INITIAL STUDY/
MITIGATED NEGATIVE DECLARATION

for

EVERGREEN CIRCLE REZONING

File No. PDC20-002

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

CITY OF SAN JOSÉ
CALIFORNIA

May 2021

Table of Contents

Chapter 1. Background Information 1
Chapter 2. Project Description 3
Chapter 3. Environmental Evaluation 13
A. Aesthetics 15
B. Agricultural and Forest Resources 19
C. Air Quality 22
D. Biological Resources 38
E. Cultural Resources 47
F. Energy 53
G. Geology and Soils 61
H. Greenhouse Gas Emissions 67
I. Hazards and Hazardous Materials 74
J. Hydrology and Water Quality 80
K. Land Use and Planning 88
L. Mineral Resources 92
M. Noise & Vibration 93
N. Population and Housing 110
O. Public Services 111
P. Recreation 115
Q. Transportation 117
R. Tribal Cultural Resources 124
S. Utilities & Service Systems 127
T. Wildfire 131
U. Mandatory Findings of Significance 134
Chapter 4. References 137

List of Figures

Figure 1. Regional Map 6
Figure 2. APN Maps 7
Figure 3. Vicinity Map 9
Figure 4. Site Photos 10
Figure 5. Land Use Map 11
Figure 6. Locations of Off-Site Sensitive Receptors and Maximum TAC Impact Location (MEI) 32
Figure 7. Locations of Nearby TAC and $PM_{2.5}$ Sources 35
Figure 8. Noise Measurements from Previous Studies 95

List of Tables

Table 1. BAAQMD Air Quality Significance Thresholds 27
Table 2. Operational Emissions 28
Table 3. Construction Period Emissions 29
Table 4. Construction and Operation Risk Impacts at the Offsite Project MEI 34
Table 5. Cumulative Community Risk Impacts at the Location of the Project MEI 36
Table 6. Private Sector Green Building Policy Applicable Projects 55
Table 7. Estimated Annual Energy Use of Proposed Project (2030) 59
Table 8. Summaries of Long-Term Noise Data from Prior Studies 96
Table 9. Typical Ranges of Construction Noise Levels at 50 Feet, L_{eq} (dBA) 102
Table 10. Vibration Source Levels for Construction Equipment 105
Table 11. Daily VMT Analysis 122

Appendices

A. Air Quality Assessment
B. Burrowing Owl Report
C. Noise & Vibration Assessment
D. VMT Transportation Analysis
E. Greenhouse Gas Reduction Strategy Compliance Checklist

Chapter 1. Background Information

INTRODUCTION

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

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

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

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

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

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

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

PROJECT DATA

1. **Project Title**: Evergreen Circle Rezoning

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

3. **Project Owner:** The Arcadia Companies, P.O. Box 5368, San José, CA 95159

4. **Project Developer:** Hunter Storm, LLC, 10121 Miller Ave, Suite 200, Cupertino, CA 95014

5. **Project Planner/Civil:** Ruth & Going, Inc.; P.O. Box 26460, San José, 95159; Contact: Gerry De Young (408) 236-2400

6. **Project Location:** The project is located on an approximately 29-acre site located in Evergreen Circle in San José, south of Quimby Avenue and west of Capitol Expressway. The existing property is completely rough-graded and has been part of an active construction site for two years. The project is located within the Evergreen East Hills Development Policy Area.

   Assessor's Parcel Numbers (APNs): 670-29-032, 670-29-033, 670-29-035, and 670-50-001, 670-50-002, 670-50-003, 670-50-004, 670-50-005. **City Council District:** 8

7. **Project Description Summary:** The project is application for a proposed rezoning of the project site from A(PD) Planned Development Zoning District to a new PD Planned Development Zoning District to allow for 150,000 square feet of medical office space or 60,238 square feet of commercial equivalency. The rezoning would allow for previously entitled and built commercial space of up to 369,560 square feet with only 60,238 of new commercial square footage. The project does not propose a specific development at this time; however, medical office use is anticipated.

8. **Envision 2040 San José General Plan Designations**: *Neighborhood/Community Commercial*

9. **Zoning Designations**: A(PD) Planned Development Zoning District

10. **Habitat Conservation Plan Designations**:
    Area 4: Urban Development Equal to or Greater than 2 Acres Covered
    Land Cover: Golf Courses/Urban Park
    Land Cover Fee Zone: Fee Zone B (Agricultural and Valley Floor Land)

11. **Surrounding Land Uses**:
    - North: Commercial, Quimby Road
    - South: Asana Way, Commercial (under construction or complete)
    - East: Commercial (northeast), E. Capitol Expressway, Residential (across Capitol)
    - West: N. Evergreen Loop, Commercial (under construction or complete)

Chapter 2. Project Description

PROJECT LOCATION

The project site is located within the City limits of San José, in Santa Clara County, at 2367 South Evergreen Loop, south of Quimby Avenue and west of Capitol Expressway (refer to Figure 1). The project site is approximately 28.99 gross acres in size and identified as Assessor's Parcel Numbers 670-29-032, 670-29-033, 670-29-035, and 670-50-001~005 (see Figures 2A and 2B). The existing property is currently vacant, having been completely rough-graded, and has been part of an active construction site for over two years. An aerial photograph of the project site and surrounding area is presented in Figure 3. The project lies within the boundaries of the Evergreen East Hills Development Policy (EDP) area. Photos of the site are presented in Figure 4.

PROJECT BACKGROUND

The project site is located in the Evergreen area of San José. The Evergreen area of the City is defined as land within the City's Urban Service Boundary east of Highway U.S. 101 (U.S. 101) and south of Story Road, excluding properties south of the intersection of U.S. 101 and Hellyer Avenue. Development in Evergreen is guided by the City's Evergreen-East Hills Development Policy (EEHDP), which was originally the Evergreen Development Policy (EDP), and the General Plan.

The original EDP was adopted by the San José City Council in 1976 to address issues of flood protection and limited traffic capacity in the EDP area and was the subject of a certified Final Environmental Impact Report. Over the years, the EDP has undergone several updates and amendments, each of which has been the subject of additional environmental review.

The EDP has been replaced by the EEHDP. The environmental review for the EEHDP is the 2006 Evergreen East Hills Vision Strategy Project EIR (Evergreen EIR, SCH# 2005102007), adopted by City Council Resolution No. 73570 on December 12, 2006. This document was subsequently amended via the certified Revision of the Evergreen Development Policy Final Supplemental Environmental Impact Report (Revision Evergreen FSEIR, SCH# 2005102007), adopted by City Council Resolution No. 74741 on December 16, 2008. The Revision Evergreen FSEIR provides program-level environmental review for the development of 500 residential units, 500,000 square feet of commercial retail space, and 75,000 square feet of office space in the Evergreen area. The Revision Evergreen FSEIR also provides project-level clearance for traffic impacts and traffic-related noise and air quality impacts associated with the aforementioned amount of development.

In 2011, the City updated its General Plan. The certified 2011 Envision San José 2040 General Plan Final Program EIR (General Plan FPEIR, SCH# 2009072096) evaluated the buildout of the City through the year 2035. The City of San José also has an adopted Greenhouse Gas (GHG) Reduction Strategy that was initially approved by the City Council in November 2011 in conjunction with the General Plan. Following litigation, the GHG Reduction Strategy was re-adopted after certification of a Final Supplemental Program (FSPEIR) to the General Plan FPEIR in December 2015 (General Plan FSPEIR, SCH# 2009072096). The city also adopted a new GHG Reduction Strategy in December 2020 and Addendum to the previously approved General Plan FPEIR and FSPEIR.

A project level Initial Study/Addendum to the EEHVS and Supplemental EIRs was completed in 2014 for the Evergreen Circle Rezoning (File no. PDC10-022 called "Evergreen Circle"), which analyzed

for 344,000 sf of commercial uses, 217 high-density residential units, and approximately nine acres of public parkland.[1]

Since the approval of the Addendum, a development permit was approved for the development of 309,322 sf of commercial space (PD15-013, PDA15-013-01, and PDA15-013-02). Of the approved 309,00 sf of commercial space approved, 254,214 sf commercial/retail was already built under project permits. The South Retail area has been developed with a Costco facility and parking area, and the remainder of that site is currently under construction in conformance with the approved PD Permit. The Central Retail area has been graded in preparation for the future construction of retail commercial buildings in conformance with the approved PD permit. The leftover unbuilt commercial/retail space for this area is 89,786 sf.

The currently proposed project is to rezone the commercial/retail area to allow existing uses and the potential future development of a new use of a 150,00 sf medical office facility. In order to facilitate a development of medical office, the delta of unbuilt commercial space was converted to an equivalency, bringing the total square footage of this new entitlement up to 369,560 sf of commercial/retail space, as follows:

- 254,214 sf commercial/retail was already built and therefore is not subject to new discretionary actions.

- 115,346 sf commercial is equivalency of 150,000 sf medical office and that is also the left over commercial/retail space within the PDC10-022 and new square footage allocated to the project to meet the medical office equivalency. Of the 115,560 sf, the following has been determined:

    - 55,108 (Area C of PD15-013) sf was already approved under PD15-013 and, therefore, should be deemed as no longer discretionary for the purposes of CEQA.
    - 34,678 sf of commercial/retail was entitled in PDC10-022, but a permit was not issued and, therefore, is subject to further discretionary actions and is part of this analysis.
    - 25,560 sf commercial/retail is the new allocation that has not been accounted for in PDC10-022 or any other permits.

In summary, the total commercial equivalency analyzed under in this IS/MND is 60,238 new square footage for commercial/retail (34,678 sf plus 25,560 sf).

PROJECT DESCRIPTION

The project is a proposed rezoning of the project site from A(PD) Planned Development Zoning District to a new PD Planned Development Zoning District to allow for 150,000 square feet of medical office space in the North Retail area (approximately five acres of the total 29 acres) or the development of up to 369,560 square feet of commercial/retail. The proposed PD Zoning District would increase the allowable commercial space on the 29-acre project site from 344,000 to 369,560 square feet within the Evergreen Circle area, consistent with the remaining commercial pool of square footage available for the property (see Project Background discussion above). As previously mentioned, only 60,238 sf of commercial/retail within this area are new. The project does not propose a PD permit application,

[1] This EIR Addendum also addressed the Arcadia Softball Fields, proposed as an independent project within the Evergreen Circle site by the City San José Department of Public Works. Portions of both projects have been constructed or partially constructed to date.

but the proposed rezoning is in anticipation of future development with medical office of up to 150,000 sf on property that is identified as the North Retail Site. Access to the project site would likely be provided by Evergreen Circle via E. Capitol Expressway. A land use map of the project site is presented in Figure 5.

Furthermore, in lieu of the medical office, the project could develop the remaining commercial/retail square footage of up to 60,238 sf, based on a vehicle trips equivalency. The assumption for the development of the medical facility is more conservative and is use in the analysis for this document.

This Initial Study relies in part on the information and analysis provided in the EEHVS and Supplemental EIRs, as applicable. Site-specific analysis is provided for the PD rezoning where relevant; however, additional environmental review may be required at the time that a specific development is proposed.

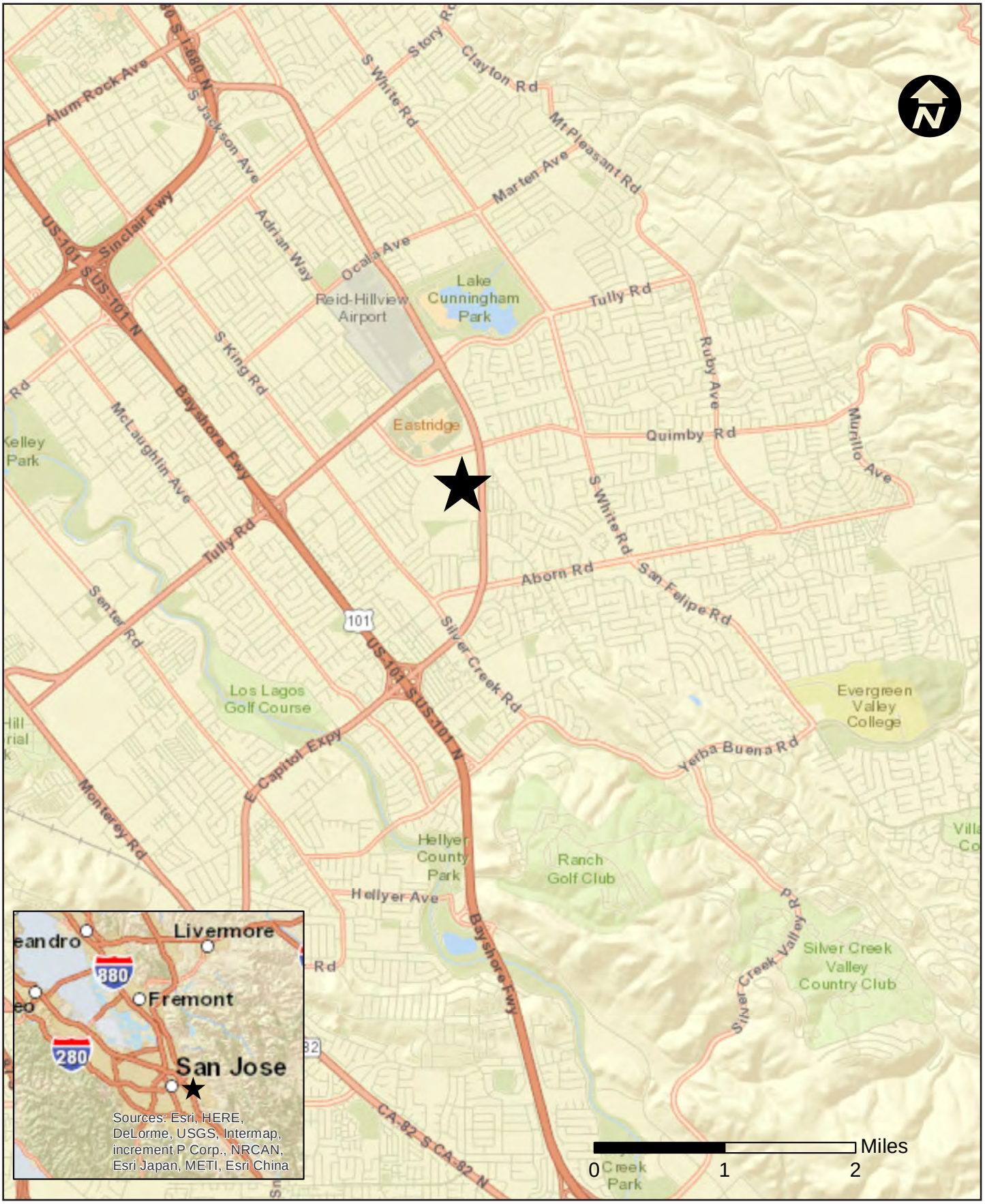
PROJECT CONSTRUCTION

The project is PD rezoning of the site to allow an increase in the allowable commercial development on the site. No PD permit application or specific project are proposed at this time; thus, no construction schedule has been developed. However, this report assumes that future medical office or commercial use development would be built out over a period of approximately 18 months.

PROJECT APPROVALS

The City of San José is the lead agency with responsibility for approving the proposed project. Future development on the project site with medical office uses or 60,238 square feet of commercial uses may require the following permits and approvals from the lead agency:

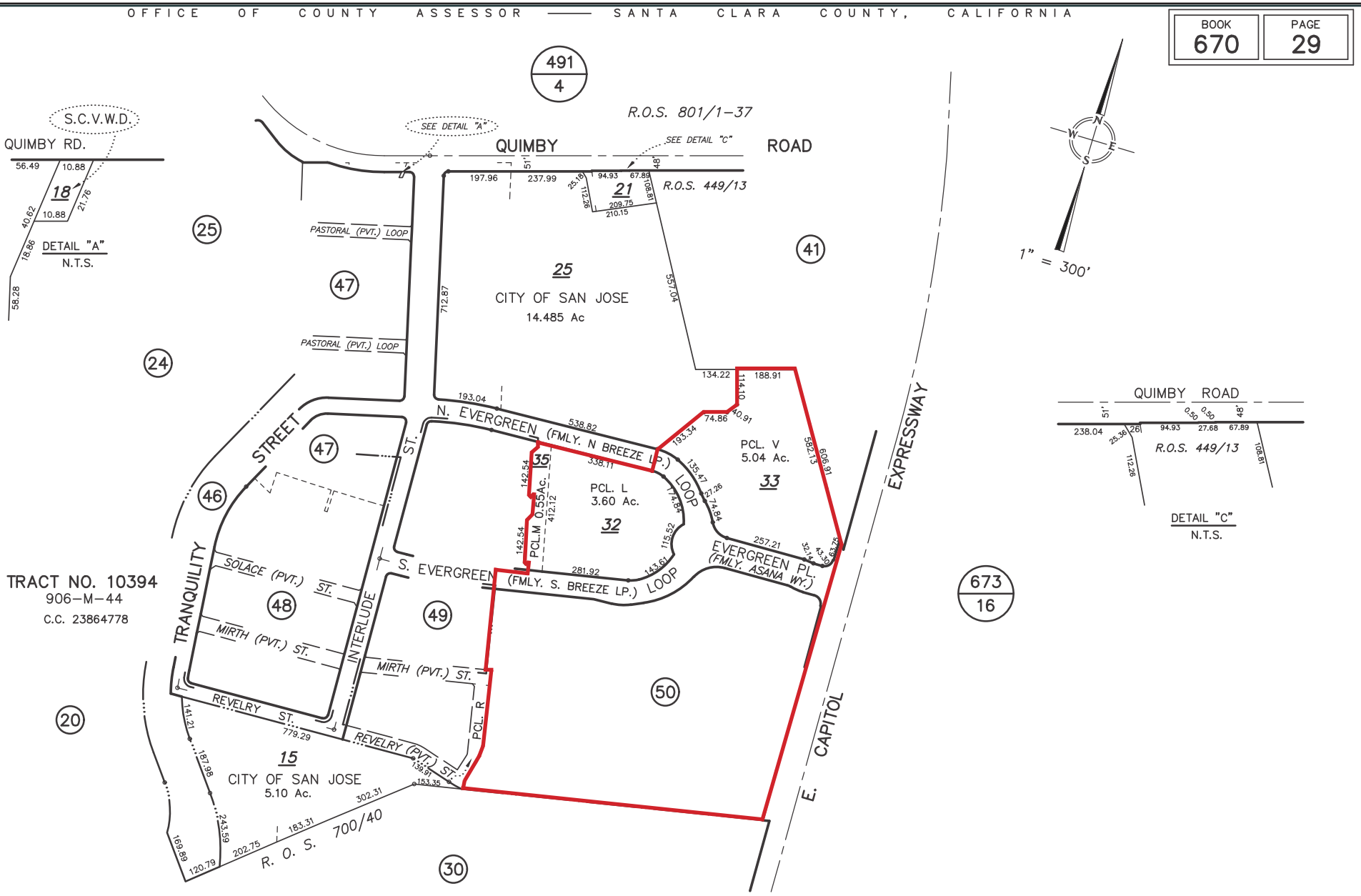
- PD Rezoning
- PD Permit
- Public Works Clearance(s): Grading Permit



