan. The Combined Industrial/Commercial designation allows a floor area ratio of up to 12.0 and structures up to 24 stories. The Project would have a floor-to-area ratio of 2.47:1 and would be 5 stories in height.

The Project would be required to receive approval for all building-related permits and encroachment permits, which further specify requirements for compliance with City policies, codes, and regulations related to development within the City. Therefore, the Project would be consistent with all applicable land use plans, policies, and regulations adopted for the purpose of avoiding or mitigating an environmental effect, and this would be a **less than significant impact**.

3.12 MINERAL RESOURCES

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

3.12.1 Regulatory Setting

3.12.1.1 Federal

There are no federal regulations related mineral resources that are relevant to the Project.

3.12.1.2 State

Mineral Resources and the Surface Mining and Reclamation Act

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

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

3.12.1.3 Local

There are no local regulations or policies related to mineral resources that are relevant to the Project.

3.12.2 Environmental Setting

The vast majority of the City does not contain any mineral resources of regional or local importance. The Communications Hill Area, which is generally bounded by the Union Pacific Railroad, Curtner Avenue, State Route 87, and Hillsdale Avenue, was found to contain mineral deposits which are of regional significance, as a source of aggregate materials used in construction (City of San José 2011). However, other than the Communications Hill area, there are no other designated mineral deposits in the City. The Project site is located approximately 5 miles north of the Communications Hill area.

3.12.3 Environmental Impact Analysis

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

The Project would not result in the loss of availability of a known mineral resource because there are no mineral resource areas within the Project site. The Communications Hill area, the only known area within the City with mineral resources, is more than 5 miles from the Project site and would not be impacted by Project implementation. Therefore, there would be **no impact** related to mineral resources.

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?

As discussed under impact threshold 3.12.a, the only known area within the City with mineral resources is the Communications Hill area, which is located more than 5 miles from the Project site. There are no other locally-important mineral resources sites within the City. Therefore, the Project would result in **no impact** to the loss of availability of locally-important mineral resources.

3.13 NOISE

NOISE Would the project result in:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☒	☐	☐
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 Noise Report was completed for the Project site in September of 2020 by Stantec Consulting Services (Appendix F). The information contained in this Noise Report formed the basis of the information and analysis in this section.

3.13.1 Regulatory Setting

3.13.1.1 Federal

There are no federal regulations or policies related to noise that are relevant to the Project.

3.13.1.2 State

California Building Code

Part 2, Title 24 of the California Code of Regulations, California Noise Insulation Standards, establishes minimum noise insulation standards to protect persons within new hotels, motels, dormitories, long-term care facilities, apartment houses, and dwellings other than single-family residences. Under Section 1207.11 “Exterior Sound Transmission Control”, interior noise levels attributable to exterior noise sources cannot exceed 45 day-night average sound level (L_{dn} or DNL)[2] in any habitable room. Where such residences are located in an environment where exterior noise is 60 DNL or greater, an acoustical analysis is required to ensure interior levels do not exceed the 45 DNL interior standard. If the interior

[2] L_{dn} and DNL refer to the same noise descriptor, but the Noise Report (Appendix F) refers to L_{dn}, whereas this Initial Study refers to it as DNL to be consistent with the City’s General Plan/Municipal Code.

allowable noise levels are met by requiring that windows be kept closed, the design for the building must also specify a ventilation or air conditioning system to provide a habitable interior environment.

3.13.1.3 Local

Envision San José 2040 General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating noise and vibration impacts from projects. The following policies are applicable to the Project and are shown in Figure 3.13-1, below (City of San José 2018a):

- **Policy EC-1.1:** Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state, and City noise standards and guidelines as a part of new development review.
    - Interior Noise Levels
        - The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected Envision General Plan traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan.
    - Exterior Noise Levels
        - The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (refer to Table EC-1 in the General Plan. Residential uses are considered "normally acceptable" with exterior noise exposures of up to 60 dBA DNL and "conditionally compatible" where the exterior noise exposure is between 60 and 75 dBA DNL such that the specified land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features are included in the design.

- **Policy EC-1.2:** Minimize the noise impacts of new development on land uses sensitive to increased noise levels 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 (day-night noise level) at noise sensitive receptors to increase by five (5) dB(A) DNL or more where the noise levels would remain "Normally Acceptable"; or

    - Cause the DNL at noise sensitive receptors to increase by three (3) dB(A) DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.

Table EC-1: Land Use Compatibility Guidelines for Community Noise in San José

LAND USE CATEGORY	EXTERIOR NOISE EXPOSURE (DNL IN DECIBELS (DBA)) 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, Churches	
4. Office Buildings, Business Commercial, and Professional Offices	
5. Sports Arena, Outdoor Spectator Sports	
6. Public and Quasi-Public Auditoriums, Concert Halls, Amphitheaters	

[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 needed noise insulation 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.

- **Policy EC-1.3:** Mitigate noise generation of new non-residential land uses to 55 dB(A) DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.
- **Policy EC-1.6:** Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City's Municipal Code.
- **Policy EC-1.7**: Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project is located within 500 feet of residential uses or 200 feet of commercial or offices 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 residential and other uses.
- **Policy EC-2.3:** Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction…A continuous vibration limit of 0.20 in/sec (inches per second) PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Equipment or activities typical of generating continuous vibration include but are not limited to excavation equipment; static compaction equipment; vibratory pile drivers; pile-extraction equipment; and vibratory compaction equipment. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of historical buildings, or buildings in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction. Transient vibration impacts may exceed a vibration limit of 0.08 in/sec PPV only when and where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

Chapter 3 of General Plan document also identifies land use compatibility noise standards for noise-sensitive land uses affected by transportation and non-transportation noise sources. As shown in Figure 3.13-1, the ranges for noise-sensitive hotel and motel land uses that are affected by transportation noise sources are as follows:

Hotel and Motel Land Uses

- "Normally Acceptable" – 50-60 dB(A) DNL
- "Conditionally Acceptable" – 60-75 dB(A) DNL
- "Unacceptable" – Higher than 75 dB(A) DNL

Sites with ambient noise at "conditionally acceptable" levels may be permitted only after a detailed analysis of the noise reduction requirements and needed noise insulation features included in the design. New construction with exterior noise levels in the "Unacceptable" range are discouraged because mitigation is usually not feasible to comply with the noise element policies.

City of San José Municipal Code

Paragraph 20.40.600.B "Performance Standards", Table 20-105 "Noise Standards" in the City of San José Municipal Code sets criteria for noise generated by commercially-zoned properties that is received by other adjacent properties. The table lists a maximum noise level of 55 dB(A) at the property line of all adjacent residentially zoned properties and a maximum noise level of 60 dB(A) at the property line of all commercially zoned or other non-residential uses.

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

Paragraph 20.40.600.C states there shall be no activity on any site that causes ground vibration that is perceptible without instruments at the property line of the site.

3.13.2 Environmental Setting

Existing ambient noise environment is discussed here. For a detailed discussion of noise fundamentals and standards, refer to Appendix F.

Existing Ambient Noise Levels

The existing or ambient, noise environment in a Project area is characterized by the area's general level of development. Areas which are not urbanized are relatively quiet, while areas which are more urbanized are noisier as a result of roadway traffic, industrial activities, and other human activities.

The City of San José is exposed to several sources of noise, including traffic on major highways, such as US 101 and I-880, noise from traffic on busy arterial roads, such as Oakland Road, noise from railways, and noise from SJC. Traffic noise depends primarily on traffic speed (tire noise increases with speed), proportion of medium and large truck traffic (trucks generate engine, exhaust, and wind noise in addition to tire noise), and number of speed control devices, such as traffic lights (accelerating and decelerating vehicles and trucks can generate more noise).

Changes in traffic volumes can also have an impact on overall traffic noise levels. For example, it takes 25 percent more traffic volume to produce an increase of only 1 dB(A) in the ambient noise level. For roads already heavy with traffic volume, an increase in traffic numbers could even reduce noise because the heavier volumes could slow down the average speed of the vehicles. A doubling of traffic volume results in a 3 dB(A) increase in noise levels.

Typically, the existing ambient noise environment at a project site would be determined through a noise measurement survey consisting of long term (24-hour) measurement locations to calculate day-night noise levels (DNL) and additional short term (15-minute) measurements to extrapolate the noise levels across the project site and at the closest noise-sensitive receptors. Due to current conditions in California associated with closures and modified work conditions from the COVID-19 pandemic, traffic volumes on the roadways are currently much lower than is experienced during normal times. If ambient noise level measurements were taken at the Project site now, the noise levels measured would be less than what is anticipated to be present during normal conditions.

Therefore, a multi-step approach was taken to determine the ambient noise levels at the Project site and the surrounding area under “normal” circumstances. First, 2035 future traffic noise contours for the neighborhoods within San José are shown in Appendix C “Environmental Noise Assessments” in the December 7, 2010 “Envision San José 2040 General Plan Comprehensive Update Environmental Noise Assessment” document. Figure 8 “Berryessa 2035 Noise Contour Map” shows future noise contours along Oakland Road, including the Project site. From Figure 8, noise levels at the edge of the hotel site along Oakland Road are shown to be between 70-75 dB(A) DNL. The other facades of the hotel site (i.e. along Faulstich Court) are shown to be between 65-70 dB(A) DNL.

Second, noise levels at the Project site and surrounding properties was projected using measured and estimated ambient noise levels from the September 3, 2017 “Oakland Road Rotten Robbie” document prepared by J.C. Brennan & Associates, Inc. The ambient noise levels from this Project were referenced because of the more recent timing of the measurements, the proximity to the Oakland Road Comfort Suites site (approximately 0.34 miles south of the Project site) and the distance between the measurements/analysis points and Oakland Road.

The September 2017 J.C. Brennan & Associates, Inc. document states the existing noise environment along Oakland Road includes roadway traffic on Oakland Road, some noise from industrial and commercial uses, and to a lesser extent, distant aircraft noise from SJC.

A noise monitoring survey at the corner of Oakland Road and Commercial Street was conducted between Tuesday, February 14 and Wednesday, February 15, 2017. The ambient noise measured approximately 85 feet from the centerline of Oakland Road was 65 dB(A) during both daytime and nighttime hours and the day-night average noise level extrapolated at the measurement location was 68 dB(A) DNL.

The edge of the Oakland Road Comfort Suites Project site is approximately 62 feet from the centerline of Oakland Road. Accounting for distance attenuation from a line source, expected ambient noise levels at the hotel would be approximately 69 dB(A) during both daytime and nighttime hours with a day-night

noise level of 72 dB(A) DNL. This estimate is also generally consistent with the data presented in the General Plan Comprehensive Update Environmental Noise Assessment document.

The closest noise-sensitive receptor in the South Bay Mobile Home Park is about 80 feet from the centerline of Oakland Road. Again, accounting for distance attenuation from a line source, expected ambient noise levels at the mobile home would also be about 69 dB(A) during both daytime and nighttime hours with a day-night noise level of 72 dB(A) DNL.

Therefore, the estimated ambient noise levels at the Project site and at the closest residential receptor are already within the "Conditionally Acceptable" range for both hotel and residential uses according to the City of San José Land Use Compatibility Standards.

3.13.3 Environmental Impact Analysis

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?

Short Term Construction Noise

Construction activities would include site preparation, grading, building construction, and paving. Each construction stage has its own mix of equipment, and consequently, its own noise characteristics. The various construction operations would change the character of the noise generated at the Project site and therefore, the noise level as construction progresses. The loudest stages of construction include the building construction and grading stages, as the noisiest construction equipment is typically earthmoving and grading equipment.

The construction of the Oakland Road Comfort Suites Project would be conducted in five stages and each stage will use different construction equipment. The main types of noise-producing equipment for each construction stage are shown in Table 3.13-1.

Table 3.13-1: Construction Stage Equipment

Construction Stage	Construction Equipment	
Site Preparation	Grader	Tractor
Grading	Concrete Saw Rubber-Tired Dozer Sump Pumps (2)	Tractor Front-End Loader
Building Construction	Crane Backhoe Tower Crane	Forklifts (2) Tractor Construction Elevator
Paving	Paver Roller	Cement and Mortar Mixers (4) Tractor
Architectural Coating	Air Compressor	

Table 3.13-2 lists the types of construction equipment and the maximum and average operational noise level as measured at 20 feet from the operating equipment. The 20-foot distance represents the approximate distance between the Project and the closest noise-sensitive receptor within the South Bay Mobile Home Park.

Table 3.13-2: Summary of Federal Highway Administration Roadway Construction Noise Model

Construction Equipment Source at the Project Site	Distance to Nearest Sensitive Receptor	Sound Level at Residence		
		L_{max}, dB(A)	Acoustical Use Factor (%)	L_{eq}, dB(A)
Backhoe	20 feet	85.5	40	81.5
Concrete Saw	20 feet	97.5	20	90.5
Crane, Tower Crane	20 feet	88.5	16	80.6
Concrete Mixer Truck	20 feet	86.8	40	82.8
Compressor (air)	20 feet	85.6	40	81.6
Dozer	20 feet	89.6	40	85.6
Forklift[1]	20 feet	87.1	40	83.1
Front End Loader	20 feet	87.1	40	83.1
Grader	20 feet	93.0	40	89.0
Paver	20 feet	85.2	50	82.2
Roller	20 feet	88.0	20	81.0
Tractor	20 feet	92.0	40	88.0
Pumps (Sump Pump)	20 feet	88.9	50	85.9
Man Lift (Construction Elevator)	20 feet	82.7	20	75.7

Notes:

The Roadway Construction Noise Model program does not have sound levels for a forklift. Therefore, the noise levels from a front-end loader were used in the analysis to simulate the forklift.

dB(A) = A-weighted decibel

L_{eq} = equivalent noise level

L_{max} = maximum noise level

Source: Appendix F

A worst-case condition for construction activity would assume all noise-generating equipment were operating at the same time and at the same distance from the closest noise-sensitive receptor. Using this assumption, the Roadway Construction Noise Model program calculated the following combined L_{eq} and Lmax noise levels from each stage of construction as shown in Table 3.13-3.

Table 3.13-3: Calculated Noise Level from Each Construction Stage

Construction Phase	Distance to Closest Noise Sensitive Receptor, feet	Calculated L_{max}, dB(A)	Calculated L_{eq}, dB(A)
Site Preparation	20	95.5	91.5
Grading	20	100.1	94.9
Building Construction	20	96.6	91.6
Paving	20	96.5	92.2
Architectural Coating	20	85.6	81.6

Notes:
dB(A) = A-weighted decibel
L_{eq} = equivalent noise level
L_{max} = maximum noise level

Although noise levels from construction could fall into the "Unacceptable" range as defined in Figure 3.13-1, increases in noise levels from construction activities would be temporary and construction activities would be limited to the restrictions set by the Envision San José 2040 General Plan. To recap, Policy EC-1.7 in the Envision San José 2040 General Plan states the following:

- **Policy EC-1.7:** Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project is located within 500 feet of residential uses or 200 feet of commercial or offices 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 residential and other uses.

<u>Standard Permit Conditions</u>

- **Construction-Related Noise.** Noise minimization measures include, but are not limited to, the following:

- Limit construction hours to between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Prohibit unnecessary idling of internal combustion engines.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the Project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.
- If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- Designate a “disturbance coordinator” who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

  Limit construction to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific “construction noise mitigation plan” and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

In conclusion, construction noise would be short-term and intermittent. Furthermore, construction noise would comply with the City's standard permit conditions, as stated above; therefore, there would be a less than significant impact from construction noise.

Project Fixed-Source and Operational Noise

Project-Generated Traffic

As described in Section 3.13.2.1, the anticipated existing noise level on-site under conservative conditions (72 dBA DNL) exceeds the City's "normally acceptable" noise level for hotel and residential uses. Pursuant to General Plan Policy EC-1.2, a three dBA DNL increase at sensitive noise receptors would be significant. A three dBA DNL noise increase would be expected if the project would double existing traffic volumes along the roadway. Based on review of the existing and existing plus project traffic volumes, the project contribution to the overall noise level increase would be one dBA DNL or less along each roadway segment in the project site vicinity. The project alone, therefore, would not result in a significant, permanent noise increase.

Fixed-Source Mechanical Noise

Typical hotel/commercial operation would often involve new rooftop mechanical equipment. This equipment would generate noise that would radiate to the neighboring properties. The noise from this equipment would be required to comply with Policies EC-1.2, EC-1.3, and EC-1.6 in the Envision San José 2040 General Plan and with the maximum noise levels listed in Paragraph 20.40.600.B "Performance Standards", Table 20-105 "Noise Standards" in the City of San José Municipal Code[3]. In accordance with General Plan Policy EC-1.3, mechanical noise from the hotel would be limited to 55 dB(A) DNL at the neighboring residential property lines.

Noise from HVAC equipment can vary greatly, depending on the size of the equipment and the type of equipment used. While the Applicant has not designed and selected the actual mechanical systems for the Project, the schematic Project drawings do show mechanical equipment (assumed to be condensing units) on the 5th Floor in an "equipment well with a tall roof screen to hide all equipment and isolate sound" (See Figure 3 in Appendix F)

Assuming there are three large or six medium-sized condensing units on the 5th Floor and the solid screen is the same height as the condensing units, each condensing unit could have a maximum sound power level of 89 dB(A) and still achieve the 55 dB(A) DNL requirement and the 55 dB(A) Municipal Code limit at the neighboring property lines. Typical sound power levels from a medium-sized condensing unit are approximately 77.0 dB(A)[4] and should achieve the requirements at the neighboring property lines.

When the actual on-site equipment is selected, the equipment would be designed to incorporate measures as needed, such as shielding, barriers, and/or attenuators, to reduce noise levels that may affect nearby properties. Specific details on the mechanical equipment are not known at this time and

[3] Performance standards from the Municipal Code are discussed in this section to show project conformance but are not considered as part of the CEQA thresholds.
[4] Noise level based on an Aermec Model ANL 150 HA outdoor condensing unit, https://aeroventic.com/attachment/download/316.

would be chosen prior to project construction, therefore, the following mitigation measure has been included to ensure conformance with Policy EC-1.3. With inclusion of Mitigation Measure NOI-1, mechanical equipment operational noise at the adjacent residential receptors would be reduced to below both 55 dB(A) DNL and 55 dB(A) and the impact of fixed-source noise to the neighboring properties would be **less than significant with mitigation incorporated**.

Impact NOI-1: Mechanical equipment associated with project operation is not known at this time and has the potential to exceed 55 dBA DNL at the adjacent residential property lines.

MM NOI-1: **Acoustical Study.** Prior to issuance of any building permits and during final building design, the project applicant shall prepare a detailed acoustical study to evaluate the potential noise generated by building mechanical equipment and demonstrate the necessary noise control to meet the City's 55 dBA DNL goal. Noise control features such as sound attenuators, baffles, and barriers shall be identified and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL at noise-sensitive locations around the project site. The noise control features identified by the study shall be incorporated into the project prior to issuance of a building permit. The detailed acoustical study demonstrating that mechanical equipment would not exceed 55 dBA DNL at adjacent sensitive receptors shall be signed by a qualified noise consultant and submitted to the Director of Planning, Building, and Code Enforcement, or Director's designee, prior to the issuance of a building permit.

Trash Enclosure

The Oakland Road Comfort Suites Project would have a trash enclosure situated on the southeast side of the building facing Faulstich Court. The trash enclosure would not face any noise-sensitive receptors and would be well-shielded to the mobile home park by the hotel building itself. Activity from garbage truck traffic and trash pickup would remain similar as currently experienced with the commercial uses already around the site and noise from trash pickup would have a **less than significant impact**.

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

During construction of the Project, equipment such as trucks, bulldozers, and rollers may be used as close as 20 feet from the nearest sensitive receptors in the South Bay Mobile Home Park. Equipment used during Project construction could generate vibration levels between 0.0042 PPV and 0.2935 PPV at 20 feet, as shown below in Table 3.13-4. The groundborne vibration levels for a vibratory roller could be at or above the vibration threshold set in Policy 2.3 of the Envision San José 2040 General Plan.

Table 3.13-4: Vibration Source Levels for Construction Equipment

Type of Equipment	Peak Particle Velocity at 20 Feet	San José General Plan Policy EC 2.3 Vibration Threshold	Potential for Project to Exceed Threshold
Large Bulldozer	0.1244	0.20	No

Type of Equipment	Peak Particle Velocity at 20 Feet	San José General Plan Policy EC 2.3 Vibration Threshold	Potential for Project to Exceed Threshold
Loaded Trucks	0.1062	0.20	No
Small Bulldozer	0.0042	0.20	No
Vibratory Roller	0.2935	0.20	Yes

Source: Federal Transit Administration 2018

Although vibration levels from construction could exceed the General Plan threshold, construction activities would be temporary and construction activities would be limited to the vibration restrictions set by the Envision San José 2040 General Plan and Federal Transportation Administration Transit Noise and Vibration Impact Assessment Manual as discussed in impact threshold 3:13.b. The Project operations would be typical of a hotel use and not result in any vibrations. Therefore, impacts from construction and operations vibration would be **less than significant**.

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?

SJC is located approximately 1.5 miles west of the Project site. However, the Project site is not located within the AIA nor the noise contours designated by the CLUP (SCC ALUC 2016). The Project's location is outside of the takeoff and landing areas of the airport (i.e., which run in a general north to south direction). Therefore, the location of SJC would not expose people residing or working in the Project area to excessive noise levels, and this impact would be **less than significant**.

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 because the City of San José has policies that address existing noise conditions affecting a proposed project.

The policies of the City's General Plan have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City. City Policy EC-1.1 requires new development to be located in areas where noise levels are appropriate for the proposed uses, considering federal, state and City noise standards and guidelines as a part of new development review. Within the City of San José, applicable standards and guidelines for land uses in San José include:

Future Interior Noise Levels. The City of San José and the CBC require that interior noise levels be maintained at 45 dBA DNL or less for hotels.

Interior noise levels would vary depending upon the final design of the building (relative window area to wall area) and the selected construction materials and methods. Standard construction with punch windows and doors closed provides approximately 25 dBA of noise reduction in interior spaces. Therefore, generally-speaking, sensitive receptors exposed to exterior noise of 70 dBA DNL or less will typically comply with the code-required interior noise level standard. Modern construction utilizing window walls, curtainwalls, or a high ratio of exterior clear glass will provide less reduction with the windows closed. Buildings using a high amount of glass will typically comply with the code-required interior noise level standard if exposed to exterior noise levels of 67 dBA DNL or less.