Regional Map

Evergreen Circle Rezoning
Initial Study

Figure
1

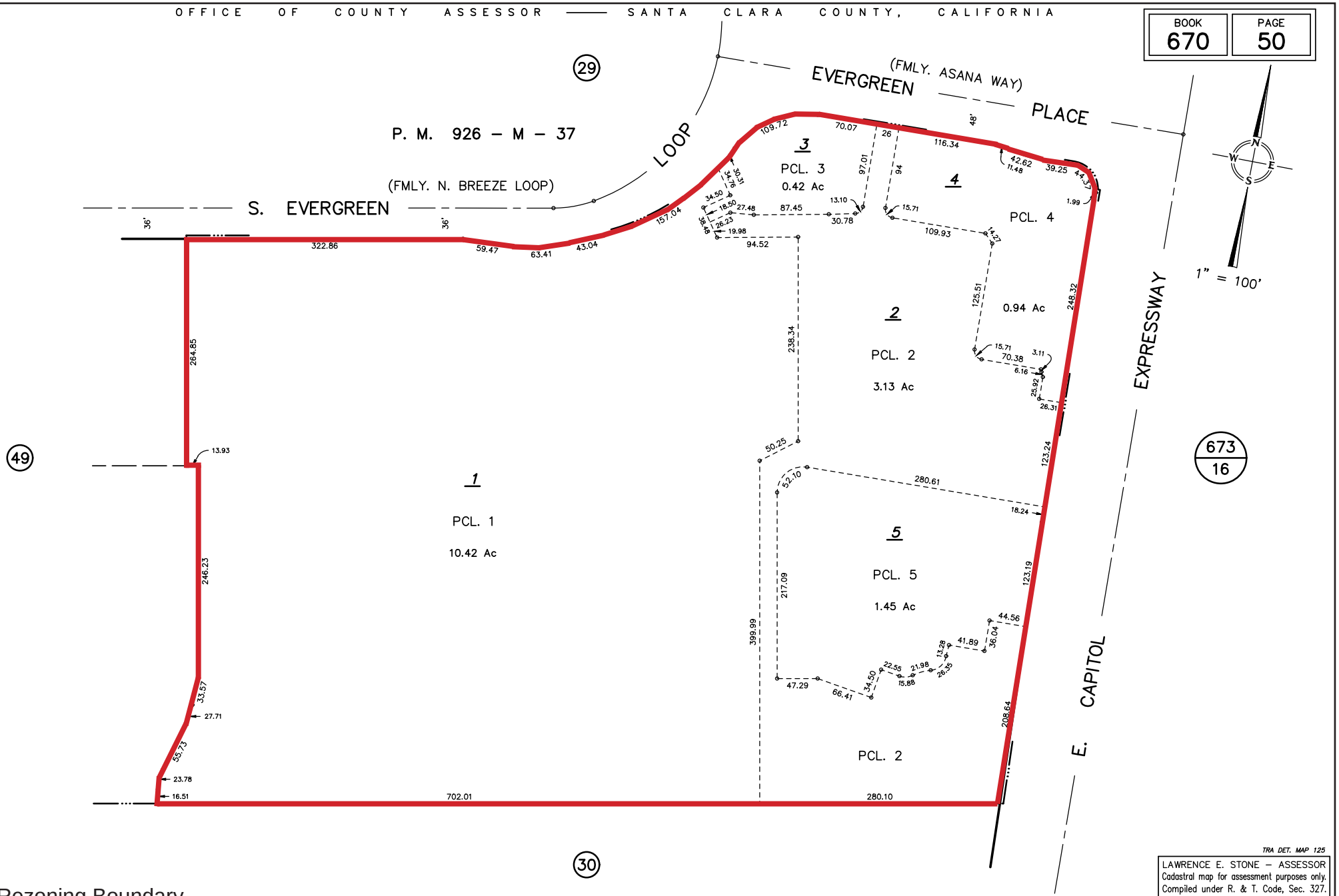


Source: Santa Clara County Assessor, January 2021

APN Map

Figure 2a

Evergreen Circle Rezoning
Initial Study



Rezoning Boundary

Source: Santa Clara County Assessor, March 2021

APN Map - Southern Portion

Figure 2b

Evergreen Circle Rezoning
Initial Study

Vicinity Map

Figure 3

Evergreen Circle Rezoning
Initial Study

Photo #1: West facing view of project site and neighborhing residential development.
Source: Ruth & Going - Image Capture October 2020

Photo #2: Northeast facing view of project site, neighboring commercial development, mobilehome park, and Diablo Foothills.
Source: Ruth & Going - Image Capture October 2020

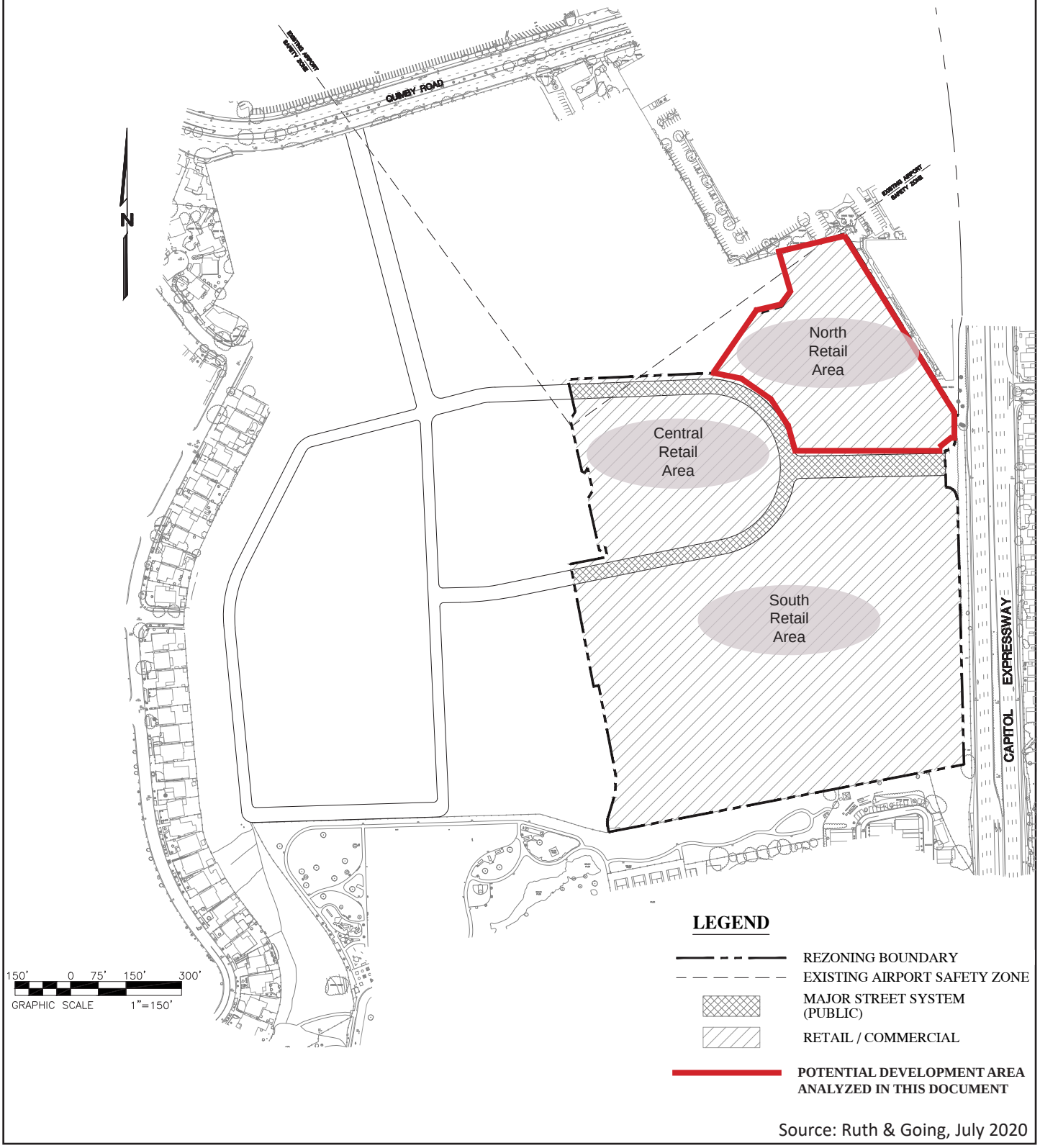
Photo #3: Northwest facing view of project site at Capitol Expressway.
Source: Ruth & Going - Image Capture October 2020

Photo #4: South facing view from project site at E. Capitol Expressway.
Source: Ruth & Going - Image Capture October 2020

Site Photos

Evergreen Circle Rezoning
Initial Study

Figure
4



Source: Ruth & Going, July 2020

Land Use Map

Evergreen Circle Rezoning
Initial Study

Figure
5

This Page Intentionally Left Blank

Chapter 3. Environmental Evaluation

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

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

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

EVALUATION OF ENVIRONMENTAL IMPACTS

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

The explanation of each issue should identify:

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

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

- A "potentially significant impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "potentially significant impact" entries when the determination is made, an EIR is required.
- A “less than significant with mitigation incorporated” response applies where the incorporation of mitigation measures has reduced an effect from a potentially significant impact to less than significant impact. The lead agency must describe the mitigation measures and briefly explain how they reduce the effect to a less than significant level.

Important Note to the Reader:

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

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

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

ENVIRONMENTAL SETTING AND IMPACTS

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

A. AESTHETICS

Existing Setting

The project site is located on a vacant parcel within an suburbanized area of San José. The property is part of the larger Evergreen Circle site that has been completely graded in anticipation of future site development.

The site is located in a mixed residential and commercial area along and west of E. Capitol Expressway. The project site is bordered by the following land uses:

- North: Commercial, Quimby Road
- South: Asana Way, Commercial (under construction or complete)
- East: Commercial (northeast), E. Capitol Expressway, Residential (across Capitol)
- West: N. Evergreen Loop, Commercial (under construction or complete)

Photographs of the property are presented in Figure 4, and an aerial of the project area is provided in Figure 3. The project site is currently vacant, completely graded, and does not contain any landscaping. Several trees surround the north border and portions of the eastern border of the site as part of the landscaping for the neighboring commercial property.

The project does not propose application for a PD permit or a specific project at this time. However, the applicant has indicated that the additional square footage allocation is proposed to support future medical office uses. This analysis addresses the potential effects of a 150,00 square foot medical office building or the commercial equivalency of 60,238 square feet of commercial/retail.

Regulatory Framework

State Scenic Highways Program

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

Outdoor Lighting Policy (City Council Policy 4-3)

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

City's Scenic Corridors Diagram

The City's General Plan defines scenic vistas in the City of San José as views of and from the Santa Clara Valley, surrounding hillsides, and urban skyline. Scenic urban corridors, such as segments of

major highways that provide gateways into the City, can also be defined as scenic resources by the City. The designation of a scenic route applies to routes affording especially aesthetically pleasing views. The project property is not located along any scenic corridors per the City's Scenic Corridors Diagram.

General Plan Policies

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

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

Envision San José 2040 Relevant Aesthetic Policies	
Policy CD-8.1	Ensure new development is consistent with specific height limits established within the City's Zoning Ordinance and applied through the zoning designation for properties throughout the City. Land use designations in the Land Use/ Transportation Diagram provide an indication of the typical number of stories.

Impacts and Mitigation

Thresholds per CEQA Checklist

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

Explanation

a) **Less Than Significant Impact**. The City's General Plan states that San José contains scenic resources that include the broad sweep of the Santa Clara Valley, the hills and mountains that frame the Valley floor, the baylands, and the urban skyline itself, particularly high-rise development. The project site is located in an urbanized location in eastern San José. The Diablo Mountain range can be observed from the east-facing view of the project site.

Maximum height as allowed in the project development standards would limit building heights to 60 feet. Future medical office or commercial development on the site would not obstruct views since the only public views across the project site are from E. Capitol Expressway where these are fleeting from vehicles traveling along the expressway. This represents a less than significant impact.

b) **No Impact**. The project site is not located within a state-designated scenic route or City-designated scenic corridor. Specifically, no rock outcroppings, trees, or historic structures occur on the vacant, graded project site. The project and future development on the site would have no impact on scenic resources from a scenic route.

c) **Less Than Significant Impact**. The project is a PD rezoning and would not alter the existing visual character of the site and its immediate surroundings. However, future development on

the site could alter the existing visual character of the site by introducing new buildings associated with a medical office or commercial use onto a site that is currently vacant.

Any future project on the site would be required to 1) conform to the City's Design Guidelines, and 2) undergo project-specific design review. By adhering to these requirements, future site development would not substantially degrade the existing visual character or quality of the site and its surroundings within this urbanized area. This represents a less than significant impact.

d) **Less Than Significant Impact**. The project is a PD rezoning and, by itself, does not propose sources of lighting or glare. However, future development such as the medical office or other commercial uses would be required to adhere to outdoor lighting policies. Outdoor lighting proposed for future development on the site would be required to conform to the City's Outdoor Lighting policies. By adhering to City design and lighting requirements, future site development would not create a new source of substantial light or glare that would adversely affect day or nighttime views in the area. This represents a less than significant impact.

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

B. AGRICULTURAL AND FORESTRY RESOURCES

Existing Setting

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

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

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

Regulatory Framework

State

California Land Conservation Act

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

Land Evaluation and Site Assessment

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

Farmland Mapping and Monitoring Program

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

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

General Plan Policies

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

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

Impacts and Mitigation

Thresholds per CEQA Checklist

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

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

Explanation

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

b) **No Impact**. The project site has been completely graded and is not zoned for agricultural use, nor does it contain lands under Williamson Act contract; therefore, no conflicts with agricultural uses would occur.

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

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

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

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

C. AIR QUALITY

An air quality assessment was prepared for the project by Illingworth & Rodkin, Inc. (January 2021). This report is included as Appendix A.

Existing Setting

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

High ozone levels are caused by the cumulative emissions of ROG and NO_X. These precursor pollutants react under certain meteorological conditions to form high ozone levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to reduce ozone levels. The highest ozone levels in the Bay Area occur in the eastern and southern inland valleys that are downwind of air pollutant sources. High ozone levels aggravate respiratory and cardiovascular diseases, reduced lung function, and increase coughing and chest discomfort.

Particulate matter is another problematic air pollutant of the Bay Area. Particulate matter is assessed and measured in terms of respirable particulate matter (PM_{10}) and fine particulate matter ($PM_{2.5}$). Elevated concentrations of PM_{10} and $PM_{2.5}$ are the result of both region-wide (or cumulative) emissions and localized emissions. High particulate matter levels aggravate respiratory and cardiovascular diseases, reduce lung function, increase mortality (e.g., lung cancer), and result in reduced lung function growth in children.

In addition to the criteria pollutants, toxic air contaminants (TACs) are another group of pollutants of concern. TACs are injurious in small quantities and are regulated by the EPA and the California Air Resources Board (CARB). Some examples of TACs include benzene, butadiene, formaldehyde, and hydrogen sulfide. The identification, regulation, and monitoring of TACs is relatively recent compared to that for criteria pollutants.

High volume freeways, stationary diesel engines, and facilities attracting heavy and constant diesel vehicle traffic (distribution centers, truck stops) were identified as posing the highest risk to adjacent receptors. Other facilities associated with increased risk include warehouse distribution centers, large retail or industrial facilities, high volume transit centers, or schools with a high volume of bus traffic. Community health risk assessments typically look at all substantial sources of TACs located within 1,000 feet of project sites and at new TAC sources that would be introduced by the project. These sources include railroads, highways, busy surface streets, and stationary sources identified by BAAQMD. The Union Pacific Railroad/Caltrain is east of the project site. A review of the project area indicates that traffic on State Route 87 (SR 87) and Almaden Expressway have an average daily traffic (ADT) of over 10,000 vehicles. All other roadways within the area are assumed to have an ADT that is less than 10,000 vehicles. Five stationary sources were identified within the 1,000-foot influence area using the BAAQMD's stationary source stationary source website map and Google Earth map.

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs (based on the Bay Area average). According to the CARB, diesel exhaust is a complex mixture of gases, vapors, and fine particles. This complexity makes the evaluation of health effects of diesel exhaust a complex scientific issue. Some of the chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the CARB, and are listed as carcinogens either under the state's Proposition 65 or under the Federal Hazardous Air Pollutants programs. Because chronic exposure can result in adverse health effects, TACs are regulated at the regional, state, and federal level.

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

The project would not introduce new sensitive receptors to the site. The closest sensitive receptors to the project site are the residents in the single-family mobile housing development to the east of the project site opposite E. Capitol Expressway. Additional residents are located further south and west of the site.

Regulatory Framework

Federal

Federal Clean Air Act and United States Environmental Protection Agency

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

The United States Environmental Protection Agency (U.S. EPA) administers the National Ambient Air Quality Standards (NAAQS) under the Federal Clean Air Act. The U.S. EPA sets the NAAQS and determines if areas meet those standards. Violations of ambient air quality standards are based on air pollutant monitoring data and judged for each air pollutant. Areas that do not violate ambient air quality standards are considered to have attained the standard. The U.S. EPA has classified the region as a nonattainment area for the 8-hour O_3 standard and the 24-hour $PM_{2.5}$ standard. The Bay Area has met the CO standards for over a decade and is classified as an attainment area by the U.S. EPA. The U.S. EPA has deemed the region as attainment/unclassified for all other air pollutants, which include PM_{10}. At the State level, the Bay Area is considered nonattainment for ozone, PM_{10} and $PM_{2.5}$.

State

California Clean Air Act

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

Regional and Local

Bay Area Air Quality Management District

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

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

2017 Bay Area Clean Air Plan

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

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

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 on-going program that encourages community involvement and input. The technical analysis portion of the CARE program is being implemented in three phases that includes an assessment of the sources of TAC emissions, modeling and measurement programs to estimate concentrations of TAC, 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 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. The BAAQMD has identified six communities as impacted: Concord, Richmond/San Pablo, Western Alameda County, San José, Redwood City/East Palo Alto, and Eastern San Francisco.