Noise levels experienced at the Project site (at 72 dBA DNL) are expected to exceed 67 dBA DNL. Assuming the hotel guestrooms have a carpeted floor and hard-surfaced ceiling, additional noise reduction measures, such as acoustically treated windows would be required to help achieve the code dictated 45 dBA DNL interior noise level. This would include the use of a window system with a minimum Outside-Inside Transmission Class (OITC) rating of OITC 29 for all hotel guestrooms with a glass curtainwall. All hotel guestrooms with punch windows would need a glass system with a minimum OITC 23 rating to help achieve the 45 dBA DNL interior noise level.

In accordance with General Plan Policy EC-1.1, the proposed project will be required, as Conditions of Approval, to implement the following measures:

Conditions of Approval:

- A qualified acoustical specialist shall prepare a detailed interior noise analysis outlining noise control measures that would ensure compliance with the General Plan and code-required 45 dBA DNL interior noise level standard. The study will review the final site plan, building elevations, and floor plans prior to construction and confirm building treatments necessary to reduce interior noise levels to 45 dBA DNL or lower, and address and adequately control noise from rooftop equipment on adjacent buildings, as necessary. This analysis should specify required sound ratings for glazing as well as any other modifications to the building envelope used to meet the interior noise level standard. Recommended treatments include, but are not limited to:
    - For all hotel guestrooms with a glass curtainwall, a window system with a minimum Outside-Inside Transmission Class (OITC) rating of OITC 29 shall be implemented.
    - All hotel guestrooms with punch windows would need a glass system with a minimum OITC 23.
    - Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee, along with the building plans and approved design, prior to issuance of a building permit.

With implementation of the Conditions of Project Approval, the proposed project would meet the City's interior noise standards consistent with General Plan Policy EC-1.1 and a **less than significant impact** would occur.

3.14 POPULATION AND HOUSING

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

3.14.1 Regulatory Setting

3.14.1.1 Federal

There are no federal regulations or policies related to population and housing that are relevant to the Project.

3.14.1.2 State

There are no state regulations or policies related to population and housing that are relevant to the Project.

3.14.1.3 Local

Envision San José 2040 General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating population and housing impacts from projects. Chapter 4, Quality of Life, in the City's General Plan addresses how quality of life will be advanced as the City promotes economic development and continues to grow a safe, diverse, and thriving community with employment opportunities, well maintained infrastructure, urban services, and cultural and entertainment options. There are no specific housing policies relevant to the Project as there is no housing proposed.

Association of Bay Area Governments

The Association of Bay Area Governments (ABAG) is responsible for regional housing needs to each city and county within the nine-county Bay Area. ABAG, Metropolitan Transportation Commission, and local jurisdiction planning staff created the Regional Forecast of Jobs, Population and Housing, which is an integrated land use and transportation plan looking out to the year 2040 for the nine-county San Francisco Bay Area.

3.14.2 Environmental Setting

The current population of the City, as of January 2019, is approximately 1,043,058 and the average household size is 3.2 persons per household (DOF 2019). Additionally, as of January 2019, there are approximately 335,887 housing units in the City. The ABAG estimates the population within the City will grow to 1,357,845 by 2040 with 3.3 persons per household (ABAG 2019).

The General Plan assumptions, as amended in the first Four-Year Review in 2016, envision a Jobs/Employee Resident ratio of 1.1 to 1 or 382,000 jobs by 2040 (City of San José 2016). To meet the current and projected housing needs in the City, the Envision San José 2040 General Plan identifies areas for mixed-use and residential development to accommodate 120,000 new dwelling units by 2040.

The jobs/housing balance is the relationship between the number of housing units required as a result of local jobs and the number of residential units available in the City. This relationship is quantified by the jobs/employed resident ratio. When the ratio reaches 1.0, a balance is struck between the supply of local housing and local jobs. The jobs/employed resident ratio is determined by dividing the number of local jobs by the number of employed residents that can be housed in local housing. At the time of preparation of the General Plan Final EIR, San José had a higher number of employed residents than jobs (approximately 0.8 job per employed resident) but this trend is projected to reverse with full build-out under the current General Plan.

3.14.3 Environmental Impact Analysis

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)?

A project can induce substantial population growth by proposing new housing beyond projected or planned development levels, generating demand for housing as a result of new businesses, extending roads or other infrastructure to previously undeveloped areas, or removing obstacles to population growth through expanding infrastructure.

The Project would introduce new commercial uses to the area through the operation of the hotel, which would require new employees. Approximately two full-time employees would be required to run and operate the hotel. Because the Project would be located in a highly developed area and would be surrounded by residential and commercial uses, it is reasonable to assume the future employees would come from the surrounding area or from within the City itself. The two new employees would not result in a substantial increase in jobs or necessitate the need for new housing to be developed as a result of the Project. Similarly, construction of the Project would result in the need for additional construction workers on-site. These construction workers would likely come from the surrounding community, or from within the County, and would only be on-site temporarily. Therefore, construction and operation of the Project would result in a **less than significant impact** related to substantial unplanned population growth.

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

The Project would be constructed on an undeveloped area that currently does not contain any residential uses. The existing residential uses surrounding the Project area would not require temporary or permanent relocation as a result of the Project construction or operation. There would be **no impact** to displacement of substantial numbers of existing people or housing.

3.15 PUBLIC SERVICES

PUBLIC SERVICES Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:				
i. Fire protection?	☐	☐	☒	☐
ii. Police protection?	☐	☐	☒	☐
iii. Schools?	☐	☐	☐	☒
iv. Parks?	☐	☐	☐	☒
v. Other Public Facilities?	☐	☐	☒	☐

3.15.1 Regulatory Setting

3.15.1.1 Federal

There are no federal regulations or policies related to public services that are relevant to the Project.

3.15.1.2 State

There are no state regulations or policies related to public services that are relevant to the Project.

3.15.1.3 Local

Envision San José 2040 General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating public services impacts from projects. The following policy is applicable to the Project (City of San José 2018a):

- **Goal ES-3:** Law Enforcement and Fire Protection. Provide high-quality law enforcement and fire protection services to the San José community to protect life, property and the environment through fire and crime prevention and response. Utilize land use planning, urban design and site development measures and partnerships with the community and other public agencies to support long-term community health, safety and well-being.

- **Policy ES-3.1:** Provide rapid and timely Level of Service (LOS) response time to all emergencies:
  - 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.
  - For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.
- **Policy ES-3.9:** Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly visible and accessible spaces.
- **Policy ES-3.11:** Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.
- **Policy ES-3.17:** Promote installation of fire sprinkler systems for both commercial and residential use and in structures where sprinkler systems are not currently required by the City Municipal Code or Uniform Fire Code.

3.15.2 Environmental Setting

Fire Protection

Fire protection services within the City are provided by the San José Fire Department (SJFD), which provides fire protection, emergency medical services, and fire prevention services to residents and visitors within its approximate 200 square mile jurisdiction. The SJFD has 33 fire stations, which collectively respond to more than 91,000 service calls per year (SJFD 2020). There are approximately 819 authorized positions within the SJFD who operate in shifts to provide services 24-hours a day, 365-days a year. Within the 33 fire stations, there are 33 engine companies, nine truck companies, and three squad units (SJFD 2019). The nearest fire station to the Project is Fire Station 5, which is located approximately 0.4 mile southwest of the Project site at 1380 N. 10th Street, San José, California 95112. This fire station received calls on 221 fire related incidents and 750 medical related incidents in 2018 and the average response time was 30 minutes and 21 seconds and 5 minutes and 4 seconds for each of these types of calls, respectively (SJFD 2018). The City's General Plan establishes a goal of a total response time (reflex) of 8 minutes and a total travel time of 4 minutes for 80 percent of emergency incidents.

Police Protection

Police protection services within the City are provided by the San José Police Department (SJPD), which is comprised of 11 divisions with approximately 1,400 authorized employees (SJPD 2020). For police protection services, the General Plan identifies a service goal of 6 minutes or less for 60 percent of all

Priority 1 (i.e. emergency) calls and 11 minutes or less for 60 percent of all Priority 2 (i.e., non-emergency) calls (City of San José 2018a).

The nearest police station to the Project site is the main SJPD office, located approximately 1.5 miles southwest from the Project site at 201 West Mission Street, San José, California 95110.

Schools

The Project area is within the East Side Union High School District, which includes 18 schools and approximately 26,000 students (Ed Data 2020). The nearest public school to the Project is Pegasus High School, which is located approximately 1.8 miles east of the Project site at 1776 Educational Park Drive, San José, California 95133. The nearest private schools to the Project site include Challenger School – Berryessa, which is located approximately 0.16-mile northwest from the Project at 711 E Gish Road, San José, California 95112.

Parks

According to the General Plan, the City manages approximately 3,520 acres of parkland, community gardens, and open space lands and is planning to implement a 100-mile network of multi-use trails throughout the City. In addition to the parklands, the City also provides 50 indoor community facilities that provide recreational opportunities to the public. Various other private entities such as the Santa Clara Valley Water District and PG&E provide recreational opportunities and amenities within the City (City of San José 2018a).

The nearest public park to the Project site is the Penitecia Creek County Park, which is located approximately 1.16 miles east of the Project.

Other Public Facilities

Libraries within the City are operated and managed by the San José Public Library System. This system consists of one main library, the Dr. Martin Luther King Junior Library, which is jointly operated with San José State University, as well as 22 branch libraries scattered through the City. The nearest library to the Project site is the Joyce Ellington Branch Library, which is located approximately 1.4 miles south of the Project site at 491 East Empire Street, San José, California 95112.

3.15.3 Environmental Impact Analysis

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 any of the public services:

Fire Protection

The SJFD Fire Station 5 currently serves the Project site and is located approximately 0.4 mile southwest of the Project site at 1380 N. 10th Street. The site is in the existing service area of the SJFD, and on-site construction would be required to comply with current applicable Fire Code requirements. In addition, the Project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies, such as General Plan Policy ES-3.9, to promote public and property safety. The hotel would involve a transient occupancy use and would not intensify the use of the site that would substantially increase the need for fire protection services in the area. Therefore, a **less than significant impact** would occur.

Police Protection

Similar to fire protection services, the demand for police protection services is not anticipated to increase due to the Project. The surrounding area consists of highly developed commercial and residential uses that already receive police protection services. The Project, by itself, would not preclude the SJPD from meeting its service goals and would not require the construction of new or expanded police facilities. The proposed hotel would be constructed in accordance with the current building codes and would be required to be maintained in accordance with applicable City policies, such as General Plan Policy ES-3.9, to promote public and property safety. Therefore, the Project would result in a **less than significant impact** related to police protection services.

Schools

The Project does not include any housing that would generate new students to the area. It is reasonable to assume that the employees of the hotel would come from the surrounding community, and therefore would not require substantial relocation to the site or increase the number of school-aged children to the area. Therefore, there would be **no impact** related to school facilities.

Parks

The Project would not include residential uses which could necessitate the need for new park facilities. It is reasonable to assume that employees of the new hotel would come from the surrounding community and would not require substantial relocation to the area. Therefore, the Project would result in **no impact** to park facilities.

Other Public Facilities

The Project would not include residential uses that would necessitate the need for new library facilities. Hotel visitors could potentially visit nearby libraries, such as the Joyce Ellington Branch Library; however, visits to this library would be temporary as with the nature of hotel uses. Employees of the hotel would likely come from the surrounding community or the City and therefore would not introduce substantial new growth to the area that would require the construction of new libraries. Therefore, there would be a **less than significant impact** related to libraries.

3.16 RECREATION

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

3.16.1 Regulatory Setting

3.16.1.1 Federal

There are no federal regulations or policies related to recreation that are relevant to the Project.

3.16.1.2 State

There are no state regulations or policies related to recreation that are relevant to the Project.

3.16.1.3 Local

Envision San José 2040 General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating recreation impacts from projects. The following policies are applicable to the Project (City of San José 2018a):

- **Goal PR-1:** High Quality Facilities and Programs. Provide park lands, trails, open space, recreation amenities, and programs, nationally recognized for their excellence, which enhance the livability of the urban and suburban environments; preserve significant natural, historic, scenic and other open space resources; and meet the parks and recreation services needs of San José's residents, workers, and visitors.
    - **Policy PR-1.1:** Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
    - **Policy PR-1.2:** Provide 7.5 acres per 1,000 population of citywide /regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.

3.16.2 Environmental Setting

According to the General Plan, the City manages approximately 3,520 acres of parkland, community gardens, and open space lands and is planning to implement a 100-mile network of multi-use trails throughout the City. In addition to the parklands, the City also provides 50 indoor community facilities that provide recreational opportunities to the public. Various other private entities such as the Santa Clara Valley Water District and PG&E provide recreational opportunities and amenities within the City (City of San José 2011).

The nearest public park to the Project site is the Penitecia Creek County Pak, which is located approximately 1.16 miles east of the Project.

3.16.3 Environmental Impact Analysis

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?

The Project would not include any residential uses that would increase the demand on existing recreational facilities and result in substantial physical deterioration. Guests at the proposed hotel could potentially use neighborhood or regional parks and recreational facilities within the City. However, this use would be temporary and intermittent and would not result in substantially increased demand or significant deterioration of recreation facilities. Therefore, the Project would have a **less than significant impact** related to increased use of parks or other recreational facilities such that substantial physical deterioration of the facility would occur.

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

As discussed under impact threshold 3.16.a, the Project would not include any residential uses that would necessitate the need for construction or expansion of new recreational facilities. No additional recreational facilities would be required to serve the hotel guests or employees of the Project. Therefore, there would be a **less than significant impact** related to the construction or expansion of recreational facilities.

3.17 TRANSPORTATION

TRANSPORTATION Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Conflict with a program plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	☐	☐	☒	☐
b) Conflict with 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 intersection(s) or incompatible uses (e.g. farm equipment))?	☐	☐	☒	☐
d) Result in inadequate emergency access?	☐	☐	☒	☐

A transportation analysis was completed for the Project site in September 2020, prepared by Stantec (Appendix G). The information contained in the Transportation Analysis formed the basis of the information and analysis in this section.

3.17.1 Regulatory Setting

3.17.1.1 Federal

There are no federal regulations or policies related to transportation that are relevant to the Project.

3.17.1.2 State

Congestion Management Program

In accordance with California Statute, Government Code Section 65088, Santa Clara County has established a Congestion Management Program (CMP). The legislation requires that all urbanized counties in California prepare a CMP to obtain each county's share of the increased gasoline tax revenues. The following five elements are mandated under the CMP legislation: 1) a system definition and traffic LOS standard element, 2) a transit service and standards element, 3) a trip reduction and transportation demand management element, 4) a land use impact analysis program element, and 5) a capital improvement element. The Santa Clara County CMP includes the five mandated elements and three additional elements, including a county-wide transportation model and database element, an annual monitoring and conformance element, and a deficiency plan element. Deficiency plans, as they relate to traffic congestion management, are plans that identify offsetting measures to improve transportation conditions on the CMP facility in lieu of making physical traffic capacity improvements such as widening an intersection or roadway.

3.17.1.3 Local

City Council Policy 5-1

City Council Policy 5-1 "Transportation Impact Policy" aligns with SB 743 that establishes the thresholds for transportation impacts under CEQA, removing transportation LOS based on delay and congestion and replacing it with VMT. VMT refers to the amount of and distance of automobile travel in a day attributed to a development project. VMT is measured by multiplying the total vehicle trips generated by a development project by the average distance of those trips, adjusting for the number of people in the vehicle. In the City of San José, VMT is calculated using the Origin-Destination VMT method, which measures the full distance of vehicle travel with one end within the project.

The City uses an Excel-based VMT Evaluation Tool to evaluate whether proposed development projects would generate VMT impacts. The VMT data for the half-mile radius surrounding the project site is based on the City's travel demand model and adjusted to the parcel level.

The City's VMT Evaluation Tool was used to determine the existing VMT data for the Project area. The average VMT for the area is 14.29 per non-industrial worker. This is above the City's threshold of 12.22 VMT per worker. The half-mile radius area around the project site includes residential developments and mostly industrial space. The VMT for the area is higher than the City's threshold since the workers in the area may not live in the surrounding residential developments and drive farther for their commute than the average worker in the City.

Envision San José 2040 General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating transportation impacts from projects. The following policy is applicable to the Project (City of San José 2018a):

- **Goal TR-1:** Balanced Transportation System. Complete and maintain a multimodal transportation system that gives priority to the mobility needs of bicyclists, pedestrians, and public transit users while also providing for the safe and efficient movement of automobiles, buses, and trucks.
    - **Policy TR-1.2**: Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
    - **Policy TR-1.4:** Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.
    - **Policy TR-1.6:** Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.
    - **Policy TR-1.7:** Require that private streets be designed, constructed and maintained to provide safe, comfortable, and attractive access and travel for motorists and for pedestrians, bicyclists, and transit users of all ages, abilities, and preferences.

- **Goal TR-2:** Walking and Bicycling. Improve walking and bicycling facilities to be more convenient, comfortable, and safe, so that they become primary transportation modes in San José.
    - **Policy TR-2.8**: Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
- **Goal TR-5:** Vehicular Circulation. Maintain the City's street network to promote the safe and efficient movement of automobile and truck traffic while also providing for the safe and efficient movement of bicyclists, pedestrian, and transit vehicles.
- **Goal TR-8:** Parking Strategies. Develop and implement parking strategies that reduce automobile travel through parking supply and pricing management.

US 101/Oakland/Mabury Transportation Development Policy

The City adopted the US 101/Oakland/Mabury Transportation Development Policy (TDP) in 2007 which "is intended to achieve all of the following: (1) management of traffic congestion generated by near-term new development in the vicinity of the US-101/Oakland interchange; (2) promotion of General Plan goals for economic development and housing; and (3) improvement of the US-101/Oakland Road interchange and construction of the new US-101/Mabury Road interchange to accommodate new development." The TDP defines the interchange capacity available, identifies the required improvements for future development in the area, explains the funding to complete the required improvements, establishes a traffic fee program for new development in the area to fund the improvements, promotes industrial land use in the area, and allows the LOS of signalized intersections covered by the TDP to temporarily exceed the City's LOS standards until the required improvements are constructed.

3.17.2 Environmental Setting

The Project is located on the northeast corner of Oakland Road and Faulstich Court. Project traffic would access the local transportation network via one entry driveway on Oakland Road and one exit driveway on Faulstich Court. Regional access to the study area would be provided primarily by US 101. None of the streets in the study area are identified as a Vision Zero Priority Safety Corridor. The Project area is identified as a Suburban with Multifamily Housing place type. The surrounding street network is discussed below.

Roadway Network

Oakland Road is a six-lane road north of the study area which narrows to five lanes for a short distance north of Commercial Street. South of Commercial Street, Oakland Road is a four-lane road with a raised median and left- and right-turn pockets at the US 101 interchange. Oakland Road is classified on the City's General Plan Transportation Network as a City Connector Street north of US 101, a Main Street from US 101 to Jackson Street south of the study area, and a Local Connector Street south of Jackson Street. The speed limit on Oakland Road in the Project vicinity is 40 miles per hour (mph) north of US

101, 35 mph between US 101 and Hedding Street, and 25 mph south of Hedding Street. Signals are provided at E. Gish Road, Commercial Street, US 101 northbound ramps, and US 101 southbound ramps within the study area and at Berger Drive just north of the study area. Class II bike lanes are provided in the study area, and parking is prohibited on most sections of Oakland Road. Development along Oakland Road is a mixture of commercial, industrial, residential, and lodging uses in the study area.

Faulstich Court is a local two-lane street which forms a T-intersection with Oakland Road and dead ends approximately 900 feet east of the intersection. Faulstich Court provides the sole access to several businesses. Parking is allowed on both sides of the street, but sidewalk is only provided on the south side of Faulstich Court. There are no bicycle facilities on Faulstich Court.

E. Gish Road is a two-lane City Connector Street with a double-yellow centerline stripe. The speed limit on E. Gish Road is 30 mph. On-street parking is allowed on both sides of the street. Sidewalk is provided on the north side of the street for the entire length except for a short section between Industrial Avenue and the railroad tracks. Short sections of sidewalk are provided on the south side. Gates and warning signals are located at the railroad crossing. Bike lanes are identified on the City Bikeways map but are not provided on the street. Challenger School – Berryessa is located on the north side of E. Gish Road west of Oakland Road. Mostly industrial businesses are located along E. Gish Road.

Old Bayshore Highway is designated a City Connector Street north of E. Gish Road and a Local Connector Street south of E. Gish Road. Old Bayshore Highway is four lanes with a painted median and turn pockets at intersections in the study area. The speed limit is 40 mph. Sidewalk on the east side of the street begins approximately 450 feet south of E. Gish Road. Sidewalks are not available on the west side of Old Bayshore Highway or north of E. Gish Road on the east side of the street. Class II bike lanes are striped, and on-street parking is prohibited. Warning signals are provided at the railroad crossing. Development along Old Bayshore Highway consists mostly of industrial uses.

Commercial Street is classified as a Local Connector Street. The roadway is two lanes with a two-way left-turn lane west of Oakland Road, and three lanes with a double-yellow centerline stripe east of Oakland Road: Sidewalk is provided on the south side of the street, and Class II bike lanes are provided. The speed limit is 30 mph. Mostly industrial businesses are located along Commercial Street.

N. 10th Street is classified as a City Connector Street in the study area. N. 10th Street is a four-lane undivided street in the study area, and the speed limit is 35 mph. Class II bike lanes are provided on N. 10th Street. On-street parking is not allowed. Development along N. 10th Street is primarily industrial uses.

US 101 (Bayshore Freeway) provides regional access to the project vicinity. US 101 is an eight-lane freeway with six general purpose lanes and two high occupancy vehicle lanes in the study area. A diamond interchange is provided at Oakland Road south of the Project site. US 101 provides an interchange with I-880 approximately 0.5 mile west of the Project site and an interchange with I-280/Interstate 680 approximately 3 miles southeast of the study area.

I-880 (Nimitz Freeway) is located approximately 0.5 mile west of the Project site. I-880 varies from six to eight lanes with two high occupancy vehicle lanes. An interchange is provided at Old Bayshore Highway.

Pedestrian and Bicycle Facilities

Sidewalks are available and in good condition on both sides along Oakland Road in the vicinity. Sidewalks are provided on one side of the street on Faulstich Court, E. Gish Road, Old Bayshore Highway, Commercial Street, and N. 10th Street within the study area. Signalized intersections within 0.5 mile of the Project site have corner ramps; however, not all are compliant with the latest Americans with Disabilities Act regulations. The northeast and southeast corners of the Oakland Road and Faulstich Court intersection have corner ramps, but they are not compliant with the latest Americans with Disabilities Act regulations.