General Plan Policies

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

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

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS		Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
3.	AIR QUALITY. Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project:					
a)	Conflict with or obstruct implementation of the applicable air quality plan?			X		2, 5, 6, 7
b)	Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?			X		2, 5, 6, 7
c)	Expose sensitive receptors to substantial pollutant concentrations?		X			2, 5, 7
d)	Result in other emissions (such as those leading to odors adversely affecting a substantial number of people?			X		1, 2, 5

Explanation

a) **Less Than Significant Impact**. The 2017 Clean Air Plan, adopted by BAAQMD in April 2017, includes control measures that are intended to reduce air pollutant emissions in the Bay Area either directly or indirectly. Plans must show consistency with the control measures listed within the Clean Air Plan. At the project-level, there are no consistency measures or thresholds. The proposed project would not conflict with the latest Clean Air planning efforts since 1) project would have emissions below the BAAQMD thresholds, as discussed in b) below, 2) the project would be considered urban infill, and 3) the project would be located near transit with regional connections. In addition, future development on the site would incorporate and promote, to the extent feasible, the control measures identified in the 2017 CAP. Therefore, the project would have a less than significant impact on clean air planning efforts.

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

The City of San José uses the thresholds of significance established by the BAAQMD to assess air quality impacts of proposed development. The BAAQMD CEQA Guidelines include screening levels and thresholds for evaluating air quality impacts in the San Francisco Bay Area Air Basin. As part of an effort to attain and maintain ambient air quality standards for ozone and PM_{10}, the BAAQMD has established thresholds of significance for these air pollutants and their precursors. These thresholds are for ozone precursor pollutants (ROG and NO_X), PM_{10}, and $PM_{2.5}$ and apply to both construction period and operational period impacts. The applicable thresholds are presented below in Table 1.

Table 1 BAAQMD Air Quality Significance Thresholds			
Pollutant	**Construction Thresholds**	**Operational Thresholds**	
	Average Daily Emissions (lbs./day)	**Average Daily Emissions (lbs./day)**	**Annual Average Emissions (tons/year)**
Criteria Air Pollutants			
ROG, NO_x, $PM_{2.5}$ (exhaust)	54	54	10
PM_{10} (exhaust)	82	82	15
CO	Not Applicable	9.0 ppm (8-hour average) or 20.0 ppm (1-hour average)	
Fugitive Dust ($PM_{2.5}$, PM_{10})	Construction Dust Ordinance or other Best Management Practices	Not Applicable	
Health Risks and Hazards for Sources within 1,000 Feet of Project			
Excess Cancer Risk	10 per one million	10 per one million	
Chronic or Acute Hazard Index	1.0	1.0	
Incremental annual average $PM_{2.5}$	0.3 µg/m^3	0.3 µg/m^3	
Health Risks and Hazards for Sensitive Receptors (Cumulative from All Sources within 1,000-Foot Zone of Influence) and Cumulative Thresholds for New Sources			
Excess Cancer Risk	100 per 1 million		
Chronic Hazard Index	10.0		
Annual Average $PM_{2.5}$	0.8 µg/m^3		
Greenhouse Gas Emissions (Land Use Projects)			
GHG Annual Emissions	1,100 metric tons or 4.6 metric tons per service population		
Notes: ROG = reactive organic gases, NOx = nitrogen oxides, PM_{10} = course particulate matter or particulates with an aerodynamic diameter of 10 micrometers (µm) or less, and $PM_{2.5}$ = fine particulate matter or particulates with an aerodynamic diameter of 2.5µm or less; GHG = greenhouse gas; ppm = parts per million; µg/m^3 = micrograms per cubic meter			

Although the current application is for a PD rezoning only at this time, the air quality assessment considered the impacts from future development of medical office uses on the site. The air quality assessment for the project used the California Emissions Estimator Model (CalEEMod) Version 2016.3.2 to estimate air pollutant emissions from construction and operation of the project at buildout (see Appendix A).

As part of an effort to attain and maintain ambient air quality standards for ozone and PM_{10}, the BAAQMD has established thresholds of significance for these air pollutants and their precursors. These thresholds are for ozone precursor pollutants (ROG and NOX), PM_{10}, and $PM_{2.5}$ and apply to both operational and construction period impacts.

Operational Emissions

Operational air emissions from a future medical office use would be generated primarily from vehicles driven by future patients and employees. Evaporative emissions from architectural

coatings and maintenance products (classified as consumer products) are typical emissions from these types of uses. CalEEMod was used to estimate emissions from operation of the project at buildout. Inputs for this modeling scenario included project components along with the trip rate generation rates; the results of the modeling are presented in Table 2. As shown in Table 2, operational emissions would not exceed the BAAQMD significance thresholds, representing a less than significant impact.

Table 2
Operational Emissions

Scenario	ROG	NOx	PM_{10}	$PM_{2.5}$
2024 Annual Project Operational Emissions *(tons/year)*	2.09 tons	2.28 tons	2.91 tons	0.81 tons
BAAQMD Thresholds (tons /year)	*10 tons*	*10 tons*	*15 tons*	*10 tons*
Exceed Threshold?	***No***	***No***	***No***	***No***
2024 Daily Project Operational Emissions *(lbs/day)*[1]	11.46 lbs.	12.52 lbs.	15.94 lbs.	4.41 lbs.
BAAQMD Thresholds (pounds/day)	*54* lbs.	*54* lbs.	*82* lbs.	*54* lbs.
Exceed Threshold?	***No***	***No***	***No***	***No***

[1] Assumes 365-day operation

The potential development of 60,238 square feet of commercial/retail equivalency would generate similar emissions as a medical office building from mobile sources, since the number of vehicle trips generated would be the same due to the lower trip generation rate of medical office compared to retail/commercial uses. However, the scale of 60,238 square feet of commercial use would be smaller than the 150,000 square foot medical office building and would likely generate fewer non-mobile operational emissions (e.g., from architectural coatings and maintenance products).

Construction Emissions

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

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

- 150,000 square feet of "Medical Office Building"
- 287,000 square feet entered as "Unenclosed Parking with Elevator"
- 34,800 square feet entered as "Parking Lot"

The default CalEEMod information also assumed future construction would begin early 2022 and last 18 months. There were an estimated 380 construction workdays. Average daily emissions were computed by dividing the total construction emissions by the number of construction days.

Table 3 shows average daily construction emissions of ROG, NOx, PM_{10} exhaust, and $PM_{2.5}$ exhaust during construction of the project. As indicated in Table 3, the predicted construction period emissions would not exceed the BAAQMD significance thresholds. The potential development of 60,238 square feet of commercial/retail equivalency may generate fewer construction emissions due to the decrease in scale.

Table 3
Construction Period Emissions

Scenario	ROG	NOx	PM_{10} Exhaust	$PM_{2.5}$ Exhaust
Construction Emissions Per Year (Tons)				
2022	0.32	3.03	0.16	0.13
2023	0.95	0.89	0.05	0.04
Average Daily Construction Emissions Per Year (pounds/day)				
2022 (260 construction workdays)	2.42	23.30	1.26	1.03
2023 (120 construction workdays)	15.76	14.87	0.86	0.66
BAAQMD Thresholds (pounds per day)	*54* lbs./day	*54* lbs./day	*82* lbs./day	*54* lbs./day
Exceed Threshold?	**No**	**No**	**No**	**No**

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

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

Standard Permit Conditions

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

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

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

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

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

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

- Replant vegetation in disturbed areas as quickly as possible.

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

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

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

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

c) **Less Than Significant with Mitigation.** Project impacts related to increased community risk can occur either by introducing a new source of TACs with the potential to adversely affect existing sensitive receptors in the project vicinity or by significantly exacerbating existing cumulative TAC impacts. Future development on the project site may introduce new sources of TACs during construction (i.e., on-site construction and truck hauling emissions) and operation (i.e., emergency diesel generators and mobile sources), which are included in the analysis in of TACs emissions.

Project construction activity would generate dust and equipment exhaust that would affect nearby sensitive receptors. Future medical uses are assumed to include installation of an emergency generator powered by diesel engines, which would emit air pollutant emissions including TACs. Future development would also generate some traffic, consisting of mostly light-duty vehicles.

Potential impacts to existing sensitive receptors were, thus, addressed for temporary construction activities and long-term operational conditions. Several sources of existing TACs and localized air pollutants also exist in the project vicinity. The impact of the existing sources of TACs was also assessed in terms of the cumulative risk, which includes the project's contribution to these TACs.

Temporary project construction activity would generate dust and equipment exhaust, in the form of DPM, on a temporary basis that could affect nearby sensitive receptors. Community

risk impacts are addressed by predicting increased lifetime cancer risk, the increase in annual $PM_{2.5}$ concentrations and computing the Hazard Index (HI) for non-cancer health risks.

Receptors for this assessment included locations where sensitive populations would be present for extended periods of time (chronic exposures). This includes the nearby existing residences to the west of the project site opposite E. Capitol Expressway and the future residents in the proposed housing of the Evergreen Circle west of the site, as shown in Figure 6. Residential receptors are assumed to include all receptor groups (i.e., infants, children, and adults) with almost continuous exposure to project emissions.

Community Health Risk Impacts Associated with Construction

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

A health risk assessment of the construction activities associated with future development on the site was conducted to evaluate the potential health effects to nearby sensitive receptors from emissions of DPM and $PM_{2.5}$.[2] The closest sensitive receptors to the project site are residences on E. Capitol Expressway, east of the site.

The increased cancer risk calculations were calculated by applying the BAAQMD recommended age sensitivity factors to the TAC concentrations (see Appendix A). Age-sensitivity factors reflect the greater sensitivity of infants and small children to cancer causing TACs. Infant and adult exposures were assumed to occur at all residences during the entire construction period.

The maximum modeled annual $PM_{2.5}$ concentration was calculated based on combined exhaust and fugitive concentrations. The maximum modeled annual DPM and $PM_{2.5}$ concentrations, which includes both the DPM and fugitive $PM_{2.5}$ concentrations, were identified at nearby sensitive receptors to find the maximally exposed individuals (MEI). Results of this assessment indicated that the MEI most affected by construction was located on the first floor (5 feet above ground) of a single-family mobile residence to the east of the project site opposite E. Capitol Expressway. The location of the MEI and nearby sensitive receptors are shown in Figure 6. Table 4 lists the community risks from construction at the location of the residential MEI.

Community Risks from Project Operation – Traffic and Generators

Operation of the project (medical office or commercial equivalent) would have long-term emissions from mobile sources (i.e., traffic) and stationary sources (e.g., generator). While these emissions would not be as intensive at or near the site as construction activity, they would contribute to long-term effects to sensitive receptors.

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

Source: Illingworth & Rodkin, January 2021

Locations of Off-Site Sensitive Receptors, and Maximum TAC Impact Location (MEI)

Evergreen Circle Rezoning
Initial Study

Figure
6

Diesel powered vehicles are the primary concern with regard to local traffic-generated TAC impacts. Per BAAQMD recommended risks and methodology, a road with less than 10,000 total vehicle per day is considered a low-impact source of TACs and do not need to be considered in the CEQA analysis. Therefore, emissions from project traffic are considered negligible and were not included within the analysis.

A future medical office project is assumed to include one 1,000-kW emergency diesel generator. The location of the generator is not known; therefore, the generator was assumed to be located near center of the medical office building on the ground floor. This diesel engine would be subject to CARB's Stationary Diesel Airborne Toxics Control Measure (ATCM) and require permits from the BAAQMD. As part of the BAAQMD permit requirements engine emissions will have to meet Best Available Control Technology for Toxics (TBACT) and pass the toxic risk screening level of less than ten in a million. The risk assessment would be prepared by BAAQMD. Depending on results, BAAQMD would set limits for DPM emissions (e.g., more restricted engine operation periods). Sources of air pollutant emissions complying with all applicable BAAQMD regulations generally are not considered to have a significant air quality community risk impact. Compared to the commercial equivalency, this represents a worst-case scenario, since a generator may not be required for the smaller, 60,238 square foot commercial development.

To calculate increased cancer risk from the generator at the MEI, the cancer risks exposure duration was adjusted to account for the residential MEI being exposed to construction for the first two years of the 30-year lifetime period. Note that the generator is not expected to be operational for at least two years after the beginning of construction. The exposure duration for the generators was adjusted for 28 years. Table 4 lists the community risks from emergency diesel generator at the location of residential MEI. Compared to the commercial equivalency, this represents a worst-case scenario, since a generator may not be required for the smaller, 60,238 square foot development.

Summary of Project-Related Community Risks at the Offsite Project MEI

For this project, the sensitive receptor identified as the construction MEI is also the project MEI. At this location, the MEI would be exposed to two years of construction cancer risks and 28 years of operational (i.e., emergency backup generator) cancer risks. The cancer risks from construction and operation of the medical office were added together. The annual $PM_{2.5}$ concentration and HI values are based on an annual maximum risk for the entirety of the project.

As shown in Table 4, the unmitigated maximum cancer risks from construction and operation activities at the residential project MEI location would exceed the single-source significance threshold, and the unmitigated $PM_{2.5}$ concentration would be at the single-source significance threshold. However, with the implementation of identified mitigation hazard values would not exceed the BAAQMD single-source significance threshold. Compared to the commercial equivalency, this represents a worst-case scenario because the commercial use is of smaller scale and less likely to require a generator. With implementation of mitigation measure AQ-1, future development with a medical office or commercial equivalent project would have a less than significant impact.

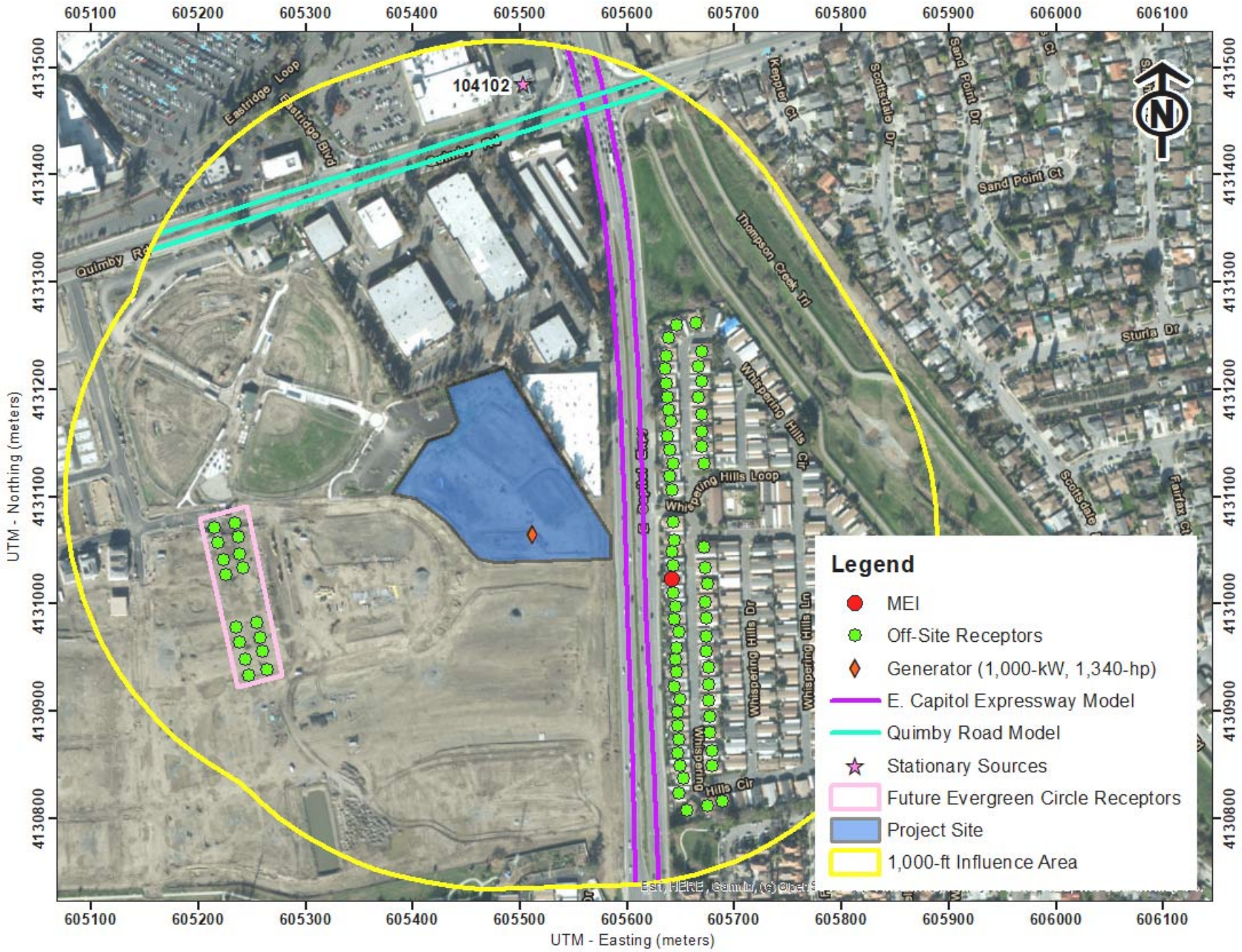
Table 4 Construction and Operation Risk Impacts at the Offsite Project MEI			
Source	**Cancer Risk (per million)**	**Annual $PM_{2.5}$ ($\mu g/m^3$)**	**Hazard Index**
Project Construction (Years 0-2) Unmitigated	**35.0 (infant)**	0.30*	0.03
Mitigated*	4.7 (infant)	0.05	<0.01
Project Generator (Years 2-30)	**1.5**	0.01	<0.01
Unmitigated Total/Maximum Project (Years 0-30)	**36.5**	0.30**	0.03
Mitigated Total/Maximum Project (Years 0-30)	6.2	0.05	<0.01
BAAQMD Single-Source Threshold	***>10.0***	***>0.3***	***>1.0***
Exceed Threshold? Unmitigated	***Yes***	*No*	*No*
Mitigated*	*No*	*No*	*No*

* Construction equipment with Tier 4 interim engines and BMPs as Mitigation Measures.
** $PM_{2.5}$ concentration of 0.30 $\mu g/m^3$ is not considered *greater than* the 0.3 $\mu g/m^3$ threshold.