Class II bike lanes are provided on Oakland Road north of Commercial Street and south of Boardwalk Way, but they are not carried through the US 101 interchange area. Santa Clara Valley Transportation Authority (VTA) rates Oakland Road south of US 101 as a "High Caution" area on the Santa Clara Valley Bikeways Map, which indicates high traffic volumes, high traffic speeds, high number of vehicles turning right, and narrow travel area for bicycles. Bike lanes are provided on Old Bayshore Highway, Commercial Street, and N. 10th Street. There are no designated bike facilities on Faulstich Court. Figure 3.17-1 shows the bicycle facilities in the Project vicinity.

Transit Facilities and Services

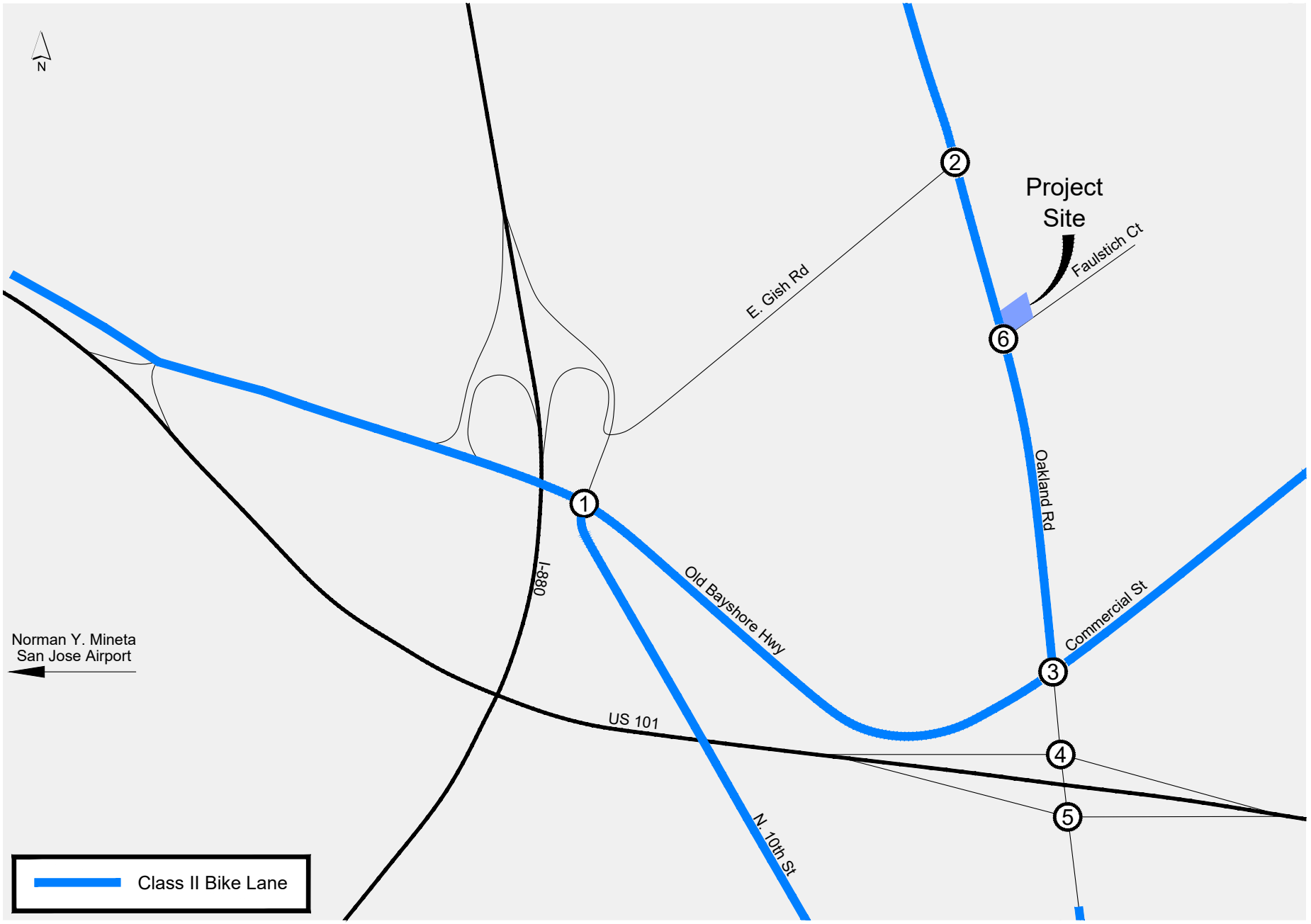
Several local and express bus routes are located in the Project study area. VTA provides local and community bus routes along Oakland Road and two express routes along US 101 in the study area. Route 66 travels along Oakland Road with bus stops on Oakland Road at E. Gish Road and at Charles Street in the study area. VTA provides express Route 121 and Route 122 through the study area via US 101; however, bus stops for these routes are not provided in the study area. Monterey-Salinas Transit provides an Amtrak thruway bus route that travels between SJC and King City to the south. Monterey-Salinas Transit Route 86 travels through the study area via US 101 and does not provide any bus stops in the study area. Figure 3.17-2 shows the transit routes in the Project vicinity.

3.17.3 Environmental Impact Analysis

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

Pedestrian and Bicycle

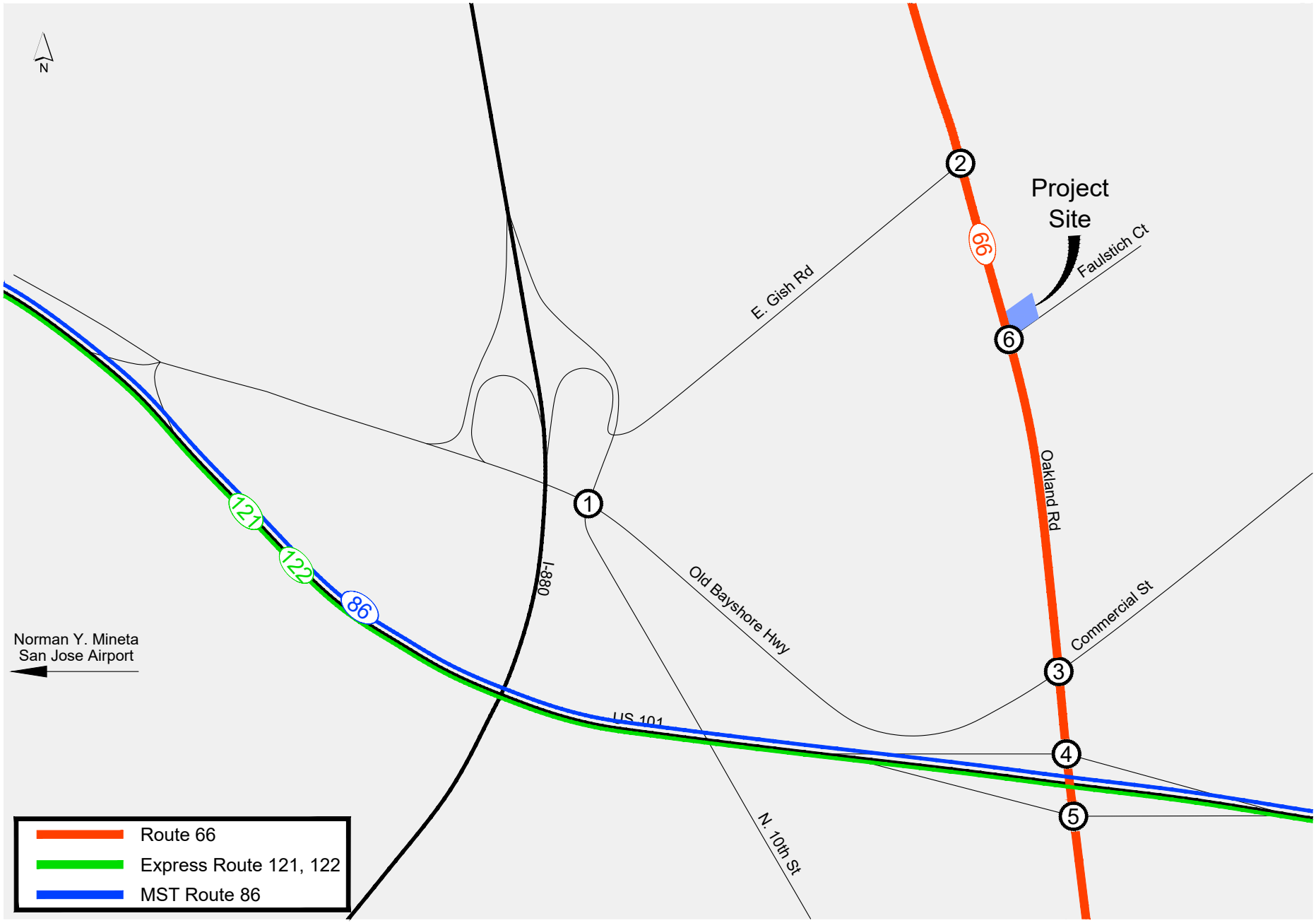
Pedestrian facilities in the Project area include sidewalks. In addition, bike lanes are provided on Oakland Road. The Project is not expected to generate a significant amount of pedestrian or bicycle traffic. Hotel guests are expected to use rental cars, ride-sharing services (i.e., Uber/Lyft, taxi, etc.), or hotel shuttle services; however, a portion of hotel employees might walk or bike to the site. The Project would employ two full time employees and some cleaning crew. The Project includes bicycle lockers at the basement level. In addition, sidewalks that are continuous with the Project site would be improved. The Project is not expected to have a noticeable effect on the pedestrian or bicycle network and impact would be **less than significant**.



Source: Stantec 2020

BIKE ROUTES

FIGURE 3.17-1



Source: Stantec 2020

TRANSIT ROUTES

FIGURE 3.17-2

Transit

As discussed below, the Project is located within a Suburban with Multifamily Housing area. There is a bus route that travels along the Project frontage; however, there is a low percentage of transit use expected from the Project. Hotel guests are more likely to use the hotel's airport shuttle or ride sharing services, such as Uber or Lyft, than to take public transit to and from the hotel. The most common users of transit to the site will be employees of the hotel. However, the Project is not expected to have a noticeable effect on transit use in the study area as the number of employees are minimal. In addition, the hotel would include 24-hour valet service for car parking as well as measures such as discounts on room rentals to encourage use of alternate means of transportation, such as car-pool or ride-sharing cab services, during their stay. Therefore, a **less than significant impact** would occur with regard to other modes of transportation.

A Parking Plan Strategy (Appendix A) has been prepared for the Project by the applicant to support the Project's reduction in parking requirements for guests and encourage use of other modes of transportation. Therefore, impacts would be less than significant.

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

The City has developed screening criteria to determine when a detailed CEQA transportation analysis would not be required. A detailed CEQA transportation analysis is not required if a project meets the City's screening criteria. Projects that are expected to result in less-than-significant VMT impacts based on project description, characteristics, or location would not require a detailed CEQA transportation analysis. The Project consists of adding a 50-room all suites hotel that generates 178 daily baseline vehicle-trips (discussed in Chapter 4.0, Section 4.4.1, Appendix G). The Project is equivalent to approximately 5,907 square feet of local-serving retail based on the Project's daily baseline vehicle-trips; therefore, the Project is less than the criteria of 100,000 square feet of retail and is exempt from a detailed VMT analysis. The proposed Project is consistent with the goals of the General Plan and the objectives of Senate Bill 743. The Project is also in conformance with Council Policy 5-1. **No impact** would occur.

Table 3.17-1: Local Serving Retail Equivalency Summary

Land Use	ITE Category	Daily Rate	Size	Daily Trips
Retail	820	37.75 / TSF	100.00 TSF	3,775
Project	311	4.46 / room	48 rooms	223

Source: Institute of Transportation Engineers (ITE) *Trip Generation Manual, 10th Ed.*

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

During construction, the Project would generate traffic through the transport of workers, equipment, and materials to and from the Project site. The use of roadways by heavy construction equipment can

increase the risk to drivers and cyclists in the vicinity of the Project site. However, construction equipment and materials would be largely stored onsite. Temporary partial street closures may be required for staging of large equipment, such as a crane, before bringing it onto the construction site. However, these closures would be limited to few hours and would be coordinated with the City of San José Department of Transportation. Partial street closures would not prevent emergency access. Therefore, there would be no substantial increase in hazards.

The Project site would provide one right-turn only entry driveway on Oakland Road and one exit driveway on Faulstich Court. The loading and unloading of passengers would occur in the parking lot aisle adjacent to the primary building entrance. The Project would be required to tighten the curb radius as shown in Appendix G. Delivery trucks would enter the site via a right turn at the driveway on Oakland Road and exit via the driveway on Faulstich Court. The entry driveway on Oakland Road would be 26 feet wide and the exit driveway on Faulstich Court would be 16 to 24 feet wide, as approved by the City Public Works. The trash enclosure would be located in the southeast area of the site. Trash trucks can access the trash enclosure via a right turn from Oakland Road onto the site and exit via the driveway on Faulstich Court.

The Project's potential effect on left-turn storage at the study intersections during the peak hours was also evaluated. The Project would add a negligible amount of peak hour traffic to the left-turn movements at N. 10th Street and Old Bayshore Highway, Oakland Road and Commercial Street, and Oakland Road and US 100 northbound. The Project site access and exit routes and access from Oakland Road would not result in an incompatible use or a design hazard, and a **less than significant impact** would occur.

d) Would the project result in inadequate emergency access?

Temporary partial street closures may be required for staging of large equipment, such as the crane, before bringing it onto the construction site. However, these closures would be limited to few hours and would be coordinated with the City of San José Department of Transportation. The construction contractor would implement traffic controls that would be part of the approved encroachment permit. The Project would be required to conform to traffic and safety regulations that specify adequate emergency access measures. In addition, the Project site's ingress and egress would meet the standards set forth by the SJFD for Project operations. Adherence to existing federal and state regulations and the City's Envision San José 2040 General Plan goals and policies would reduce impacts to **a less than significant** level.

Non-CEQA Effects

Observed Transportation Conditions

Field conditions were observed in the study area on September 17, 2020 during the AM peak period (7:45 to 9:00 AM) and PM peak period (4:00 to 5:15 PM). These observations were conducted during COVID-19 business restrictions and do not represent "normal conditions." The observed conditions are summarized below and are included in detail in Appendix G:

Intersection of N. 10th Street/East Gish Road at Old Bayshore Highway: During both AM and PM peak hours, traffic flow was light to moderate. All traffic cleared the intersection during green lights.

During PM hours, preferential flow was observed in the eastbound direction on Old Bayshore Highway (approximately half of flow would turn onto southbound N. 10th Street while half would remain on eastbound Old Bayshore Highway). All traffic cleared the intersection during green lights.

Intersection of East Gish Road (aka US 101 northbound offramp)/ East Gish Road: During both AM and PM peak hours, traffic flow was light to moderate, and no preferential flow direction was observed on either street. Intermittent periods of backup behind stop signs was observed on the southwest bound East Gish Road and northbound East Gish Road.

East Gish Road: There was good visibility in both directions at approaches to side-streets. However, large trucks parked on the southeast side of East Gish Road caused poor visibility for vehicles exiting Jury Court. No bike lanes were observed on East Gish Road, though some bicycle traffic was present.

Intersection of East Gish Road and Oakland Road: During both AM and PM peak hours, traffic flow was light to moderate, and no preferential flow direction or lane use observed on either street. All traffic cleared the intersection during green lights.

Oakland Road: Minimal vehicle traffic was observed turning onto or out of Faulstich Court. Due to the broad curve in Oakland Road, visibility was limited towards the south for vehicles exiting Charles Street.

Intersection of Oakland Road and Commercial Street: Signal appeared timed and synchronized with Oakland Road traffic flow.

Oakland Road: During both AM and PM peak ours, traffic flow was moderate, and preferential flow was observed in the left-hand lane on southbound Oakland Road. Left-hand lane queued up for eventual left turn onto southbound 101 onramp. All traffic cleared the intersection during green lights during AM. During PM, not all traffic cleared the intersection during green lights.

Intersection of Oakland Road and northbound US 101 onramp and offramp: During AM and PM peak hours, traffic flow was moderate. Preferential flow was observed in the left-hand lane on southbound Oakland Road. All traffic cleared the intersection during green lights.

Intersection of Oakland Road and southbound US 101 onramp and offramp: Some pedestrian and bicycle traffic was observed during both AM and PM site visits. Traffic flow was moderate, and preferential flow direction was observed on southbound Oakland Road with left turn lanes being the preferential use.

Existing Level of Service

Five signalized study intersections have been identified by Public Works staff, and the Project's effects on the operation of these study intersections were evaluated under background conditions. The following intersections are included in the analysis:

Intersection	Control	Jurisdiction
1. N. 10th St & Old Bayshore Hwy	Signal	San José
2. Oakland Rd & E. Gish Rd	Signal	San José
3. Oakland Rd & Commercial St	Signal	San José

Intersection	Control	Jurisdiction
4. Oakland Rd & US 101 NB	Signal	San José/Caltrans
5. Oakland Rd & US 101 SB	Signal	San José/Caltrans

The intersection of Oakland Road and Faulstich Court adjacent to the Project site is controlled by a stop sign on the Faulstich Court approach, and this intersection was evaluated based on estimated traffic volumes. The US 101 interchange study intersections are identified on the CMP network. They are outside of an Infill Opportunity Zone.

Table 3.17-2 summarizes the delay and LOS for the signalized study intersections under existing conditions. As this table shows, the intersection of N. 10th Street and Old Bayshore Highway is operating at LOS F during the PM peak hour. The signalized intersections at the US 101 ramps are operating at LOS C or better during the AM and PM peak hours. The remaining signalized study intersections are operating at acceptable LOS D or better during the AM and PM peak hours.

Table 3.17-2: Existing Delay and Level of Service Summary

Intersection	Control	AM Peak Hour		PM Peak Hour	
		Delay (sec)	LOS	Delay (sec)	LOS
1. N. 10th St & Old Bayshore Hwy	Signal	34.0	C	**88.9**	**F**
2. Oakland Rd & E. Gish Rd	Signal	18.1	B	19.0	B
3. Oakland Rd & Commercial St [1]	Signal	34.9	C	37.9	D
4. Oakland Rd & US 101 NB [1, 2]	Signal	33.4	C	28.1	C
5. Oakland Rd & US 101 SB [1,2]	Signal	27.0	C	30.8	C

Notes:

1. US 101/Oakland/Mabury TDP intersection
2. CMP intersection

sec = Seconds of delay per vehicle

LOS = Level of service

BOLD = Indicates LOS E or F

Peak hour volumes for the intersection of Oakland Road and Faulstich Court were not available from the City, and, due to the COVID-19 travel restrictions, collection of a new traffic count at this time would not be representative of typical conditions for this analysis. Therefore, the peak hour intersection through volumes on Oakland Road were estimated from the adjacent intersection at E. Gish Road. For the side street volumes, the trips generated by the businesses on Faulstich Court were calculated from square foot estimates based on aerial images and Institute of Transportation Engineers (ITE) General Light Industrial trip rates. These trips were then assigned to the intersection left- and right-turn movements based on the Oakland Road through volume distribution.

Project Trip Generation

The Project consists of up to 48 hotel rooms, but the analysis was prepared for a 50-room hotel to provide a conservative analysis scenario. The Table 3.17-3 summarizes the daily total and weekday AM and PM peak hour trip generation for the Project. As this table shows, the Project's baseline trip total is 223 daily trips, of which 17 occur during the AM peak hour and 18 occur during the PM peak hour.

The proposed hotel would operate a shuttle service between the hotel and Mineta San José International Airport. The shuttle would be available 24 hours per day and would run approximately every half hour. In addition to the shuttle service, the hotel operators would offer incentives for guests who use other travel modes, such as ride-sharing services or public transportation. These services and incentives could potentially reduce the number of peak hour and daily vehicle trips to the site. Therefore, the trip generation represents a conservatively high estimate of Project trips.

Table 3.17-3: Project Trip Generation Summary

Land Use	Quantity	Daily	AM Peak Hour			PM Peak Hour		
			Total	In	Out	Total	In	Out
Trip Generation								
All-Suites Hotel	50 Rooms	223	17	9	8	18	9	9
Baseline Vehicle-Trips		223	17	9	8	18	9	9
Project Trip Reduction								
Location-Based Adjustments [1]		-27	-2	-1	-1	-2	-1	-1
Sub-Total		196	15	8	7	16	8	8
Net External Vehicle-Trips		**196**	**15**	**8**	**7**	**16**	**8**	**8**
Trip Rates [2]								
All-Suites Hotel (ITE 311)	TSF	4.46	0.34	53%	47%	0.36	48%	52%

Notes:

1. Suburban with Multifamily Housing (per San José Vehicle Miles Traveled Evaluation Tool): 88%
2. Source: ITE *Trip Generation Manual, 10th Ed.*

Level of Service Analysis

Traffic conditions at intersections in the Project area were evaluated using LOS and compared to the background conditions and shown in Table 3.17-4. As described in Appendix G, the intersection of North. 10th Street and Old Bayshore Highway and the intersection of Oakland Road and US 101 northbound would not be adversely affected by the Project, since the Project increases the delay by less than 1.0 second during the peak hours. None of the study intersections would be adversely affected by the Project and the impact would be less than significant.

Table 4: Background Plus Project Delay and Level of Service Summary

Intersection	Control	Background				Background + Project								
		AM Peak Hour		PM Peak Hour		AM Peak Hour				PM Peak Hour				
		Delay (sec)	LOS	Delay (sec)	LOS	Delay (sec)	LOS	Incr. in Delay (sec)	Incr. in V/C	Delay (sec)	LOS	Incr. in Delay (sec)	Incr. in V/C	Adverse Effect?
1. N. 10th St & Old Bayshore Hwy	Signal	36.2	D	104.8	F	36.3	D	0.1	0.002	105.3	F	0.5	0.002	No
2. Oakland Rd & E. Gish Rd	Signal	18.2	B	20.4	C	18.3	B	0.1	0.006	20.7	C	0.3	0.006	No
3. Oakland Rd & Commercial St [1]	Signal	39.7	D	53.9	D	39.7	D	0.0	0.000	53.9	D	0.0	0.001	No
4. Oakland Rd & US 101 NB [1, 2]	Signal	58.5	E	32.2	C	58.7	E	0.2	0.001	32.3	C	0.1	0.001	No
5. Oakland Rd & US 101 SB [1, 2]	Signal	28.8	C	44.0	D	28.8	C	0.0	0.000	44.0	D	0.0	0.001	No

Notes:
[1] US 101/Oakland/Mabury TDP intersection
[2] CMP intersection
sec = Seconds of delay per vehicle
LOS = Level of service
V/C = Volume/Capacity ratio
Highlight indicates LOS E or F

In addition, the City requested an analysis of the stop-controlled intersection of Oakland Road and Faulstich Court adjacent to the Project site; however, the recent COVID-19 lockdown prevented the collection of reliable traffic counts. Approximate existing and background peak hour intersection volumes were determined from the peak hour traffic volumes at the E. Gish Road study intersection and from estimates of the trips generated by the businesses located along Faulstich Court. Based on the estimated peak hour volumes, the intersection would operate at LOS B during the AM and PM peak hours, and the Project would have no impact on the intersection.