Cumulative Community Risks of all TAC Sources at the Off-Site Project MEI

Community health risk assessments typically consider all substantial sources of TACs that can affect sensitive receptors that are located within 1,000 feet of a site. These sources include freeways or highways, rail lines, busy surface streets, and stationary sources identified by BAAQMD. A review of the project area indicates that traffic on E. Capitol Expressway and Quimby Road would exceed 10,000 vehicles per day. Other nearby streets would have less than 10,000 vehicles per day. A review of BAAQMD's stationary source map website identified one stationary source with the potential to affect the project MEI. Figure 7 shows the location of the sources affecting the MEI. Community risk impacts from these sources upon the MEI are presented in Table 5.

Table 5 reports both the project and cumulative community risk impacts. The project would have an exceedance with respect to community risk caused by project construction and operation activities, since the maximum unmitigated cancer risk exceeds and $PM_{2.5}$ concentration is at the BAAQMD single-source thresholds. With the implementation of mitigation measure AQ-1, the project's cancer risks and $PM_{2.5}$ concentration would be lowered to below the single-source thresholds and the cumulative cancer risk would not exceed the cumulative threshold. The combined mitigated annual $PM_{2.5}$ concentration would also be at the BAAQMD cumulative-source thresholds due to the concentration from the roadways (E. Capitol Expressway). The Health Index (HI), unmitigated and mitigated, does not exceed its cumulative threshold.



Source: Illingworth & Rodkin, January 2021

Locations of Nearby TAC and PM2.5 Sources

Figure 7

Evergreen Circle Rezoning
Initial Study

Table 5 Cumulative Community Risk Impacts at the Location of the Project MEI			
Source	**Maximum Cancer Risk (per million)**	**$PM_{2.5}$ Concentration ($\mu g/m^3$)**	**Hazard Index (HI)**
Project Impacts			
Unmitigated Total/Maximum Project (Years 0-30)	**36.5**	0.30**	0.03
Mitigated Total/Maximum Project (Years 0-30)	6.2	0.05	<0.01
BAAQMD Single-Source Threshold	***>10.0***	***>0.3***	***>1.0***
Exceed Threshold? Unmitigated	***Yes***	*No*	*No*
Mitigated*	*No*	*No*	*No*
Cumulative Sources			
E. Capitol Expressway, ADT 53,598	11.9	0.77	<0.01
Quimby Road, ADT 34,878	0.4	0.02	<0.01
ARCO #7037 (Facility ID #104102, Gas Station), MEI at 1,000+ feet	0.8	-	<0.01
Combined Sources Unmitigated	49.6	**1.09**	<0.06
Mitigated*	19.3	0.84**	<0.04
BAAQMD Cumulative Source Threshold	***>100***	***>0.8***	***>10.0***
Exceed Threshold? Unmitigated	*No*	***Yes***	*No*
Mitigated*	*No*	*No*	*No*
* Construction equipment with Tier 4 interim engines and BMPs as Mitigation Measures. ** $PM_{2.5}$ concentration of 0.30 $\mu g/m^3$ is not considered *greater than* the 0.3 $\mu g/m^3$ single-source threshold and 0.84 $\mu g/m^3$ is not considered *greater than* the 0.8 $\mu g/m^3$ cumulative-source threshold.			

Impact AQ-1: Development of future development on the project site with medical office or commercial use equivalency would exceed BAAQMD thresholds from construction and operation activities, since the maximum unmitigated cancer risk and $PM_{2.5}$ concentration exceed the BAAQMD single-source thresholds.

Mitigation Measures

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

- All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously or 20 total hours shall, at a minimum, meet U.S. EPA particulate matter emissions standards for Tier 4 Interim engines or equivalent. Where equipment meeting Tier 4 standards are not available, the equipment will be required to include Tier 3 engines with CARB-certified Level 3 Diesel Particulate Filters that are considered CARB verified diesel emission control devices (VDECs).[3] Equipment that is electrically powered or uses non-diesel fuels would also meet this requirement.

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

- Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators.

- Other measures may include the use of added exhaust devices; or a combination of measures, provided that these measures are demonstrated to reduce community risk impacts to less than significant.

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

CalEEMod was used to compute emissions associated with the above mitigation measure assuming that all equipment met U.S. EPA Tier 4 interim engines standards and BAAQMD best management practices for construction were included. With these implemented, the project's construction cancer risk levels and annual $PM_{2.5}$ concentrations, when then added to the project's operational risk levels, would be reduced to 6.2 per million and 0.05 $\mu g/m^3$, respectively. As a result, the project's construction and operational risks would be reduced below the BAAQMD single-source thresholds.

The resulting cumulative $PM_{2.5}$ concentration almost exceeds the threshold from existing sources alone. Cumulative risks are almost exceeding the $PM_{2.5}$ concentration threshold because of the overwhelming influence of the traffic on the nearby roadways (primarily E. Capitol Expressway) at the MEI. Even with the best available construction mitigation measures, since the project's mitigated $PM_{2.5}$ concentration only represents 6 percent of the total mitigated cumulative risk and mitigation was applied, the incorporation of and additional construction mitigation measures would not make a measurable difference in reducing the cumulative $PM_{2.5}$ concentration and it would still exceed the cumulative threshold. Therefore, the project construction activities (from the medical office uses or commercial equivalency) would not substantially contribute to the total cumulative $PM_{2.5}$ concentration and the impact would not be cumulatively considerable.

d) **Less Than Significant Impact**. Future development on the site is not expected to create emissions that include new sources of odor. Common sources of odors and odor complaints include uses such as transfer stations, recycling facilities, painting/coating facilities, landfills, and wastewater treatment plants. The PD Rezoning would limit the project to development either the medical facility, which would have mostly operation indoor or different types of smaller scale commercial or retail. These operations are not likely to be odor generating sources. During construction, use of diesel-powered vehicles and equipment could temporarily generate localized odors, which would cease upon project completion. This represents a temporary impact and implementation of abatement measures for construction period emissions identified in c) above would further assure that this impact is less than significant.

Conclusion: The project would have a less than significant impact on air quality with implementation of identified mitigation measures.

D. BIOLOGICAL RESOURCES

Existing Setting

Live Oak Associates, Inc. conducted a biotic assessment of the Arcadia property dated July 8, 2005 that was included in the EEHVS EIR and in September 2014 for the approved IS Addendum with the PD Rezoning in 2010. For the proposed project, Live Oak Associates, Inc. (LOA) prepared a burrowing owl impact analysis (January 2021). The findings are summarized in a letter report contained in Appendix B.

LOA biologist Nathan Hale conducted a site survey of the project site on January 14, 2021. During the survey, all constructed surface roads and parking areas within the project footprint were driven during which all newly completed landscaped areas were inspected for potentially suitable burrowing owl habitat. In addition, all barren areas were visually inspected through a walking survey of the areas, aided with the use of binoculars.

The existing conditions of the site include a mix of developed and barren/undeveloped graded areas. Barren areas that are currently vacant and non-landscape have been mass-graded prior to the 2021 survey. Very little colonizing vegetation was present within the barren areas of the site. No suitable burrowing owl habitat in the form of burrows was present anywhere within the project site. In addition, no evidence of fossorial mammals (i.e., mammals that live in and dig underground burrows) were observed on the site. Burrowing owls are currently absent from the site since no evidence of burrowing owls, in the form of pellets, white-wash, feathers, or prey remains, was observed, and no burrowing owl individuals were observed. The site does not support a suitable prey base for owls, and it lacks cover habitat in the form of burrows or other ground crevices that could serve as burrowing owl habitat. Based on the January 2021 site survey, burrowing owl habitat is lacking from the project area.

The larger Evergreen Circle project is currently being developed with new homes and retail/commercial uses. Prior to mass grading of the site, mitigation was required to offset the complete loss of burrowing owl habitat within the site and to ensure burrowing owls were not impacted during development. Mitigation for impacts to the loss of burrowing owl habitat from grading was in the form of a 2017 payment in burrowing owl fees to the Santa Clara Valley Habitat Agency, in accordance with the Santa Clara Valley Habitat Plan (SCVHP), to support regional burrowing owl conservation and restoration. Impact avoidance for individual owls required that preconstruction surveys be conducted within the site prior to planned project-related disturbances. LOA conducted pre-construction surveys in accordance with SCVHP protocols in October and November 2017. Additional pre-construction surveys were completed by LOA in January 2020 within a portion of the Evergreen site prior to construction of the new Costco Business Center. Burrowing owls were found to be absent during both surveys.

Regulatory Framework

Federal and State

Special-Status Species

Individual plant and animal species listed as rare, threatened or endangered under state and federal Endangered Species Acts are considered “special-status species.” Federal and state “endangered species” legislation has provided the United Stated Fish and Wildlife Service (USFWS) and the

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

In addition to species listed under state and federal Endangered Species Acts, Section 15380(b) and (c) of the CEQA Guidelines provided that all potential rare or sensitive species, or habitats capable of supporting rare species, are considered for environmental review per the CEQA Guidelines. These may include plant species of concern in California listed by the California Native Plant Society and CDFW listed "Species of Special Concern."

Migratory Bird and Birds of Prey Protection

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

Sensitive Habitats

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

Regional and Local

Santa Clara Valley Habitat Plan/Natural Communities Conservation Plan

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

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

In addition, the HCP indicates that nitrogen deposition has damaging effects on many of the serpentine plants in the HCP area, including the host plants that support the Bay checkerspot butterfly. Because serpentine soils tend to be nutrient poor and nitrogen deposition artificially fertilizes serpentine soils, nitrogen deposition facilitates the spread of invasive plant species. Nitrogen tends to be efficiently recycled by the plants and microbes in infertile soils such as those derived from serpentine, so that fertilization impacts could persist for years and result in cumulative habitat degradation. All major remaining populations of the butterfly and many of the sensitive serpentine plant populations occur in areas subject to air pollution from vehicle exhaust and other sources throughout the Bay Area, including the project site. The displacement of native serpentine plant species and subsequent decline of several federally-listed species, including the butterfly and its larval host plants, has been documented on Coyote Ridge in central Santa Clara County.

City of San José Tree Ordinance

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

General Plan Policies

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

Envision San José 2040 Relevant Biological Resource Policies	
Policy CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible, include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.
Policy ER-5.1	Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds.

Envision San José 2040 Relevant Biological Resource Policies	
	Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
Policy ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
Policy MS-21.4	Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.
Policy MS-21.5	As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.
Policy MS-21.6	As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.
Policy MS-21.8	For Capital Improvement Plan or other public development projects, or through the entitlement process for private development projects, require landscaping including the selection and planting of new trees to achieve the following goals: 1. Avoid conflicts with nearby power lines. 2. Avoid potential conflicts between tree roots and developed areas. 3. Avoid use of invasive, non-native trees. 4. Remove existing invasive, non-native trees. 5. Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species. 6. Plant native oak trees and native sycamores on sites which have adequately sized landscape areas and which historically supported these species.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
4. BIOLOGICAL RESOURCES. Would the project:					
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?		X			1, 2, 8
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?			X		1, 2

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?			X		1, 2
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?			X		1, 2, 8
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?			X		1, 2, 8
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?			X		1, 2, 8, 9, 10

Explanation

a) **Less Than Significant with Mitigation Incorporated**. Potential habitat for, and impacts to, special status species are addressed below.

Nesting Birds

The project site does not contain any trees. However, mature trees adjacent to the project site to the north may provide nesting habitat for migratory birds, including raptors (birds of prey). Raptors and their nests are protected under the Migratory Bird Treaty Act of 1918 and California Fish and Game Code Sections 3503 and 3503.5. In addition, LOA identified during their 2021 survey that barren areas of the site provide potentially suitable ground nesting habitat for species such as killdeer (*Charadrius vociferus*).

Although no site development is proposed as part of this rezoning at this time, these species could be disturbed during construction activities related to future site development and full buildout of the rezoning. Therefore, the mitigation measure below is required for the project.

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

Mitigation Measures

MM BIO-1 Prior to the issuance of any grading or building permits (whichever occurs first), the project applicant shall schedule all construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive).

If construction cannot be scheduled to occur between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist or biologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive). During this survey, the ornithologist/biologist shall inspect all trees and other possible nesting habitats within 250 feet of the construction areas for nests.

If an active nest is found within 250 feet of the work areas to be disturbed by construction, the ornithologist/biologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, (typically 250 feet for raptors and 100 feet for other birds), to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

Prior to any construction activities or issuance of any grading or building permits, the ornithologist/biologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of the Planning, Building, and Code Enforcement or the Director's designee.

Burrowing Owls

LOA conducted a site visit of the project site and determined that burrowing owl habitat is currently lacking. Historically occurring burrowing owl habitat, which has been well documented by LOA since 2001, has been legally impacted and mitigated for, via fees paid to the SCVHP in 2017.

While burrowing owls and suitable burrowing owl habitat is currently absent from the site, the site occurs within an area identified by the SCVHP as requiring protocol-surveys prior to impacts. Some of the site has been completely developed and is no longer capable of supporting California ground squirrels and burrowing owls, namely the Costco building and associated parking lots, driveways, and sidewalks. Barren areas of the site, however, that are left fallow for more than a couple weeks may become recolonized by ground squirrels. If ground squirrels recolonize the site and create potentially suitable burrows for burrowing owls, then burrowing owls could also recolonize the site. The following measures, which are outlined as a condition in the SCVHP, are identified to ensure individual owls are not impacted during future construction of barren areas of the project site:

Impact BIO-2: Future development on the project site could impact burrowing owls if they recolonize the site after the site lays fallow and is repopulated by ground squirrels.

Mitigation Measures

MM BIO-2 Prior to issuance of any grading or building permits, **f**uture development on the site shall incorporate the following measures.

- Preconstruction Surveys: Prior to issuance of any grading or building permits, preconstruction surveys shall be conducted for burrowing owls regardless of whether impacts are to occur during the breeding or non-breeding season. These surveys consist of a minimum of two surveys conducted for a minimum of a 3-hour period within 1 hour of sunrise and/or sunset, with the first survey no more than 14 days prior to initial construction activities (i.e., vegetation removal, grading, excavation, etc.) and the second survey conducted no more than two days prior to initial construction activities. The survey shall ensure complete visual coverage of the site and a 250-foot radius of the site. These survey results shall be documented in a letter report to be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee for review and approval.

- Burrowing Owl Monitoring Plan: If burrowing owls are observed during the preconstruction surveys, occupied burrows shall be identified by the qualified biologist and a buffer shall be established. The qualified biologist shall submit a Burrowing Owl Monitoring Plan that shall include, but would not be limited to, the following:

  - Identification of appropriate non-disturbance buffers (i.e., 250-foot) around all active burrows as identified and defined by a qualified biologist.
  - Determination of nests and occupancy (i.e., vacant or not)
  - Determination of protocols to relocate nests, collapse suitable vacant burrows, or other equivalent protocol to ensure the safety of owls and habitat, consistent with Santa Clara Valley Habitat Plan (SCVHP) protocols.
  - Protocols for monitoring during non-nesting seasons if owls are found.
  - Protocols for avoidance measures.
  - Protocols for on-going reporting to the necessary agency.

  Only after the biologist determines that the active burrow has become vacant can the non-disturbance buffer zone be removed. This Monitoring Plan shall be documented in a letter report to be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee for review and approval.

- Non-nesting Season Avoidance Measures: Should a burrowing owl be located onsite in the non-breeding season (September 1 through January 31), construction activities would not be allowed within the 250-foot buffer of the active burrow(s) used by any burrowing owl unless the following avoidance measures are adhered to. These include, but are not limited to, the following:

- The qualified biologist monitors the owls for at least 3 days prior to construction to determine baseline nesting and foraging behavior (i.e., behavior without construction).
- The qualified biologist monitors the owls during construction and finds no change in owl nesting and foraging behavior in response to construction activities, ending the monitoring requirement.
- However, if the qualified biologist finds that there is any change in owl nesting and foraging behavior as a result of construction activities, these activities will cease within the 250-foot buffer. Construction cannot resume within the 250-foot buffer until the adults and juveniles from the occupied burrows have moved out of the project site. The results of this evaluation shall be documented in a letter report to be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee.
- If monitoring indicates that the nest is abandoned prior to the end of nesting season and the burrow is no longer in use by owls, the non-disturbance buffer zone may be removed. The biologist will excavate the burrow to prevent reoccupation after receiving approval from the Wildlife Agencies.

These avoidance measures shall be documented in a letter report to be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee for review and approval.

- Nesting Season Reduced Buffer Exception: For permission to engage in construction activities within 250 feet of such burrows during the nesting season (February 1 through August 31), an Avoidance, Minimization, and Monitoring Plan shall be prepared by a qualified biologist and approved by the SCVHP Implementing Agency (i.e., the City of San José) and the Wildlife Agencies prior to such encroachment. The plan shall ensure that burrowing owls and active nests are not impacted by the encroachment, based on the professional judgement of the qualified biologist, and shall include the same criteria for non-nesting season encroachment.

b) **Less Than Significant Impact**. The project is located on a graded infill site and does not contain any sensitive natural communities. No sensitive natural communities are located on the project site. The nearest riparian corridors are Thompson Creek, which is 0.19 miles to the east and separated from the site by Capitol Expressway.

c) **Less Than Significant Impact**. The project site is vacant and completely graded and does not contain any state or federally protected wetlands.

d) **Less Than Significant Impact**. The project is proposed in an urbanized setting surrounded by development and graded land and has not been found to contain native resident wildlife species. The project is a proposed rezoning, and an application for a PD permit and specific development are not proposed at this time. However, future site development, such as medical office or commercial space, would involve construction activities that could potentially disrupt

nesting birds. With the implementation of MM BIO-1, the future development would reduce this potential impact to less than significant. Therefore, the project would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.

e) **Less Than Significant Impact**. The project site is completely graded and does not contain any trees. Trees are located adjacent to the site on the northwest boundary.

f) **Less Than Significant Impact**. The project is located within the SCVHP plan area and is considered a Covered Activity. The project is mapped as Golf Courses/Urban Parks. The site is located within the fee zones for Agricultural and Valley Floor Lands and for Burrowing Owl habitat. See discussion a) above.

Future development on the project would also be subject to the nitrogen deposition fee, which applies to all projects that create new vehicle trips. The nitrogen deposition fee will be required for each new vehicle trip generated by the project, at the time of development. Future development would be required to implement the following standard permit condition in accordance with the SCVHP.

Standard Permit Condition

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

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

Conclusion: The project would have a less than significant impact on biological resources with identified mitigation.