3.18 TRIBAL CULTURAL RESOURCES

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

3.18.1 Regulatory Setting

3.18.1.1 Federal

There are no federal regulations related to tribal resources that are relevant to the Project.

3.18.1.2 State

Assembly Bill 52

AB 52 mandates consideration of Native American culture as part of the CEQA process. The goal of AB 52 is to promote involvement of California Native American tribes in the decision-making process when it comes to identifying resources of importance to their cultures and developing mitigation for impacts to these resources. To reach this goal, AB 52 establishes a formal role for tribes in the CEQA process. CEQA lead agencies are required to consult with tribes about potential tribal cultural resources in the project area, the potential significance of project impacts, the development of project alternatives, and the type of environmental document that should be prepared. AB 52 specifically states that a project that may cause a substantial adverse change in the significance of a tribal cultural resource may have a significant effect on the environment.

3.18.1.3 Local

Envision San José 2040 General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating tribal impacts from projects. The following policies are applicable to the Project (City of San José 2018a):

- **Goal ER-10:** Archaeology and Paleontology. Preserve and conserve archaeologically significant structures, sites, districts and artifacts in order to promote a greater sense of historic awareness and community identity.
    - **Policy ER-10.1:** For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
    - **Policy ER-10.2**: Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
    - **Policy ER-10.3**: Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.
- **Goal IP-12:** Environmental Clearance. Use the Environmental Clearance process to further implement Envision General Plan goals and policies related to the minimization of environmental impacts, improving fiscal sustainability and enhancing the delivery of municipal services.
    - **Policy IP-12.3:** Use the Environmental Clearance process to identify potential impacts and to develop and incorporate environmentally beneficial actions, particularly those dealing with the avoidance of natural and human-made hazards and the preservation of natural, historical, archaeological and cultural resources.

3.18.2 Environmental Setting

The City was founded on November 29, 1777, making it the first town or “pueblo” (non-military settlement) in what was at that time the Spanish colony of Nueva California. It is the oldest civilian settlement in California and retains many remnants of its evolution (City of San José 2011).

The Project site is located in a highly urbanized area. The Project site currently consists of fenced areas, grasses, concrete foundation, possibly a driveway, and a concrete pad, possibly the remnant of a

foundation slab from previous development. However, there are no documented tribal cultural resources located on-site.

3.18.3 Environmental Impact Analysis

a) 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, or object with cultural value to the California Native American tribe and that is:

i. Listed or eligible for listing in the California Register of Historical Resources, or in the local register of historical resources as defined in Public Resources Code section 5020.1(k)?

ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

California AB 52 requires lead agencies to conduct formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the lead agency. Letters were sent by the City to the Ohlone Tribe on March 27, 2020, inviting participation in AB 52 consultation. No tribal cultural resources were identified within the Project area through survey or the AB 52 process completed by the City, and no response has been received from tribes as of August 12, 2020. However, during construction, the standard permit conditions identified previously above in Section 3.5, Cultural Resources, would be implemented if any unknown tribal cultural resources are unexpectedly encountered during construction activities. Therefore, there would be a **less than significant impact** to tribal cultural resources.

3.19 UTILITIES AND SERVICE SYSTEMS

UTILITIES and SERVICE SYSTEMS Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☒	☐
b) Have sufficient water supply 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 is has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☒	☐
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) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☒	☐

3.19.1 Regulatory Setting

3.19.1.1 Federal

There are no federal regulations related to utilities and service systems that are relevant to the Project.

3.19.1.2 State

California Integrated Waste Management Act

To minimize the amount of solid waste that must be disposed of by transformation (i.e., recycling) and land disposal, the State Legislature passed the California Integrated Waste Management Act of 1989 (AB 939), effective January 1990. According to AB 939, all cities and counties are required to divert 25-percent of all solid waste from landfill facilities by January 1, 1995, and 50 percent by January 1, 2000. Solid waste plans are required to explain how each city's AB 939 plan will be integrated within the respective county plan. They must promote (in order of priority) source reduction, recycling and composting, and environmentally safe transformation and land disposal. Cities and counties that do not meet this mandate are subject to $10,000-per-day fines.

Assembly Bill 341

AB 341 sets forth the requirements of the statewide mandatory commercial recycling program in the PRC. All businesses that generate 4 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.

Assembly Bill 1826

AB 1826 sets forth the requirements of the statewide mandatory commercial organics recycling program for businesses that generate four or more (two or more by December 31, 2020) 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 the California Green Building Standards Code ("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 resources 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 debris ("C&D"), 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.

3.19.1.3 Local

Envision San José 2040 General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating utilities and service systems impacts from projects. The following policies are applicable to the Project (City of San José 2018a):

- **Goal MS-3:** Water Conservation and Quality. Maximize the use of green building practices in new and existing development to minimize use of potable water and to reduce water pollution.
    - **Policy MS-3.1:** Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.

  - **Policy MS-3.2:** Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.
  - **Policy MS-3.3**: Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.

- **Goal IN-3:** Water Supply, Sanitary Sewer and Storm Drainage. Provide water supply, sanitary sewer, and storm drainage infrastructure facilities to meet future growth planned within the City, to assure high-quality service to existing and future residents, and to fulfill all applicable local, State and Federal regulatory requirements.
  - **Policy IN-3.3:** Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
  - **Policy IN-3.5:** Require development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D", to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.
  - **Policy IN-3.7:** Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
  - **Policy IN-3.9**: Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
  - **Policy IN-3.10:** Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES) permit.

Urban Water Management Plan

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 5 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 most recent UWMP for the San José municipal water system was prepared in June 2016 (SJMWS 2016).

Zero Waste Resolution

In 2007, the City of San José adopted a Zero Waste Resolution (No. 74077). This resolution set a goal of shifting consumption patterns to achieve 75 percent waste diversion by 2013 and a goal of zero waste by 2022 for the City. Key zero waste objectives that the City included are as follows (City of San José 2007):

- Improving “downstream” reuse and recycling of end-of-life products and materials to ensure their highest and best use;
- Pursuing “upstream” redesign strategies to reduce the volume and toxicity of discarded products and materials while promoting less wasteful lifestyles;
- Supporting the reuse of discarded products and materials to stimulate and drive local economic workforce development; and
- Preserving land for sustainable development and green industry infrastructure.

City of San José Integrated Waste Management Zero Waste Strategic Plan/Climate Smart San José

The City’s Integrated Waste Management Zero Waste Strategic Plan provides a comprehensive approach to achieving sustainability through new technology and innovation. The Integrated Waste Management Zero Waste Strategic Plan outlines policies to help the City foster a healthier community and achieve its Climate Smart San José goals, including 75 percent waste diversion by 2013 and zero waste by 2022. The Climate Smart San José also includes ambitious goals for economic growth, environmental sustainability, and enhances quality of life for San José residents and businesses (City of San José 2008).

Green Building Policy

The City’s Green Building Policy for new private sector construction encourages building owners, architects, developers, and contractors to incorporate meaningful sustainable building goals early in the design process. This policy establishes baseline green building standards for private sector construction and provides a framework for the implementation of these standards. It is also intended to enhance the public health, safety, and welfare of San José residents, workers, and visitors by fostering practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water, and other resources. *The City of San José requires 75 percent diversion of nonhazardous construction and demolition debris for projects that quality under CALGreen (San José Municipal Code Section 9.10.2480).*

Construction and Demolition Diversion Deposit Program

The Construction and Demolition Diversion Deposit Program (CDDD) requires projects to divert at least 50% of total projected project waste to be refunded the deposit. Permit holders pay this fully refundable deposit upon application for the construction permit with the City if the project is a demolition, alteration, renovation, or a certain type of tenant improvement. The minimum project valuation for a deposit is $2000 for an alteration-renovation residential project and $5000 for a non-residential project. There is no

minimum valuation for a demolition project and no square footage limit for the deposit applicability. The deposit is fully refundable if C&D materials were reused, donated, or recycled at a City-certified processing facility. Reuse and donation require acceptable documentation, such as photos, estimated weight quantities, and receipts from donations centers stating materials and quantities.

3.19.2 Environmental Setting

Water Service

Water services to the Project site would be provided by the San José Water Company (SJWC). SJWC's service area is 139 square miles. 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 8 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.

Sanitary Sewer/Wastewater Treatment

Wastewater from the Project area is treated at the San José/Santa Clara Regional Wastewater Facility (RWF), which is administered and operated by the City Department of Environmental Services. The RWF treats an average of 110 million gallons of wastewater per day (mgd), with a capacity of up to 167 mgd (RWF 2016). The City of San José generates approximately 69.8 mgd of dry weather average flow, leaving 38.8 mgd of excess treatment capacity (City of San José 2011). Sewer connections from the Project site would connect with the City's existing 8-inch sewer main in Faulstich Court.

Stormwater

The City's stormwater drainage system flows into facilities that are owned, operated, and maintained by the Santa Clara Valley Urban Runoff Pollution Prevention Program, which is an association of thirteen cities and towns in Santa Clara Valley, the County of Santa Clara, and the Santa Clara Valley Water District. The City of San José Public Works Department operates and maintains the City's storm drain system, which has over 1,250 miles of storm drains and drainage channels. City infrastructure such as catch basins and storm drain pipes collect stormwater runoff, which is eventually discharged into the San Francisco Bay. The USACE and the Santa Clara Valley Water District jointly oversee and operate the region's flood control facilities and stream channels. In low-lying areas of the City stormwater pump stations are employed to facilitate drainage when gravity drainage is not feasible (City of San José 2011). There is an existing 15-inch reinforced concrete pipe storm sewer main along Faulstich Court.

Solid Waste

Solid waste within the City is collected and processed by private companies franchised by the City. The City currently generates 1.7 million tons of solid waste annually and is served by five landfills, eleven recycling and transfer stations, five composting facilities, and eight processing facilities for construction and demolition debris (City of San José 2011). Through an agreement with International Disposal

Corporation of California (IDC), municipal solid waste generated in the City of San José that is not diverted through recycling or composting must go to Newby Island Landfill. However, City-certified construction and demolition recycling facilities should be used during the construction phase.

Electricity, Natural Gas, and Telecommunications

Electricity and natural gas would be provided to the Project site by PG&E who transmits and delivers electricity and natural gas to residents and business throughout the City. Additionally, telecommunications facilities are plentiful within the City, as the City is the tenth largest city in the nation for the installation and operation of telecommunication services (City of San José 2020). Telecommunications to the surrounding areas are currently provided by several major providers, including AT&T, Verizon and T-Mobile/Sprint.