E. CULTURAL RESOURCES

The following discussion is based a series of cultural resource assessments that were previously prepared for the project site by Holman and Associates (2004) and Basin Research Associates (2005). In addition, an Archaeological Monitoring Report was prepared for the Evergreen Circle site by PaleoWest (July 2020). *The archaeological studies may discuss locations of specific archaeological sites and is confidential. For this reason, it is not included in this Initial Study. Qualified personnel, however, may request a copy of the report from the City's Planning Division.*

Existing Setting

Historic Resources

The project site was once part of the 23,000-acre Rancho Yerba Buena that was occupied by Antonio Chaboya. By the late 1860s, after Chaboya's death, the western part of the property was part of a 400 acre farm owned by Thomas Farnsworth and the eastern part of the property was part of a 134 acre farm owned by Isaac Bicknell. Based on a review of historic maps, several structures existed on the property by 1899; in 1974, a dairy farm existed on the property. There are, however, no structures remaining on the property under existing conditions.

Archaeologic Resources

Based on studies conducted in the 1970s and 1980s, two prehistoric sites were recorded in the project area. A surface reconnaissance of the property in 2004 yielded a number of prehistoric materials in the area of these two sites.

PaleoWest Archaeological Monitoring Study

The project site is an archaeologically sensitive area as an archaeological site has been recorded within the boundaries of Evergreen Circle (where residential development was proposed). The delineation of the archaeological site area at the start of the Evergreen Circle project was based upon a report by Holman & Associates (2004). The City of San José's Mitigation Measure MM 4.5-1 (from the EEHVS EIR), also identified for the Evergreen Circle project, required archaeological testing of the archaeological site area prior to the commencement of construction activities. In compliance with the MM 4.5-1, archaeological testing was conducted under an amended version of the MM 4.5-1 specifically for Evergreen Circle.

PaleoWest conducted the archaeological monitoring of all ground disturbing construction activities within the archaeological site boundary from November 15, 2017 to November 15, 2019. On November 27, 2017, a human bone and several pieces of groundstone were exposed at approximately 6 feet below ground surface. All project-related ground disturbing activities stopped, and the Santa Clara County Coroner was notified, who determined that the remains were Native American. The Coroner notified the Native American Heritage Commission (NAHC), who appointed former Chairwoman of the Muwekma Ohlone Tribe of the San Francisco Bay Area Rosemary Cambra, and afterwards Vice Chairwoman Monica V. Arellano as Most Likely Descendants (MLDs) for the tribe to make recommendations on the treatment of their ancestral remains.

The MLD provided archaeological recommendations for additional mitigation to provide guidance to the project as to the treatment and ultimate disposition of any Native American remains. The MLD's team was responsible for the recovery off all human remains and associated grave goods. PaleoWest was responsible for recovery and recordation of all non-burial features and artifacts.

Regulatory Framework

State

Archaeological Resources and Human Remains

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

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

Local

General Plan Policies

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

Envision San José 2040 Relevant Cultural Resource Policies	
Policy LU-13.22	Require the submittal of historic reports and surveys prepared as part of the environmental review process. Materials shall be provided to the City in electronic form once they are considered complete and acceptable.
Policy LU-14.1	Preserve the integrity and enhance the fabric of areas or neighborhoods with a cohesive historic character as a means to maintain a connection between the various structures in the area.
Policy LU-14.3	Design new development, alterations, and rehabilitation/remodels in Conservation Areas to be compatible with the character of the Conservation Area. In particular, projects should respect character defining elements of the area that give the area its identity. These defining characteristics could vary from area to area and could include density, scale, architectural consistency, architectural variety, landscape.
Policy LU-14.4	Discourage demolition of any building or structure listed on or eligible for the Historic Resources Inventory as a Structure of Merit by pursuing the alternatives of rehabilitation, re-use on the subject site, and/or relocation of the resource.
Policy LU-14.6	Consider preservation of Structures of Merit and Contributing Structures in Conservation Areas as a key consideration in the development review process. As development proposals are submitted, evaluate the significance of structure, complete non-Historic American Building Survey level documentation, list qualifying structures on the Historic Resources Inventory and consider the

Envision San José 2040 Relevant Cultural Resource Policies	
	feasibility of incorporating structures into the development proposal, particularly those structures that contribute to the fabric of Conservation Areas.
Policy ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
Policy ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
Policy ER-10.3	Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
5. CULTURAL RESOURCES. Would the project:					
a) Cause a substantial adverse change in the significance of a historical resource pursuant to in §15064.5?				X	1, 2, 11
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?		X			1, 2, 11
c) Disturb any human remains, including those interred outside of dedicated cemeteries?			X		1, 2

Explanation

a) **No Impact**. The project site is vacant and completely graded and does not contain any historic resources pursuant to CEQA Section 15064.5.

b) **Less Than Significant Impact with Mitigation**. The project is located an archaeologically sensitive area. Archaeological monitoring of all construction-related ground disturbance was conducted within the recorded boundary of the prehistoric site from November 15, 2017 to November 15, 2019. PaleoWest was responsible for recovery and recordation of all non-burial features and artifacts.

The 29-acre project site has been fully graded and archaeological resources are not anticipated during construction of future development. The archaeologic work completed by PaleoWest occurred on the residential portion of the Evergreen Circle site, which will not be affected by

this project. However, given the archaeological sensitivity of the project area, excavation required by future development could encounter archaeological resources.

Impact CR-1: If future development of the project site requires excavation (e.g., for basement parking), this could result in the loss of unknown subsurface historic resources on the site.

Mitigation Measures

MM CR-1.1 Preliminary Investigation: Prior to excavation activities, including grading and potholing for utilities, a qualified archaeologist who is trained in both local prehistoric and historical archaeology shall complete subsurface exploration at the site, to determine if there are any indications of discrete historic-era subsurface archaeological features. Exploring for historic-era features shall consist of at least one trench mechanically excavated below existing stratigraphic layers to evaluate the potential for Native American and historic-era resources. If any archaeological resources are exposed, these should be briefly documented, tarped for protection, and left in place. The results of the presence/absence exploration, including any treatment recommendations if any, shall be submitted to the Director or Director's designee of the City of San José Department of Planning, Building, and Code Enforcement for review and approval prior to issuance of any grading permit. Based on the findings of the subsurface testing, an archaeological resources treatment plan as described in MM CR-1.2 shall be prepared by a qualified archaeologist if necessary.

MM CR-1.2 Treatment Plan. If MM CR-1.1 is applicable, the project applicant shall prepare a treatment plan that reflects permit-level detail pertaining to depths and locations of excavation activities. The treatment plan shall be prepared and submitted to the Director or Director's designee of the City of San José Department of Planning, Building, and Code Enforcement prior to approval of any grading permit. The treatment plan shall contain, at a minimum:

- Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations.
- Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).
- Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information).
- Detailed field strategy to record, recover, or avoid the finds and address research goals.
- Analytical methods.
- Report structure and outline of document contents.
- Disposition of the artifacts.
- Appendices: all site records, correspondence, and consultation with Native Americans, etc. Implementation of the plan, by a qualified archaeologist, shall be required prior to the issuance of any grading permits. The treatment plan shall utilize data recovery methods to reduce impacts on subsurface resources.

MM CR-1.3 Evaluation. The project applicant shall notify the Director or Director's designee of the City of San José Department of Planning, Building, and Code Enforcement of any finds during the preliminary field investigation, grading, or other construction activities. Any historic or prehistoric material identified in the project area during the preliminary field investigation and during excavation activities shall be evaluated for eligibility for listing in the California Register of Historic Resources as determined by the California Office of Historic Preservation. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation. The techniques used for data recovery shall follow the protocols identified in the approved treatment plan. Data recovery shall include excavation and exposure of features, field documentation, and recordation. All documentation and recordation shall be submitted to the Northwest Information Center, and/or equivalent.

In addition, as part of the permit approval for future development on the project site, the applicant would be required to conform to the following standard permit conditions.

Standard Permit Conditions

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

- If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American

human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

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

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

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

F. ENERGY

Existing Setting

San José Clean Energy (SJCE) is the electricity provider for residents and businesses in the City of San José. SJCE sources electricity, and the Pacific Gas and Electric Company (PG&E) delivers it to customers using existing PG&E utility lines. SJCE buys its power from a number of suppliers. Sources of renewable and carbon-free power include California wind, solar, and geothermal; Colorado wind; and hydroelectric power from the Pacific Northwest. SJCE customers are automatically enrolled in the GreenSource program, which provides 80 percent GHG emission-free electricity. Customers can enroll in the TotalGreen program through SJCE and receive 100 percent GHG-free electricity from entirely renewable resources. It is expected that any future development at the project site would be enrolled in and receive energy from the SJCE program.

PG&E also furnishes natural gas for residential, commercial, industrial, and municipal uses. In 2018, natural gas facilities provided 15 percent of PG&E's electricity delivered to retail customers; nuclear plants provided 34 percent; hydroelectric operations provided 13 percent; renewable energy facilities including solar, geothermal, and biomass provided 39 percent, and two percent was unspecified.[4]

Total energy usage in California was approximately 7,881 trillion British thermal units (Btu) in the year 2017, the most recent year for which this data was available. In 2017, California was ranked second in total energy consumption in the nation, and 48th in energy consumption per capita. The breakdown by sector was approximately 18 percent (1,416 trillion Btu) for residential uses, 19 percent (1,473 trillion Btu) for commercial uses, 23 percent (1,818 trillion Btu) for industrial uses, and 40 percent (3,175 trillion Btu) for transportation. This energy is mainly supplied by natural gas, petroleum, nuclear electric power, and hydroelectric power.

Electricity

Electricity in Santa Clara County in 2018 was consumed primarily by the commercial sector (77 percent), followed by the residential sector consuming 23 percent. In 2018, a total of approximately 16,668 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[5] SJCE is the electricity provider for residents and businesses in the City of San José. SJCE sources the electricity and PG&E delivers it via 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.

Natural Gas

PG&E provides natural gas services within the City of San José. In 2018, approximately one percent of California's natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada.[6] In 2018, residential and commercial customers in

[4] PG&E, Delivering low-emission energy. Accessed September 19, 2018. Available at: https://www.pge.com/en_US/about-pge/environment/what-we-are-doing/clean-energy-solutions/clean-energy-solutions.page
[5] California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed March 15, 2019. http://ecdms.energy.ca.gov/elecbycounty.aspx.
[6] California Gas and Electric Utilities. 2019 *California Gas Report.* Accessed August 27, 2019. https://www.socalgas.com/regulatory/documents/cgr/2019_CGR_Supplement_7-1-19.pdf.

California used 34 percent of the state's natural gas, power plants used 35 percent, the industrial sector used 21 percent, and other uses used 10 percent. Transportation accounted for one percent of natural gas use in California. In 2018, Santa Clara County used approximately 3.5 percent of the state's total consumption of natural gas.[7]

Fuel for Motor Vehicles

In 2018, 15.5 billion gallons of gasoline were sold in California.[8] The average fuel economy for light-duty vehicles (autos, pickups, vans, and sport utility vehicles) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 24.9 mpg in 2019.[9] Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was subsequently revised to apply to cars and light trucks model years 2011 through 2020.[10] [11]

Regulatory Framework

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

State

California Renewable Energy Standards

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

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

---

[7] California Energy Commission. "Natural Gas Consumption by County." Accessed February 21, 2019. http://ecdms.energy.ca.gov/gasbycounty.aspx.
[8] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed February 11, 2020. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.
[9] United States Environmental Protection Agency. "Highlights of the Automotive Trends Report, Accessed January 2021, Available at: https://www.epa.gov/automotive-trends/highlights-automotive-trends-eport#:~:text=Preliminary%20data%20suggest%20improvements%20in,0.8%20mpg%20to%2025.7%20mpg
[10] United States Department of Energy. *Energy Independence & Security Act of 2007.* Accessed January 21, 2020. http://www.afdc.energy.gov/laws/eisa.
[11] Public Law 110–140—December 19, 2007. *Energy Independence & Security Act of 2007.* Accessed January 21, 2020. http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf.

California Building Codes

At the State level, the Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6, of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years. Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[12]

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

Local

Council Policy 6-32 Private Sector Green Building Policy

At the local level, the City of San José sets green building standards for municipal development. All projects are required to submit a Leadership in Energy and Environmental Design (LEED),[13] GreenPoint,[14] or Build-It-Green checklist as part of their development permit applications. Council Policy 6-32 "Private Sector Green Building Policy," adopted in October 2008, establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. It fosters practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water and other resources in the City of San José. Private developments are required to implement green building practices if they meet the Applicable Projects criteria defined by Council Policy 6-32 and shown in Table 6 below.

Table 6
Private Sector Green Building Policy Applicable Projects

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

Source: City of San José. Private Sector Green Building Policy: Policy Number 6-32. October 7, 2008. https://www.sanjoseca.gov/your-government/departments-offices/environmental-services/energy/green-building/private-sector-green-building

[12] CEC. 2016 Building Energy Efficiency Standards for Residential and Nonresidential Buildings. 2013. Accessed September 20, 2018. http://www.energy.ca.gov/2015publications/CEC-400-2015-037/CEC-400-2015-037-CMF.pdf.
[13] Created by the U.S. Green Building Council, LEED is a certification system that assigns points for green building measures based on a 110-point rating scale.
[14] Created by Build It Green, GreenPoint is a certification system that assigns points for green building measures based on a 381-point scale for multi-family developments and 341-point scale for single-family developments.

Municipal Code

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

Climate Smart San José

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

In January 2010, the State of California adopted the California Green Building Standards Code (CalGreen) that establishes mandatory green building standards for all buildings in California. The code was subsequently updated in 2013. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality.

San José Reach Code Initiative for Building Efficiency

The City Council approved Ordinance No. 30311 in September 2019 to amend various sections of Title 24 of the City's Municipal Code to adopt provisions of the 2019 California Green Building Standards Code and California Building Energy Efficiency Standards with certain exceptions, modifications and additions which serve as a Reach Code to increase building efficiency, mandate solar readiness and increase requirements related to electric vehicle charging stations. The Reach Code goes into effect on January 1, 2020 and affects all new construction.

San José Clean Energy

San José Clean Energy (SJCE) is an electricity supplier operated by the City's Community Energy Department. Since launching in February 2019, SJCE has provided City businesses and residents with access to cheaper and cleaner energy sources. SJCE serves as an alternative to traditionally privatized energy sources by being a community-governed organization. Oversight for SJCE activities is provided by City Council in cooperation with a Community Advisory Commission.

General Plan

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

Envision San José 2040 Relevant Energy Policies	
Policy MS-1.6	Recognize the interconnected nature of green building systems, and, in the implementation of Green Building Policies, give priority to green building options that provide environmental benefit by reducing water and/or energy use and solid waste.
Policy MS-2.1	Develop and maintain policies, zoning regulations, and guidelines that require energy conservation and use of renewable energy sources
Policy MS-2.2	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-2.6	Promote roofing design and surface treatments that reduce the heat island effect of new and existing development and support reduced energy use, reduced air pollution, and a healthy urban forest. Connect businesses and residents with cool roof rebate programs through City outreach efforts.
Policy MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).
Policy MS-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-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
Policy MS-14.1	Promote job and housing growth in areas served by public transit and that have community amenities within a 20-minute walking distance.
Policy MS-14.4	Implement the City's Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
Policy TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
Policy TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

Impacts and Mitigation

Thresholds per CEQA Checklist

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

Explanation

a) **Less Than Significant Impact**. Energy use consumed by the future medical office development on the site was estimated in the Air Quality & Greenhouse Gas Assessment prepared by Illingworth & Rodkin (January 2021). This included natural gas and electricity consumption. While not specifically addressed in the Air Quality Assessment, the energy use for the 60,238 square feet of commercial equivalency uses are anticipated to be similar or less than the evaluated medical office. A discussion of the project's effect on energy use is presented below.

Construction Impacts

The anticipated construction schedule assumes that the project would be built out over a period of approximately 18 months. The project would require site preparation, site construction, paving, and architectural coating. The construction phase would require energy for the manufacture and transportation of building materials, preparation of the site (e.g., excavation, and grading), and the actual construction of the building. Petroleum-based fuels such as diesel fuel and gasoline would be the primary sources of energy for these tasks. The construction energy use has not been determined at this time.

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

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

Operational Impacts

Operation of the proposed project would consume energy, in the form of electricity and natural gas, primarily for building heating and cooling, lighting, cooking, and water heating. Table 7 summarizes the estimated energy use of the proposed project. As described earlier, the energy use for the 60,238 square feet of commercial equivalency uses are anticipated to be similar or less than the evaluated medical office.

Table 7
Estimated Annual Energy Use of Proposed Project (2030)

Proposed Project	Electricity Use (kWh)	Natural Gas Use (kBtu)
Medical Office	2,674,500	2,455,500
Parking Lot	12,180	N/A
Unenclosed Parking with Elevator	557,944	N/A
Total	**3,244,624**	**2,455,500**

Source: Illingworth & Rodkin, Inc., *Air Quality & Greenhouse Gas Assessment*, January 2021.

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

Future development with medical office uses would generate up to 7,623 net new daily trips. The total annual vehicle-miles-traveled (VMT) for the project is approximately 41,379,000 (159,150 daily VMT x 260 weekdays) assuming an average trip length of 20.88 miles per job (refer to *Section Q. Transportation*). Using the U.S. EPA's estimated average fuel economy of 24.9 miles per gallon (mpg),[15] the project would result in the consumption of approximately 1,661,807 gallons of gasoline per year. The trip generation for the commercial equivalency of 60,238 square feet is anticipated to generate a similar number of vehicle trips since this was the basis for calculating the allowable amount of medical office space of 150,000 square feet, which has a lower trip generation rate than commercial retail.

In addition, the project is in close proximity to transit services and is served by VTA bus routes 71, 39, and 31 (refer to *Section Q. Transportation*). In addition, the Alum Rock light rail station is located approximately 2.9 miles from the project site. Therefore, future development would not result in a substantial increase on automobile-related energy use.

[15] United States Environmental Protection Agency (USEPA), Highlights of the Automotive Trends Report, Accessed January 2021, Available at: https://www.epa.gov/automotive-trends/highlights-automotive-trends-report#:~:text=Preliminary%20data%20suggest%20improvements%20in,0.8%20mpg%20to%2025.7%20mpg

Future development would be required to build to the State's CALGreen code, which includes insulation and design provisions to minimize wasteful energy consumption. Although the proposed project does not include on-site renewable energy resources, the proposed building would be built consistent with San José Council Policy 6-32 and the City's Green Building Measures.

Future development would be required to provide bicycle parking consistent with the requirements of the City of San José Municipal Code. The inclusion of bicycle parking and proximity to transit would incentivize the use of alternative methods of transportation to and from the site. Based on the measures required for conformance with Green Building Policy, the proposed project would comply with existing State energy standards.

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

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

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

G GEOLOGY AND SOILS

Existing Setting

The City of San José is located in the Santa Clara Valley, a broad alluvial-covered plain lying between the Santa Cruz Mountains to the west and the Diablo Range to the east. The project site is located at an elevation of approximately 145 feet above mean sea level (USGS National Map Viewer).

Kleinfelder, Inc. conducted a feasibility-level geologic hazards assessment of the Arcadia property dated June 7, 2005 that is included in the EEHVS EIR. The project area has a uniform northerly slope of less than one-half percent. Elevations on the site are approximately 145 feet above sea level (USGS National Map Viewer). The project site is underlain by the alluvial soils of the Zamora-Pleasanton association as classified by the U.S. Department of Agriculture, Soil Conservation Service. Clear Lake clay (Ch), Campbell silty clay loam (Ca), and Mocho clay loam (Mh) are the specific soil types identified at the site.

The City of San José is part of the seismically active coastal area of California. The region is classified as Seismic Zone 4, the most seismically active zone in the U.S. The project site is located near the San Andreas Fault system, which includes the Hayward Fault and Calaveras Fault zones, and is subject to strong ground shaking.

The site is mapped within a hazard zone for liquefaction on the State's Seismic Hazard Zones maps. According to Cooper-Clark and Associates' San José Geotechnical Investigation, the site is mapped as having a high ground failure potential, weak soil layers and lenses occurring at random locations and depths, moderately to highly expansive soils, no erosion potential, and no susceptibility to landslides. The liquefaction potential is considered to warrant further geologic study at the Planned Development Permit stage. The project site is mapped by the California Geological Survey as being in a seismic hazard zone for liquefaction. Based on a review of historic data as well as an analysis of onsite soil borings, however, the potential for liquefaction to occur on the property was considered moderate (Kleinfelder, Inc, 2005). The site may also contain moderately to highly expansive soils.

Regulatory Framework

State

California Building Code

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

- Building standards that have been adopted by state agencies without change from building standards contained in national model codes;

- Building standards that have been adopted and adapted from the national model code standards to meet California conditions; and

- Building standards, authorized by the California legislature, that constitute extensive additions not covered by the model codes that have been adopted to address particular California concerns.

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

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

- Aligns engineering requirements in the building code with major revisions to national standards for structural steel and masonry construction, minor revisions to standards for wood construction, and support and anchorage requirements of solar panels in accordance with industry standards;

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

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

Paleontological Resources Regulations - California Public Resources Code

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

Local

General Plan Policies

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

Envision San José 2040 Relevant Geology and Soil Policies	
Policy EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
Policy EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.
Policy EC-4.2	Development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the

Envision San José 2040 Relevant Geology and Soil Policies	
	severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process. [The City Geologist will issue a Geologic Clearance for approved geotechnical reports.]
Policy EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
Policy EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 30.
Action EC-4.11	Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.
Action EC-4.12	Require review and approval of grading plans and erosion control plans prior to issuance of grading permits by the Director of Public Works.
Policy ES-4.9	Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
7. GEOLOGY AND SOILS. Would the project:					
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:					
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				X	1, 2
ii) Strong seismic ground shaking?			X		1, 2
iii) Seismic-related ground failure, including liquefaction?			X		1, 2
iv) Landslides?				X	1, 2
b) Result in substantial soil erosion or the loss of topsoil?			X		1, 2

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?			X		1, 2
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?			X		1, 2
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				X	1, 2
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?			X		1, 2, 3

Explanation

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

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

As a part of the permit approval for future development on the site, the project would be required to conform to the following standard permit conditions to avoid impacts related to geology and geotechnical hazards.

Standard Permit Condition

- To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The building(s) 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.

aiii) **Less Than Significant Impact**. As described above, the project site may be subject to strong ground shaking in the event of a major earthquake. The site is located within an area zoned by the State of California as having potential for seismically induced liquefaction hazards and within an area zoned in the Santa Clara County Geologic Hazard Zone maps as a Liquefaction Hazard Zone. Impacts associated with seismic and liquefaction hazards would be minimized by applying appropriate engineering and construction techniques. A geotechnical analysis would be required to provide recommendations to minimize these hazards as presented in the standard permit conditions in aii) above. This would reduce any potentially significant geotechnical impacts to a less than significant level.

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

b) **Less Than Significant Impact**. Future development on the site could result in minor erosion during construction activities. The standard permit conditions identified in Section J. *Hydrology and Water Quality* of this Initial Study as well as the standard permit conditions below would minimize the effects of erosion.

Standard Permit Conditions

- All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
- The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

c) **Less Than Significant Impact**. As described in aiii) above, the project site is subject to seismic and liquefaction hazards, which would be minimized by applying appropriate engineering and construction techniques to future development. A geotechnical analysis would be required to minimize these hazards as presented in the Standard Permit Conditions in aii) above.

d) **Less Than Significant Impact**. The project may contain expansive soils, which could damage future development on the site. The surface soils on the site pose a hazard to building foundations because of their moderate to high shrink/swell potential. Impacts associated with expansive soils or other soil hazards would be minimized by applying appropriate engineering and construction techniques in accordance with a geotechnical analysis as described in the standard permit condition for aii) above.

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

f) **Less Than Significant Impact**. The project site is located in an area mapped as "high sensitivity at depth" for paleontological resources in the 2040 General Plan EIR.[16] The project site has been completely graded. The project involves a rezoning of the project site and no specific development is proposed at this time. If future development includes excavation, the following standard permit condition would be required consistent with General Plan Policy ER-10.3.

Standard Permit Condition

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

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

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

H. GREENHOUSE GAS EMISSIONS

A greenhouse gas (GHG) Reduction Strategy was included as part of this Initial Study. This report is contained in Appendix E.

Existing Setting

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

Regulatory Framework

State

Assembly Bill 32 – California Global Warming Solutions Act

Assembly Bill (AB) 32, the Global Warming Solutions Act of 2006, codifies the State of California's GHG emissions target by directing CARB to reduce the state's global warming emissions to 1990 levels by 2020. AB 32 was signed and passed into law by Governor Schwarzenegger on September 27, 2006. Since that time, the CARB, the California Energy Commission (CEC), the California Public Utilities Commission (CPUC), and the Building Standards Commission have all been developing regulations that will help meet the goals of AB 32 and Executive Order S-3-05.[17]

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

As directed by AB 32, CARB has also approved a statewide GHG emissions limit. On December 6, 2007, CARB staff resolved an amount of 427 MMT of CO_2e as the total statewide GHG 1990 emissions level and 2020 emissions limit. The limit is a cumulative statewide limit, not a sector-or facility-specific limit. CARB updated the future 2020 BAU annual emissions forecast, in light of the economic downturn, to 545 MMT of CO_2e. Two GHG emissions reduction measures currently enacted that were

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

not previously included in the 2008 Scoping Plan baseline inventory were included, further reducing the baseline inventory to 507 MMT of CO_2e. Thus, an estimated reduction of 80 MMT of CO_2e is necessary to reduce statewide emissions to meet the AB 32 target by 2020.

Senate Bill 1368

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

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

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

Regional and Local

Bay Area Air Quality Management District

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

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

2017 Bay Area Clean Air Plan

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

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

City of San José Municipal Code

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

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

Council Policy 6-32 Private Sector Green Building Policy

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

City of San José Greenhouse Gas Reduction Strategy

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

The GHG Reduction Strategy identifies GHG emissions reduction measures to be implemented by development projects in three categories: built environment and energy; land use and transportation; and recycling and waste reduction. Some measures are mandatory for all proposed development

projects and others are voluntary. Voluntary measures can be incorporated as mitigation measures for proposed projects, at the City's discretion.

The Greenhouse Gas Reduction Strategy was updated for 2030. The 2030 GHG Reduction Strategy was adopted and the Addendum to the General Plan EIR were certified by the City Council on November 17, 2020. The 2030 GHG Reduction Strategy went into effect on December 17, 2020.

The 2030 GHG Reduction Strategy outlines the actions the City will undertake to achieve its proportional share of State GHG emission reductions for the interim target year 2030. The 2030 GHG Reduction Strategy presents the City's comprehensive path to reduce GHG emissions to achieve the 2030 reduction target, based on SB 32, BAAQMD, and OPR requirements. Additionally, the 2030 GHG Reduction Strategy leverages other important City plans and policies; including the General Plan, Climate Smart San José, and the City Municipal Code in identifying reductions strategies that achieve the City's target. CEQA Guidelines Section 15183.5 allows for public agencies to analyze and mitigate GHG emissions as part of a larger plan for the reduction of GHGs. Accordingly, the City of San José's 2030 GHG Reduction Strategy represents San José's qualified climate action plan in compliance with CEQA.

As described in the 2030 GHG Reduction Strategy, the GHG reductions will occur through a combination of City initiatives in various plans and policies to provide reductions from both existing and new developments. A GHG Reduction Strategy Compliance Checklist (checklist) was developed that applies to proposed discretionary projects that require CEQA review. Therefore, the checklist is a critical implementation tool in the City's overall strategy to reduce GHG emissions. Implementation of applicable reduction actions in new development projects will help the City achieve incremental reductions toward its target. Per the 2030 GHG Reduction Strategy, the City will monitor strategy implementation and make updates, as necessary, to maintain an appropriate trajectory to the 2030 GHG target. Specifically, the purpose of the checklist is to:

- Implement GHG reduction strategies from the 2030 GHGRS to new development projects.
- Provide a streamlined review process for proposed new development projects that are subject to discretionary review and trigger environmental review pursuant to CEQA.

Climate Smart San José

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

General Plan Policies

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

Envision San José 2040 Relevant Greenhouse Gas Reduction Policies	
Policy MS-1.2	Continually increase the number and proportion of buildings within San José that make use of green building practices by incorporating those practices into both new construction and retrofit of existing structures.
Policy MS-2.3	Encourage consideration of solar orientation, including building placement, landscaping, design, and construction techniques for new construction to minimize energy consumption.
Policy MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g. design to maximize cross ventilation and interior daylight) and through site design techniques (e.g. orienting buildings on sites to maximize the effectiveness of passive solar design).
Policy MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City
Policy MS-6.5	Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.
Policy MS-6.8	Maximize reuse, recycling, and composting citywide.
Policy MS-14.4	Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
Policy LU-5.4	Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections; and including secure and convenient bike storage.
Policy TR-2.18	Provide bicycle storage facilities as identified in the Bicycle Master Plan.
Policy CD-2.5	Integrate Green Building Goals and Policies of this Plan into site design to create healthful environments. Consider factors such as shaded parking areas, pedestrian connections, minimization of impervious surfaces, incorporation of stormwater treatment measures, appropriate building orientations, etc.
Policy CD-3.3	Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.
Policy CD-5.1	Design areas to promote pedestrian and bicycle movements and to facilitate interaction between community members and to strengthen the sense of community.

Impacts and Mitigation

Thresholds per CEQA Checklist

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

Explanation

a) **Less Than Significant Impact**. Future development of the project site would generate GHG emissions. GHG emissions associated with development would occur over the short-term from construction activities, consisting primarily of emissions from equipment exhaust and worker and vendor trips. Long-term operational emissions would also be generated from vehicular traffic, energy and water use, and solid waste disposal. However, the GHG generation would be considered less than significant provided the project demonstrates that it is consistent with the City's 2030 GHG Reduction Strategy.

Future medical office or commercial uses would be subject to the GHG reduction strategies identified in the City's 2030 GHG Reduction Strategy Compliance Checklist. The project would implement and comply with all relevant GHG reduction measures as determined by the City, which would reduce the project's GHG emissions. The Compliance Checklist is contained in Appendix E. The proposed rezoning is consistent with the Land Use/Transportation Diagram designation of *Neighborhood/Community Commercial*. Pedestrian facilities are already in place as part of the earlier development of the Evergreen Circle site. The GHG Reduction Strategies to be incorporated into future development of medical office or commercial equivalency on the project site include the following:

- Implementation of green building measures through construction techniques and architectural design
- Incorporation of energy conservation measures
- Consideration of use of San Jose Clean Energy
- Incorporation of bicycle storage and related facilities
- Incorporation of water-efficient landscaping
- Incorporation of appropriate landscaping species
- Consideration of use of San Jose Clean Energy
- Consideration of use of solar panels and/or solar ready facilities

With implementation of GHG reduction strategies, future development would have a less than significant impact related to GHG emissions.

b) **Less Than Significant Impact**. The City's 2030 GHG Reduction Strategy checklist has been completed for the project, as presented in Appendix E. The project proposes a rezoning to facilitate a medical office facility on the northern portion of the site. The medical building would be approximately 150,000 square feet in size. The project would be consistent with the existing General Plan land use diagram, would be required to provide pedestrian and bicycle facilities consistent with the Municipal Code, and would comply with green building ordinances and all applicable energy efficiency measures. Therefore, the project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs, since the project would comply with the City's 2030 GHG Reduction Strategy.

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

I. HAZARDS AND HAZARDOUS MATERIALS

Existing Setting

Kleinfelder, Inc. conducted Phase I and II environmental assessments for the larger 81-acre Arcadia property in July 2005, which were included in the EEHVS EIR. An updated Phase I assessment was completed by AEI Consultants in April 2014 as part of the previously approved Initial Study/Addendum for Evergreen Circle (PDC10-022).

The Phase I study in 2014 concluded that the project site was historically used for agricultural purposes and potentially contained residual agricultural chemicals. No recognized environmental conditions were identified during the assessment. In addition, the Phase 1 assessment concluded that non-ASTM considerations including asbestos containing materials, lead-based paint, radon, mold, and lead in drinking water were not present on the project site.

Grading of the original 81-acre site has occurred over the last several years. Arcadia Development Co, the owner of the original site and now the owner of the 25 acres being rezoned, has provided the following information with regards to site conditions.

A portion of the original 81-acre site was donated to the City for the currently developed softball fields. The remaining portions of the overall site were mass graded by DeNova Homes, under a grading permit issued by the Department of Public Works, which included the project site.

During the period of initial grading, soil was stockpiled on the north retail site. Portions of this stockpile were removed in 2019 and placed on the south retail site during construction of the Costco parking lot. The remainder of the stockpile was removed in the fall of 2020.

According to Arcadia representatives, at no time during the initial grading of the larger site or subsequently during the construction of either the residential project or initial development of the retail areas has soil been imported from off-site locations. Therefore, the findings of the original Phase 1 analysis undertaken at the time that the original PD Rezoning have not been changed.

The project site is located about 2,500 feet south of the Reid-Hillview Airport, and lies within the County Airport Land Use Commission's (ALUC) Land Use Referral Boundary. The ALUC is required to review proposed development within this referral boundary for consistency with the Reid-Hillview Airport Comprehensive Land Use Plan.

Regulatory Framework

Federal

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

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted by Congress in 1980 and is administered by the U.S. EPA. This law created a tax on the chemical and petroleum industries and provided broad Federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. CERCLA established prohibitions and requirements

concerning closed and abandoned hazardous waste sites, provided for liability of persons responsible for releases of hazardous waste at these sites; and established a trust fund to provide for cleanup when no responsible party could be identified.

Resource Conservation and Recovery Act

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

State

California Department of Toxic Substances Control

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

California State Water Resources Control Board

The California State Water Resources Control Board (SWRCB) and its nine regional boards are responsible for preserving, enhancing, and restoring the quality of California's water resources and drinking water for the protection of the environment, public health, and all beneficial uses. Through the 1969 Porter-Cologne Act, the State and Regional Water Boards have been entrusted with broad duties and powers to preserve and enhance all beneficial uses of the state's water resources.

Local

Regional Water Quality Control Board

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

Santa Clara Department of Environmental Health

The County of Santa Clara Department of Environmental Health reviews California Accidental Release Prevention (CalARP) risk management plans as the Certified Unified Program Agency (CUPA) for the City. The CalARP Program aims to prevent accidental releases of regulated hazardous

materials that represent a potential hazard beyond property boundaries. Facilities that are required to participate in the CalARP Program use or store specified quantities of toxic and flammable substances (hazardous materials) that can have off-site consequences if accidentally released. A Risk Management Plan (RMP) is required for such facilities. The intents of the RMP are to provide basic information that may be used by first responders in order to prevent or mitigate damage to the public health and safety and to the environment from a release or threatened release of a hazardous material, and to satisfy federal and state Community Right-to-Know laws.

General Plan Policies

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

Envision San José 2040 Relevant Hazardous Material Policies	
Policy EC-6.6	Address through environmental review for all proposals for new residential, park and recreation, school, day care, hospital, church or other uses that would place a sensitive population in close proximity to sites on which hazardous materials are or are likely to be located, the likelihood of an accidental release, the risks posed to human health and for sensitive populations, and mitigation measures, if needed, to protect human health.
Policy EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
Policy EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.
Policy EC-7.4	On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-paint and asbestos-containing materials, shall be implemented in accordance with state and federal laws and regulations.
Policy EC-7.5	In development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements.
Action EC-7.8	Where an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazardous materials found in the soil, groundwater, soil vapor, or in existing structures.
Action EC-7.9	Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances

Envision San José 2040 Relevant Hazardous Material Policies	
	Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.
Action EC-7.10	Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.
Action EC-7.11	Require sampling for residual agricultural chemicals, based on the history of land use, on sites to be used for any new development or redevelopment to account for worker and community safety during construction. Mitigation to meet appropriate end use such as residential or commercial/industrial shall be provided.
Policy MS-13.2	Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxics control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

Impacts and Mitigation

Thresholds per CEQA Checklist

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

Explanation

a) **Less Than Significant Impact**. The proposed rezoning will not involve the routine transport, use, or disposal of hazardous materials. The applicable land use designations do not provide for substantial hazardous material use or handling. Use of hazardous materials would be limited to those typically required for commercial and landscaping use. These materials are to be stored and used in accordance with the manufacturer's specifications.

The project is a PD rezoning. Future development on the site may require the use of fuels, lubricants, paints, and solvents during construction activities. Future site development would require preparation and implementation of a Storm Water Pollution Prevention Plan and appropriate best management practices to minimize the impact on water quality from release of hazardous materials during construction.

b) **Less Than Significant Impact with Mitigation**. The project site has been graded as part of the larger Evergreen Circle (Arcadia property) approval. This reportedly included implementation of appropriate measures to assure that hazardous materials were not released during grading. See additional discussion in the "Environmental Setting." However, the 2014 Phase I study found that the project site was historically used for agricultural purposes and potentially contained residual agricultural chemicals and also recommended the development of a Site Management Plan.