3.19.3 Environmental Impact Analysis

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

The Project would utilize existing water infrastructure, dispose of wastewater at the RWF, convey stormwater via the City's existing drainage system, and connect to existing utility lines in the vicinity of the site for electricity, natural gas, and telecommunication services.

Water Facilities

The Project would incrementally increase demands on utility services. Given the small scale of the Project (36,513 square feet of hotel space), the increase in utility demand is expected to be minor, since it represents a small fraction of the total growth identified in the City's General Plan.

Water service to the site would be supplied by SJWC, a private entity that obtains water from a variety of groundwater and surface water sources. Existing water utility lines in nearby streets would be used to supply water to the Project site. As discussed in impact threshold 3.19.b, the Project would increase water demand at the site but would not require the relocation or construction of new or expanded water facilities. Lateral connections to water lines in nearby streets would be established during grading and would result in minimal impacts. Therefore, the Project would not result in a significant environmental effect due to new or expanded water facilities.

Wastewater Facilities

The City of San José owns and maintains the sanitary sewer drain system in the Project area. The Project proposes to construct a sanitary sewer lateral that would tie into the City's existing sewer main in Faulstich Court. The connection of new sewer line to serve the Project would occur in conjunction with grading activities. No other sanitary sewer infrastructure would be required by the Project and impacts would be less than significant.

Stormwater Facilities

The Project site is a vacant undeveloped lot and runoff from the Project site directly enters the storm drainage system untreated and unimpeded. As described in Section 3.10, Hydrology and Water Quality, since the Project would create less than 10,000 square feet of impervious areas, compliance with City of San José's Post-Construction Urban Runoff Policy 6-29 and Provision C.3 is not mandated. However, TCMs would be included to direct stormwater runoff into treatment areas to protect water quality. Details of specific site design, pollutant source control, and stormwater treatment control measures would be included in the Project design. Since the Project site is an infill Project in an area that is greater than or equal to 65 percent impervious, the Project is located in a non-hydromodification management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14) (City of San José 2010). Compliance with standard permit conditions and TCMs would ensure that potential impacts related to stormwater drainage are less than significant. Therefore, the Project would not result in a significant environmental effect due to new or expanded stormwater treatment facilities.

Electric Power, Natural Gas, and Telecommunications

The Project would require utility connections for electric power, natural gas, and telecommunications. The exact locations of utility connections would be detailed to the City and subject to design review. Utility connections would occur in conjunction with grading activities. Therefore, the Project would not result in a significant environmental effect due to new or expanded electric power, natural gas, and/or telecommunications facilities.

In conclusion, the Project would not require new or expanded utilities and a **less than significant impact** would occur.

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

The SJWC projects that water supply availability will increase from 47,144 million gallons per year in 2020 to approximately 55,213 million gallons in 2040. During the same time frame the water demand is expected to increase from 45,817 million gallons per year to 55,213 million gallons per year in 2040. This increase would account for 100 percent of water supply available through 2040 under average conditions (SJWC 2016). However, under a multiple year drought scenario, it is anticipated that the water demand would exceed available water supply by as much as approximately 21,437 million gallons during the third year of drought in 2040 (SJWC 2016).

The Project site is currently undeveloped, and development of a new hotel would result in an increase in water demand in the area. The potable water demand for the proposed hotel is estimated to be 3,475 gallons per day, and outdoor water demand is estimated to be 386 gallons per day (CalEEMod 2017). Therefore, the Project would result in a potable water demand of approximately 1.2 million gallons per year. This water demand would represent approximately 12.76 percent of the anticipated 9.4 million gallon increase in water demand from SJWC by 2040. According to the UWMP, there are adequate supplies to meet the water demand for average year and single dry year. There could be challenges

meeting the water demand during the multiple dry year (SJWC 2016). SJWC has adopted a Water Shortage Contingency Plan (WSCP) to account for the potential water shortage under severe drought conditions. The WSCP establishes staged mandatory water use reductions that reduce water supply from 10 percent under stage 1 with voluntary conservation to 50 percent under stage 5 with emergency conservation. Furthermore, the WSCP established prohibited end uses of water under each water shortage stage (SJWC 2016). Future demand in the SJWC service area is expected to be met through increased groundwater pumping, increased treated water delivery, increased recycled water use, and conservation measures. Furthermore, the City of San José General Plan contains policies and actions that require the installation of water-efficient landscaping, and water efficient fixtures and appliances. Therefore, there would be sufficient water supply available to serve the Project and expanded entitlements would be needed. There would be a **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 is has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

The General Plan EIR states that average wastewater flow rates are approximately 85 to 95 percent of water demand. For the purposes of this analysis, wastewater flow rates are assumed to be 90 percent of the total on-site water demand. The Project would, therefore, generate 0.003 mgd of wastewater. Based on the General Plan EIR, the City's average dry weather flow is approximately 69.8 mgd and the City's capacity allocation is approximately 108.6 mgd, leaving the City with approximately 38.8 mgd of excess treatment capacity (City of San José 2011). Therefore, development allowed under the General Plan would utilize an incrementally small percentage of available capacity and would not exceed the City's allocated capacity at the RWF. There would be a **less than significant impact** on wastewater treatment capacity.

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 Project operations would result in generation of solid waste that would be collected by Republic Services. Landfills serving the City include Guadalupe Mines, Kirby Canyon, and Newby Island. All the three landfills have adequate capacity and would operate through 2041 or beyond (CalRecycle 2019a, 2019b, 2019c). All commercial, residential, and City facility waste must go to Newby Island Landfill. Based on CalRecycle estimates, assuming a conservative waste generation rate of 4 pounds per day per room, the Project operations would generate approximately 200 pounds per day of solid waste (about 33 tons per year) (CalRecycle 2020). The increase in solid waste generation from development of the Project would be minimized through implementation of the City's Zero Waste Strategic Plan, which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022. The Project would conform to City plans and policies to reduce solid waste generation and would be served by landfills with adequate capacity. Therefore, the Project would not exceed the capacity of existing landfills or solid waste disposal infrastructure and there would be a **less than significant impact**.

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

As discussed under impact threshold 3.19.d, the Project would be required to comply with City plans and policies to reduce solid waste generation. Therefore, the Project would result in a **less than significant impact** related to compliance with federal, state, and local management and reduction statues and regulations related to solid waste.

3.20 WILDFIRE

WILDFIRE Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones;				
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?	☐	☐	☐	☒

3.20.1 Regulatory Setting

3.20.1.1 Federal

There are no federal regulations related to wildfire that are relevant to the Project.

3.20.1.2 State

There are no state regulations related to wildfire that are relevant to the Project.

3.20.1.3 Local

Envision San José 2040 General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating wildfire impacts from projects. The following policies are applicable to the Project (City of San José 2018a):

- **Goal EC-8:** Wildland and Urban Fire Hazards. Protect lives and property from risks associated with fire-related emergencies at the urban/wildland interface.
    - **Policy EC-8.1:** Minimize development in very high fire hazard zone areas. Plan and construct permitted development so as to reduce exposure to fire hazards and to facilitate fire suppression efforts in the event of a wildfire.

3.20.2 Environmental Setting

There are no wildlands located within the City. According to CAL FIRE, there are not any very high fire hazard severity zones within the Local Responsibility Area in proximity to the Project site. Likewise, there are no moderate, high, or very high fire hazard severity zones in the SRAs in the vicinity of the Project site (CAL FIRE 2008).

3.20.3 Environmental Impact Analysis

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?

The Project is not located in an SRA or a very high fire hazard severity zone (CAL FIRE 2008). The Project area is located in an urban area surrounded by existing development, including buildings, roadways, and associated infrastructure. Although the area does contain some vegetation in the form of grass, this is not considered a wildland area and would not pose a significant wildfire risk. Implementation of the Project would not result in interference with any emergency evacuation or emergency response plans. Therefore, there would be **no impact**.

b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?

The Project is not located in an SRA or a very high fire hazard severity zone (CAL FIRE 2008). The Project area is located on a flat area with existing structures and surrounding development. The Project would not expose construction workers or future employees and hotel patrons to risk from wildfires. There would be **no impact**.

c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

The Project is not located in an SRA or a very high fire hazard severity zone (CAL FIRE 2008). The Project is surrounded on all sides by existing development including roads, structures, and infrastructure. Therefore, the Project would result in **no impact** related to installation of maintenance of infrastructure that could exacerbate fire risk.

d) Would the project 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 is not located in an SRA or a very high fire hazard severity zone (CAL FIRE 2008). The Project is not located on slope or downstream of any waterbodies. Therefore, there would be **no impact**

related to exposure of people or structures to significant risks as a result of runoff, post-fire instability, or drainage changes.

3.21 MANDATORY FINDINGS OF SIGNIFICANCE

MANDATORY FINDINGS OF SIGNIFICANCE	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	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 cumulative considerable? ("Cumulative 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?	☐	☒	☐	☐

3.21.1 Environmental Impact Analysis

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 Section 3.4, Biological Resources, the Project would not impact sensitive habitats or species. With implementation of MM BIO-1 the Project would not impact nesting raptors or migratory birds. As part of the Project's standard permit conditions, all trees removed would be required to be replaced in accordance with all applicable laws, policies, and guidelines. Further, the Project is consistent with the activity described in the SCVHP and would require discretionary approval by the City. The Project would be subject to applicable SCVHP fees prior to issuance of any grading permits. All projects in the City, including the Project, would be required to pay the cumulative nitrogen deposition fees. Impacts to biological resources would be less than significant with mitigation.

Subsurface cultural resources could be uncovered during ground disturbing activities of the Project, however, implementation of standard permit conditions would avoid or reduce impacts to cultural resources, including tribal cultural resources, to a less than significant level. Therefore, Project impacts would be reduced to **less than significant with mitigation incorporated** and/or permit conditions.

b) Does the project have impacts that are individually limited, but cumulative considerable? ("Cumulative 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)?

As described in the discussion of environmental checklist Sections 3.1 through 3.20, the Project would have no impact, a less than significant impact, or a less than significant impact with incorporation of mitigation with respect to all environmental issues. The Project represents an infill project on a small site surrounded by existing urban development and is consistent with the General Plan policies. The Project would emit criteria air pollutants, TACs, and GHG emissions and would contribute to the overall regional and global emissions of such pollutants. With implementation of MM AIR-1, the Project would have a less than significant impact related to criteria air pollutants, TACs, and GHG emissions.

The Project would result in impacts in the following areas: 1) air quality impacts from TAC emissions during construction, 2) potential impacts to nesting birds during construction, 3) hazardous materials impacts from potential release of pesticide residuals in soil, and 4) potential noise impacts on adjacent residential receptors from future mechanical equipment. These impacts would be minimized by implementation of standard permit conditions and mitigation measures AIR-1, BIO-1, HAZ-1, and NOI-1 and would not significantly contribute to cumulative impacts in the area. Some of the other resource areas were determined to have no impact or would result in improvements in comparison to existing conditions and therefore would not contribute to cumulative impacts and did not warrant further analysis, such as Mineral Resources, and Agricultural Resources. There are no other known projects in development or under consideration that would affect the other resource areas. As such, the Project impacts would be **less than significant with mitigation incorporated** and not cumulatively considerable.

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 construction air quality, hazardous materials, and noise. Implementation of standard permit conditions, General Plan policies, and mitigation measures identified in this ISMND would, however, be reduced to a **less than significant impact**. No other direct or indirect adverse effects on human beings have been identified.

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