Impact HAZ 1: The site was historically used for agricultural purposes and may contain agricultural residuals contaminants.

Mitigation Measures

MM HAZ 1 Prior to the issuance of any grading permits, a qualified consultant shall be retained to conduct shallow soil samples in the near surface soil in the proposed project area and test for organochlorine pesticides and pesticide-based metals arsenic and lead, to determine if contaminants from previous agricultural operations occur at concentrations above established construction worker safety and commercial/industrial standard environmental screening levels. The results of the soil sampling and testing will be provided to the City's Supervising Environmental Planner and Municipal Environmental Compliance Officer for review.

MM HAZ-2 Prior to construction, a qualified consultant shall be retained to prepare a Site Management Plan to reduce or eliminate exposure risk to human health and the environment associated with the presence of agricultural buildings and the potential for the presence of underground storage tanks. At a minimum, the SMP shall include the following:

- Stockpile management including dust control, sampling, stormwater pollution prevention and the installation of BMPs
- Proper disposal procedures of contaminated materials
- Monitoring, reporting, and regulatory oversight notifications
- Proper procedure for removal of Underground Storage Tanks

- A health and safety plan for each contractor working at the site that addresses the safety and health hazards of each phase of site operations with the requirements and procedures for employee protection
- The health and safety plan will also outline proper soil/ and or groundwater handling procedures and health and safety requirements to minimize worker and public exposure to contaminated soil/and or groundwater during construction.

c) **Less Than Significant Impact**. The project site is located within a ¼ mile of George V. Leyva Middle School (1865 Monrovia Drive). However, the proposed project is a rezoning and no specific development is proposed at this time. Any hazardous materials handling and disposal associated with future construction activities at the site would be conducted in accordance with all legal requirements, thereby avoiding release of such materials.

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

e) **Less Than Significant Impact**. The Mineta San José International Airport is located approximately 2.7 miles northwest of the project site. The project is located near the Reid-Hillview Airport, and appears to lie within the County Airport Land Use Commission's (Land Use Referral Boundary. Future development of the site, restricted to 50 feet in height, would not result in a safety hazard or excessive noise for people residing or working in the project area.

f) **Less Than Significant Impact**. The project would not interfere with any adopted emergency or evacuation plans. The project is a rezoning and would not create any barriers to emergency or other vehicle movement in the area. Future development on the site would be designed to incorporate all Fire Code and other relevant City requirements.

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

Conclusion: The project would have a less than significant impact related to hazards and hazardous materials.

J. HYDROLOGY AND WATER QUALITY

Existing Setting

The project site does not contain any natural drainages or waterways. The nearest waterway is the Thompson Creek located about 0.19 miles east of the site. The Flood Insurance Rate Maps issued by the Federal Emergency Management Agency (FEMA) indicate that the project site is located within Zone D. Zone D is defined as an area of undetermined but possible flood hazard outside the 100-year floodplain. The City does not have any floodplain restrictions for development in Zone D.

The 1976 Evergreen Development Policy (EDP) established protection from the 100-year flood as the standard condition for development approval. Over the years, development was allowed to proceed only if the 100-year flood protection was in place for each project and downstream of each project. As a result of developer contributions, the flood control system is substantially complete. The 1995 Revised EDP maintained the 100-year flood protection prerequisite to project approvals and identified the remaining watersheds to be improved to allow the buildout of Evergreen to proceed. In 2008, the EDP was renamed Evergreen East Hills Development Policy (EEHDP) and revised again; however, no changes were made to the flood protection policies.

Regulatory Framework

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

Federal and State

National Flood Insurance Program

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

Porter-Cologne Water Quality Act

The Porter-Cologne Act delegates authority to the SWRCB to establish regional water quality control boards. The San Francisco Bay Area RWQCB has authority to use planning, permitting, and enforcement to protect beneficial uses of water resources in the project region. Under the Porter-Cologne Water Quality Control Act (California Water Code Sections 13000-14290), the RWQCB is authorized to regulate the discharge of waste that could affect the quality of the state's waters, including

projects that do not require a federal permit through the USACE. To meet RWQCB 401 Certification standards, all hydrologic issues related to a project must be addressed, including the following:

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

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

Statewide Construction General Permit

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

Regional and Local

San Francisco Bay Basin Plan

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

Municipal Regional Stormwater Permit

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

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

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

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

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

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

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

Evergreen East Hills Development Policy

The project site is located in the Evergreen East Hills Development Policy Area and subject to the flood protection requirements listed below.

1. Development will be allowed only if it is protected from the 100-year flood.

2. Development will be allowed only if it would not divert flood or overland flows onto or cause flooding on other properties.

3. Flood control improvements required within the Evergreen East Hills Development Policy Area have been completed with the exception of the Quimby and Fowler Creek watersheds. Development within these watersheds must be consistent with Policies 1 and 2.

The proposed project is in conformance with the flood protection requirements of the Evergreen East Hills Development Policy. Based on its location within a subwatershed or catchment area that is greater than or equal to 65% impervious, the project will not be required to comply with the hydromodification requirements of Provision C.3 of the MRP.

General Plan Policies

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

Envision San José 2040 Relevant Hydrology and Water Quality Policies	
Policy IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.
Policy MS-3.4	Promote the use of green roofs (i.e., roofs with vegetated cover), landscape-based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.
Policy ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
Policy ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
Policy ER-8.5	Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.
Policy EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls.
Policy EC-5.7	Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.
Policy EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.
Policy EC-7.10	Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
10. HYDROLOGY AND WATER QUALITY. Would the project:					
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?			X		1, 2
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?			X		1, 2

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

Explanation

a) **Less Than Significant Impact**. The project is located in an urban environment and operation of future commercial medical office uses would not utilize materials that would significantly harm the water quality in the area. Furthermore, future development would be required to comply with applicable regulations and laws, as discussed in the regulatory framework above, to ensure proper discharge into the City's stormwater and sanitary infrastructure. The project, therefore, would not violate any water quality standards or waste discharge requirements, or degrade surface or groundwater quality as described further under item b).

b) **Less Than Significant Impact**. Estimated groundwater occurs approximately 16 feet below ground surface in the project area.[18] The project is a PD rezoning and does not propose a PD permit or specific development at this time. Future development would not be expected to deplete or otherwise affect groundwater supplies or recharge.

ci) **Less Than Significant Impact**. Construction of future development on the project could result in a temporary increase in erosion affecting the quality of storm water runoff. This increase in erosion is expected to be minimal, since the site is already graded and essentially flat. The City's implementation requirements to protect water quality are described below.

Construction Impacts

Prior to the commencement of any clearing, grading or excavation, the project is required to comply with the State Water Resources Control Board's National Pollutant Discharge Elimination System (NPDES) General Construction Activities Permit, to the satisfaction of the Director of Public Works. The project applicant is required to develop, implement, and maintain a Storm Water Pollution Prevention Plan (SWPPP) to control the discharge of stormwater pollutants including sediments associated with construction activities.

[18] California Department of Water Management – Sustainable Groundwater Management Act Map Viewer

Additionally, the project applicant is required to file a Notice of Intent (NOI) with the State Water Resource Control Board (SWRCB) to comply with the General Permit and prepare a SWPPP that includes measures that would be included in the project to minimize and control construction and post-construction runoff. The SWPPP shall be posted at the project site and will be updated to reflect current site conditions.

Future development shall incorporate Best Management Practices (BMPs) to control the discharge of stormwater pollutants including sediments associated with construction activities. Examples of BMPs are contained in the publication *Blueprint for a Clean Bay*[19], and include preventing spills and leaks, cleaning up spills immediately after they happen, storing materials under cover, and covering and maintaining dumpsters. Prior to the issuance of a grading permit, the project applicant may be required to submit an Erosion Control Plan to the Department of Public Works. The Erosion Control Plan may include BMPs as specified in ABAG's *Manual of Standards Erosion & Sediment Control Measures* for reducing impacts on the City's storm drainage system from construction activities.

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

Future development on the project site would increase impervious surfaces site. Consistent with the regulations and policies described above, the future development would be required to follow applicable standard permit conditions based on RWQCB BMPs. These BMPs would be implemented prior to and during earthmoving activities onsite and would continue until the construction is complete and during the post-construction period as appropriate.

Standard Permit Conditions

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

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

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

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

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

[19] Bay Area Stormwater Management Agencies Association.

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

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

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

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

Post-Construction Impacts

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

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

cii) **Less Than Significant Impact**. The project is a PD rezoning and no specific development is proposed at this time. Future development would implement a stormwater control plan to manage runoff from the site.

ciii) **Less Than Significant Impact**. Future development on the project site would connect to the City's existing storm drainage system. The site is served by an existing 15-inch RCP storm sewer main along Evergreen Place. In addition, future development is not expected to contribute runoff that would exceed the capacity of existing or planned stormwater drainage systems or result in substantial additional sources of polluted runoff.

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

d) **Less Than Significant Impact**. As described above, the project site is not located within a 100-year floodplain, flood hazard zone, or flood inundation area (from dam failure). In addition, the project site is not located in an area subject to significant seiche or tsunami risk.

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

Conclusion: The project would have a less than significant impact on hydrology and water quality.

K. LAND USE AND PLANNING

Existing Setting

The project is located in an urbanized area of the City, with a mix of primarily residential and commercial uses. The site is currently vacant and completed graded as part of the Evergreen Circle project. Land uses surrounding the site are listed below as shown in the aerial in Figure 3.

- North: Commercial, Quimby Road
- South: Asana Way, Commercial (under construction or complete)
- East: Commercial (northeast), E. Capitol Expressway, Residential (across Capitol)
- West: N. Evergreen Loop, Commercial (under construction or complete)

The project site is designated *Neighborhood/Community Commercial* in the City's Envision San José 2040 General Plan Land Use/Transportation Diagram. The *Neighborhood/Community Commercial* designation is intended to support a very broad range of commercial activity, including commercial uses that serve the communities in neighboring areas, such as neighborhood serving retail and services and commercial/professional office development. General office uses, hospitals and private community gathering facilities are allowed within this designation.

Regulatory Framework

Zoning

The project site is currently zoned A(PD) Planned Development. The rezoning of the project site to a new PD Zoning District is proposed to allow for 150,000 square feet of medical office space, which represents approximately 60,238 square feet of commercial equivalency, for a total allowable commercial space of up to 369,560 square feet. The proposed rezoning is intended to allow for medical office *or* the remaining allowable commercial/retail space, based on vehicle trips equivalency. The project does not propose a PD permit application or a specific development at this time.

Reid-Hillview Airport Comprehensive Land Use Plan

The project site is located about 2,300 feet south of Reid-Hillview Airport, and lies within the County Airport Land Use Commission's (ALUC) Land Use Referral Boundary. The ALUC is required to review proposed development within this referral boundary for consistency with the Reid-Hillview Airport Comprehensive Land Use Plan.

General Plan Policies

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

Envision San José 2040 Relevant Land Use and Planning Policies	
Policy CD-1.1	Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.

Envision San José 2040 Relevant Land Use and Planning Policies	
Policy CD-1.8	Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity through the City
Policy CD-4.9	For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
Policy LU-1.2	Create safe, attractive, and accessible pedestrian connections between developments and to adjacent public streets to minimize vehicular miles traveled.
Policy LU-1.6	With new development or expansion and improvement of existing development or uses, incorporate measures to comply with current Federal, State, and local standards.
Policy LU-9.7	Ensure that new residential development does not impact the viability of adjacent employment uses that are consistent with the Envision General Plan Land Use / Transportation Diagram.
Policy VN-1.7	Use new development within neighborhoods to enhance the public realm, provide for direct and convenient pedestrian access, and visually connect to the surrounding neighborhood. As opportunities arise, improve existing development to meet these objectives as well.
Policy VN-1.11	Protect residential neighborhoods from the encroachment of incompatible activities or land uses which may have a negative impact on the residential living environment.
Policy VN-1.12	Design new public and private development to build upon the vital character and desirable qualities of existing neighborhoods

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
11. LAND USE AND PLANNING. Would the project:					
a) Physically divide an established community?				X	1, 2
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?			X		1-14

Explanation

a) **No Impact**. The project is located on a site planned for a variety of primarily urban uses. Projects that have the potential to physically divide an established community include new freeways and highways, major arterial streets, and railroad lines. The proposed project will not physically divide an established community. Proposed rezoning and future development on the site will not physically divide an established community but rather complete that community, which is partially constructed.

b) **Less Than Significant Impact**. The project's conformance with relevant land use plans and policies is summarized below:

Envision San José 2040 General Plan

The project site is designated *Neighborhood/Community Commercial* in the City's Envision San José 2040 General Plan Land Use/Transportation Diagram, which supports a broad range of commercial activity, including general office uses. A broad range of commercial including medical office are acceptable under the *Neighborhood/Community Commercial* General Plan designation.

The proposed rezoning is consistent with the *Neighborhood/Community Commercial* designation, since it would allow commercial uses (including medical office). The proposed increase of allowable commercial space on the project site up to 369,560 square feet within the EDP area is consistent with the remaining commercial pool of square footage for the property. The proposed rezoning is in anticipation of future development with up to 150,000 square feet of medical office uses, although it would not preclude future development of the site with 60,238 square feet of commercial equivalency.

Evergreen East Hills Development Policy

Future development on the project site under the proposed rezoning with additional commercial uses would be allowable within the EDP. Future development would be subject to the standards and fees set forth in the EDP, including payment of the EDP Traffic Impact Fee.

Reid-Hillview Airport Comprehensive Land Use Plan

The project site is located within the ALUC Land Use Referral Boundary for Reid-Hillview Airport. In June 2014, the ALUC considered and accepted the referral from the City for development of the larger Evergreen Circle site, finding the project consistent with the policies contained in the Reid-Hillview Airport Comprehensive Land Use Plan. The currently proposed rezoning for commercial uses is also consistent with the policies contained in the Airport Comprehensive Land Use Plan and will not require additional referral review and approval.

Zoning

The proposed PD Zoning District would increase of the allowable commercial space on the project site up to 369,560 square feet within the EDP area, consistent with the remaining commercial pool of square footage available for the property. The proposed rezoning is in anticipation of future development with medical office uses. Medical office of up to 150,000 square feet may be allowed in lieu of 60,238 square feet of commercial area because of the lower trip generation rate of medical office compared to retail/commercial. However, the rezoning would not preclude future development of the site with 60,238 square feet of commercial equivalency.

Physical Impacts on the Environment

This Initial Study analyzes the potential environmental impacts of the project from future development of medical office uses or commercial use equivalency for the site. Future development on the project site with 150,000 square feet of medical offices or 60,238 square feet of commercial space could result in potential impacts in the following areas: 1) impacts to air quality related to toxic air contaminant emissions; 2) impacts on biological resources during construction from disturbance to birds, including burrowing owls, 3) possible hazardous materials release; 4) noise impacts from outdoor mechanical equipment, and 5) vibration impacts to nearby buildings during construction. These impacts would be minimized by implementation of identified mitigation measures and standard permit conditions identified in this Initial Study. These mitigation measures and conditions of approval are consistent with the City's policies and regulations as described in the body of the Initial Study.

Conclusion

The project is application for a rezoning and does not propose a PD permit application or a specific development at this time. In terms of physical impacts on the environment, this Initial Study analyzes the potential environmental impacts of the project within each resource section of the document and provides measures and future permit conditions to reduce the physical impacts of the future development on the site. Therefore, the project would have a less than significant impact related to conflicts with a land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.

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

L. MINERAL RESOURCES

Existing Setting

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

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

Impacts and Mitigation

Thresholds per CEQA Checklist

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

Explanation

a), b) **No Impact**. The project site is located 3.5 miles northeast of the Communications Hill area, the only area in San José containing mineral deposits subject to SMARA. Therefore, the project will not result in a significant impact from the loss of availability of a known mineral resource.

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

M. NOISE & VIBRATION

A noise and vibration assessment has been prepared for the project by Illingworth & Rodkin, Inc. (January 2021), which is contained in Appendix C. The following discussion summarizes the results of this assessment.

Existing Setting

Noise Fundamentals

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

Vibration Fundamentals

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

Existing Noise Environment

The project site is located at 2376 South Evergreen Loop in San José, California. The site is bounded by commercial land uses to the north, East Capitol Expressway to the east, and commercial land uses that are currently under construction to the west and south. Residential land uses are located as close as 150 feet to the east, across East Capitol Expressway, 870 feet to the south, and 1,230 feet to the west, as measured from the nearest property lines.

Due to regional shelter-in-place restrictions implemented by the State of California at the time of this study, traffic volumes along the surrounding roadways were reduced and not representative of typical conditions. Therefore, a noise monitoring survey was not completed to document ambient noise levels. Instead, noise data collected for previous projects was reviewed to establish the existing noise environment (see Figure 8).

Noise data contained in the EEHVS EIR was used to quantify existing noise levels at the project site. A long-term measurement (LT-1) was made approximately 90 feet from the centerline of East Capitol Expressway. The predominant noise sources affecting the project site were found to include vehicular traffic along East Capitol Expressway and Quimby Road as well as occasional overhead aircraft associated with Reid-Hillview Airport. Hourly noise levels at LT-1 ranged from 72-74 dBA Leq during the daytime and 59-72 dBA Leq during the nighttime. The day-night average noise level was 75 dBA DNL on June 2, 2005.

Additional noise measurements made as part of the Evergreen Circle Mixed-Use Noise Assessment[20] were also used. Long-term measurements from this assessment were made near existing residential receptors to the south and west of the project site. LT-2 was made at the eastern terminus of Brahms Avenue, approximately 135 feet from the centerline of Chopin Road. Hourly average noise levels at this location typically ranged from 50 to 63 dBA L_{eq} during the day, and from 46 to 54 dBA L_{eq} at night. The day-night average noise level was 59 dBA DNL on Wednesday, January 25, 2017. LT-3 was made approximately 54 feet from the centerline of Quimby Road. Hourly average noise levels at this location typically ranged from 65 to 70 dBA L_{eq} during the day, and from 55 to 69 dBA L_{eq} at night. The day-night average noise level was 71 dBA DNL on Wednesday, January 25. LT-4 was made at Meadowfair Park, approximately 430 feet from the centerline of Chopin Road. Hourly average noise levels at this location typically ranged from 49 to 60 dBA L_{eq} during the day, and from 46 to 54 dBA L_{eq} at night. The day-night average noise level was 58 dBA DNL on Wednesday, January 25, 2017.

Traffic conditions were reviewed along Quimby Road and East Capitol Expressway in order to account for increased traffic volumes since measurements were conducted. Based on a comparison of existing traffic levels in 2005 from the EEHVS EIR and existing traffic levels in 2013 from the Communications Hill Residential and Industrial Buildout Traffic Impact Analysis,[21] noise levels along East Capitol Expressway did not measurably increase south of the intersection with Quimby Road. Noise levels along Quimby Road to the west of the intersection with East Capitol Expressway increased by approximately 1 dBA.

Figure 8 shows the locations of the long-term noise data used to represent existing noise levels at receptors in the project vicinity. Ambient noise levels do not change rapidly, particularly in areas adjacent to busy roadways like Capitol Expressway. For example, the San José 2040 General Plan shows that traffic noise levels along Capitol Expressway are expected to increase by 0 dBA by 2035. Therefore, the 2005 and 2017 data conservatively represent existing noise conditions in the area. The data from the Communications Hill Residential and Industrial Buildout Traffic Impact Analysis showed similar trends. The ARCO AM/PM noise study does not provide additional data that is representative of receptors near the proposed project site. Based on the location of the project site, traffic along East Capitol Expressway would continue to be the dominant noise source.

Noise levels along the eastern property line of the project site would be up to approximately 76 dBA DNL. These noise levels would also be representative of noise levels at the residential receptors to the east of the project site, across East Capitol Expressway. Noise levels along the western property line of the project site would range from approximately 57 to 62 dBA DNL, depending on setback distance from East Capitol Expressway. All measurement locations are shown in relation to the project site in Figure 8 and Table 8 summarizes the noise data.

[20] Illingworth & Rodkin, Inc., "Evergreen Circle Mixed-Use Project Noise Assessment," Prepared for DeNova Homes, March 2017.
[21] Hexagon Transportation Consultants, "Communications Hill Residential and Industrial Buildout Traffic Impact Analysis," Prepared for David J. Powers & Associates, May 28, 2014.

Source: Illingworth & Rodkin, January 2021

Noise Measurements from Previous Studies

Evergreen Circle Rezoning
Initial Study

Figure
8

Table 8 Summaries of Long-Term Noise Data from Prior Studies					
Measurement Description			**Noise Level (dBA)**		
Noise Measurement Location (Date/Time)	**Study**	**ID**	**Range of Daytime Hourly L_{eq}**	**Range of Nighttime Hourly L_{eq}**	**DNL**
90 feet from centerline of East Capitol Expressway (June 1-3, 2005)	Evergreen Visioning Project EIR 2005	LT-1	72-74	59-72	75
135 feet from centerline of Chopin Avenue (Jan 24-26, 2017)	Evergreen Circle Mixed-Use Noise Assessment	LT-2	50-63	46-54	59
54 feet from centerline of Quimby Road (Jan 24-26, 2017)	Evergreen Circle Mixed-Use Noise Assessment	LT-3	65-70	55-69	71
430 feet from centerline of Chopin Avenue (Jan 24-26, 2017)	Evergreen Circle Mixed-Use Noise Assessment	LT-4	49-60	46-54	58

State

California Building Code

The 2019 California Building Code (CBC) requires interior noise levels attributable to exterior environmental noise sources to be limited to a level not exceeding 45 dBA DNL/CNEL in any habitable room. The State of California established exterior sound transmission control standards for new non-residential buildings as set forth in the California Green Building Standards Code (Section 5.507.4.1 and 5.507.4.2). These sections identify the standards, such as Sound Transmission Class ratings,[22] that project building materials and assemblies need to comply with based on the noise environment.

Local

General Plan

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

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

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

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

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

Envision San José 2040 Relevant Noise and Vibration Policies	
	land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features are included in the design.
Policy EC-1.2	Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Land Use Categories 1, 2, 3 and 6 in Table EC-1 in the General Plan by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would: • Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable"; or • Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.
Policy EC-1.3	Mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to existing or planned noise-sensitive residential and public/quasi-public land uses.
Policy EC-1.6	Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City's Municipal Code.
Policy EC-1.7	Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would: • Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.
Policy EC-2.3	Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or buildings that are documented to be structurally weakened, a continuous vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of a historical building, or building in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

San José Municipal Code

Per the San José Municipal Code Title 20 (Zoning Ordinance) Noise Performance Standards, the sound pressure level generated by any use or combination of uses on a property shall not exceed the decibel levels indicated in the table below at any property line.

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

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

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
13. NOISE. Would the project result in					
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?		X			12
b) Generation of excessive groundborne vibration or groundborne noise levels?		X			12
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?			X		12

Explanation

Significance Criteria

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

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

- A significant impact would be identified if the construction of the project would generate excessive vibration levels to surrounding receptors. Groundborne vibration levels exceeding 0.2 in/sec PPV would have the potential to result in cosmetic damage to normal buildings.

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

Project-Generated Noise Impacts During Operations

Mechanical Equipment Noise. Under the City's Noise Element, noise levels from building equipment shall not exceed a noise level of 55 dBA DNL at receiving noise-sensitive land uses. Noise-sensitive receptors surrounding the site would include existing residences as close as 90 feet to the east of the project site, opposite East Capitol Expressway, 1,040 feet to the south of the project site, and 1,450 feet to the west of the project site. Commercial buildings would also be located as close as 20 feet to the north. Residential and commercial land uses are planned for future development as part of the Evergreen Visioning Project. Residential land uses would be as close as 600 feet to the west and commercial land uses would be as close as 110 feet to the south and west.

Various mechanical equipment for heating, ventilation, and cooling purposes (HVAC), exhaust fans, emergency generators, and other similar equipment could produce noise levels exceeding ambient levels when located near existing or proposed land uses.

Most of the equipment is anticipated to be located within the interior of the building or on the rooftop. For future developments on the project site, outdoor mechanical equipment would only consist of HVAC units. Noise levels from HVAC units at similar sized projects were measured to be up to 89 dBA at 1.2 feet. At a distance of 90 feet, which would represent the closest property line of a noise-sensitive land use, noise levels attributable to HVAC units would be up to 52 dBA DNL. Therefore, noise levels due to equipment are not expected to exceed 55 dBA DNL at the surrounding land uses. Operational noise levels would likely be 46 dBA Leq or less, complying with the City of San José noise ordinance.

It is expected that mechanical equipment noise for future medical office or commercial use on the project site would meet the City's applicable noise limits. However, noise levels from mechanical equipment should be examined once specific equipment has been selected to

ensure compliance with the City's 55 dBA DNL threshold. Future development on the project site should comply with the following standard permit condition.

Standard Permit Condition

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

Project-Generated Noise Impacts During Construction

Construction of future (medical office or commercial) development could result in short-term noise impacts upon the noise generated by various pieces of construction equipment, the timing and duration of noise-generating activities, and the distance between construction noise sources and noise-sensitive areas.

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

The typical range of maximum instantaneous noise levels for construction activities is in the range of 70 to 90 dBA L_{max} at a distance of 50 feet, as shown in Table 9.

Table 9 Typical Ranges of Construction Noise Levels at 50 Feet, L_{eq} (dBA)								
	Domestic Housing		**Office Building, Hotel, Hospital, School, Public Works**		**Industrial Parking Garage, Religious Amusement & Recreations, Store, Service Station**		**Public Works Roads & Highways, Sewers, and Trenches**	
	I	**II**	**I**	**II**	**I**	**II**	**I**	**II**
Ground Clearing	83	83	84	84	84	83	84	84
Excavation	88	75	89	79	89	71	88	78
Foundations	81	81	78	78	77	77	88	88
Erection	81	65	87	75	84	72	79	78
Finishing	88	72	89	75	89	74	84	84
I - All pertinent equipment present at site. **II** - Minimum required equipment present at site. Source: U.S.E.P.A., Legal Compilation on Noise, Vol. 1, p. 2-104, 1973.								

Existing noise-sensitive land uses would be exposed to a temporary increase in ambient noise levels due to project construction activities on the site. The 60,238 square feet of commercial equivalency may require less construction than the 150,000 square feet of medical office building, decreasing impacts; however, this impact is still considered potentially significant.

Reasonable regulation of the hours of construction, as well as regulation of the arrival and operation of heavy equipment and the delivery of construction material, are necessary to protect the health and safety of persons, promote the general welfare of the community, and maintain the quality of life. Further, the City would require future development on the site to adhere to the following construction best management practices to reduce construction noise levels and minimize disruption and annoyance at existing noise-sensitive receptors in the project vicinity.

Impact NSE-1. Existing noise-sensitive land uses would be exposed to a temporary increase in ambient noise levels due to construction activities on the project site.

Mitigation Measures

MM NSE-1 Construction Noise Logistics Plan: Prior to the issuance of any grading or building permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistic plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any grading or demolition permits. As a part of the noise

logistic plan, construction activities for the proposed project shall include, but are not limited to, the following best management practices:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

With the incorporation of the mitigation measure above, the temporary construction impacts from future medical office or commercial equivalency uses would be reduced to a less than significant level. As described earlier, the 60,238 square feet of commercial equivalency may require less construction and fewer impacts during construction than the 150,000 square feet of medical office building.

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

According to Policy EC-2.3 of the City of San José General Plan, a vibration limit of 0.08 in/sec PPV shall be used to minimize the potential for cosmetic damage to sensitive historical structures, and a vibration limit of 0.20 in/sec PPV shall be used to minimize damage at buildings of normal conventional construction. Based on the Historical Resources Inventory for the City of San José,[23] no buildings of historical significance are located within 500 feet of the project boundary. Therefore, a vibration limit of 0.20 in/sec PPV was used to evaluate damage at all buildings in the project vicinity.

Table 10 presents typical vibration levels that could be expected from construction equipment at a distance of 25 feet. Project construction activities, such as drilling, the use of jackhammers, rock drills and other high-power or vibratory tools, and rolling stock equipment (tracked vehicles, compactors, etc.), may generate substantial vibration in the immediate vicinity. Jackhammers typically generate vibration levels of 0.035 in/sec PPV, and drilling typically

[23] https://www.sanjoseca.gov/home/showpublisheddocument?id=24021

generates vibration levels of 0.09 in/sec PPV at a distance of 25 feet. Vibration levels would vary depending on soil conditions, construction methods, and equipment used.

Worst-case scenario vibration levels were calculated at the nearest buildings to the site, as measured from the shared property lines. The nearest existing structure to the project site would be the office building to the north. Located approximately 20 feet from the shared property line, the worst-case vibration levels at this structure would be up to 0.268 in/sec PPV. All other surrounding structures, including the commercial structures under construction to the south and west, would be subject to vibration levels at or below 0.051 in/sec PPV.

Table 10
Vibration Source Levels for Construction Equipment

Equipment		PPV at 25 ft. (in/sec)	Vibration Levels at Nearest Buildings (in/sec PPV)			
			Commercial Structure North (20 feet)	Commercial Structure West (90 feet)	Commercial Structure South (105 feet)	Residential Structure East (150 East)
Clam Shovel Drop		0.202	**0.258**	0.049	0.042	0.028
Hydromill (slurry wall)	in soil	0.008	0.010	0.002	0.002	0.001
	in rock	0.017	0.022	0.004	0.004	0.002
Vibratory Roller		0.21	**0.268**	0.051	0.043	0.029
Hoe Ram		0.089	0.114	0.022	0.018	0.012
Large Bulldozer		0.089	0.114	0.022	0.018	0.012
Caisson Drilling		0.089	0.114	0.022	0.018	0.012
Loaded Trucks		0.076	0.097	0.019	0.016	0.011
Jackhammer		0.035	0.045	0.009	0.007	0.005
Small Bulldozer		0.003	0.004	0.001	0.001	0.000

Source: Transit Noise and Vibration Impact Assessment, United States Department of Transportation, Office of Planning and Environment, Federal Transit Administration, May 2006, as modified by Illingworth & Rodkin, Inc., January 2021.

A study completed by the US Bureau of Mines analyzed the effects of blast-induced vibration on buildings in USBM RI 8507.[24] The findings of this study have been applied to buildings effected by construction-generated vibrations.[25] Threshold damage, which is described as cosmetic damage in this report, would entail hairline cracking in plaster, the opening of old cracks, the loosening of paint or the dislodging of loose objects. Minor damage would include hairline cracking in masonry or the loosening of plaster, and major structural damage would include wide cracking or shifting of foundation or bearing walls. Cosmetic, minor, and major damage were not observed at vibration levels below 0.3 in/sec PPV.

Vibratory construction equipment or the dropping of heavy objects would have the potential to produce vibration levels of 0.2 in/sec PPV or more at the nearest residential land use to the northwest. While no minor or major damage would be expected to occur, there is a very small probability that cosmetic damage could occur. Therefore, this represents a potentially significant impact.

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

At this location, and in other surrounding areas within 200 feet, vibration levels would potentially be perceptible. By use of administrative controls, such as notifying neighbors of scheduled construction activities and scheduling construction activities with the highest potential to produce perceptible vibration during hours with the least potential to affect nearby businesses, perceptible vibration can be kept to a minimum.

Impact NSE-2: Construction of future medical or commercial equivalency development could generate vibration levels exceeding 0.2 in/sec PPV at the nearest residential buildings.

Mitigation Measures

MM NSE 2 Construction Vibration Monitoring, Treatment, and Reporting Plan: The project applicant shall implement a construction vibration monitoring plan to document conditions prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. The construction vibration monitoring plan shall include, but not be limited to, the following measures:

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

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

- Prohibit the use of heavy vibration-generating construction equipment within 30 feet of adjacent buildings.

- Use a smaller vibratory roller, such as the Caterpillar model CP433E vibratory compactor, when compacting materials within 30 feet of adjacent buildings. Only use the static compaction mode when compacting materials within 15 feet of buildings.

- Document conditions at all structures located within 30 feet of construction prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional

Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. Specifically:

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

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

- Avoid dropping heavy equipment and use alternative methods for breaking up existing pavement, such as a pavement grinder, instead of dropping heavy objects, within 30 feet of adjacent buildings.

- The contractor shall alert heavy equipment operators to the close proximity of the adjacent structures so they can exercise extra care.

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

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

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

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

Implementation of this mitigation measure would reduce the vibration impact during construction of future development on the project site to a less than significant level.

c) **Less Than Significant Impact**. Norman Y. Mineta San José International Airport is a public-use airport located over four miles northwest of the project site. The project site lies outside of the 60 dBA CNEL 2027 noise contour of the airport, according to the Norman Y. Mineta San José International Airport Master Plan Update Project[26] report (February 2010). Additionally, the Reid-Hillview Airport is located approximately one mile north of the project site. Although aircraft noise is present, the entire project site is located outside both the existing and future 60 dB noise contours for Reid-Hillview Airport. Therefore, the future development on the site would be compatible with the City's exterior noise standards for aircraft noise. This represents a less-than-significant impact.

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

Non-CEQA Effects

In December 2015, the California Supreme Court issued an opinion in the California Building Industry Association vs. Bay Area Air Quality Management District (*CBIA vs. BAAQMD*) case that CEQA is primarily concerned with the impacts of a project on the environment, not the effects of the existing environment on a project. In light of this ruling, the effect of existing ambient noise on future users or residents of the project would not be considered an impact under CEQA. Thus, the following discussion is provided for information purposes.

The future noise environment at the project site would continue to be dominated by vehicular traffic along E. Capitol Expressway. Existing and background plus project conditions from the EEHVS traffic study were compared to estimate future traffic noise increases within the project vicinity, which represents future traffic conditions. Based on these results, future noise levels are anticipated to increase by up to 2 dBA DNL in the project site vicinity.

The performance method enforced in the Cal Green Code requires that interior noise levels be maintained at 50 dBA Leq(1-hr) or less during hours of operation at the proposed future buildings. Future hourly average noise levels during daytime hours could range from approximately 72 to 75 dBA Leq(1-hr) at the building exterior. Standard construction materials for commercial uses would provide about 25 dBA of noise reduction in interior spaces. The inclusion of adequate forced-air mechanical ventilation systems is normally required so windows may be kept closed at the occupant's discretion and would provide an additional 5 dBA reduction. The standard construction materials in combination with forced-air mechanical ventilation would satisfy the daytime threshold of 50 dBA Leq(1-hr).

Spaces where lower noise levels would be desired, such as private offices and conference rooms, may benefit from additional noise control in order to meet a lower, more desirable interior noise level. Additional noise control could be accomplished by selecting higher sound-rated windows along exterior façades.

For consistency with the Cal Green Code, the following measures should be considered by the City for future medical office or commercial equivalency development of the site:

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

- Provide forced-air mechanical ventilation and sound rated windows to maintain interior noise levels at acceptable levels. A qualified acoustical specialist shall prepare a detailed analysis of interior noise levels resulting from all exterior sources during the final design phase of the project pursuant to requirements set forth in the General Plan and State Building Code. 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 50 dBA Leq(1-hr) or less. Treatments would include, but are not limited to, sound-rated windows and doors as specified above, acoustical caulking, protected ventilation openings, etc. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City, along with the building plans and approved design, prior to issuance of a building permit.

N. POPULATION AND HOUSING

Setting

Based on information from the Department of Finance, the City of San José's population was estimated to be 1,049,187 in May 2020 and had an estimated total of 336,507 housing units, with an average of 3.19 persons per household. [27] ABAG projects that the City's population will reach 1,445,000 with 472,000 households by 2040.

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

Impacts and Mitigation

Thresholds per CEQA Checklist

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

Explanation

a) **No Impact**. The project proposes to rezone the project site to (PD) Planned Development to allow for an increase in the allowable square footage for commercial applications. No specific development is proposed at this time; however anticipated development is 150,000 square feet of medical office or 60,238 square feet of commercial. The proposed rezoning does not increase the amount of growth anticipated in the City's 2040 General Plan and would not induce substantial unplanned population growth. This represents a less than significant impact.

b) **No Impact**. The project consists of a rezoning on a vacant, graded site with no existing housing. Future development would not displace existing housing or require the construction of replacement housing.

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

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

O. PUBLIC SERVICES

Existing Setting

Fire Protection: Fire protection services are provided to the project site by the San José Fire Department (SJFD). The closest fire station to the project site is Station #16, located about 1.3miles northwest of the site at 2001 S. King Road.

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

Parks: Parks and recreation facilities within the project area are provided by the City of San José. The Arcadia Ballpark is a 14.5-acre located northwest of the project site across from the Eastridge Center. The softball park has been fully constructed and was scheduled to officially open in Spring 2020. The softball park consists of four lighted fields, a grill, restrooms, and a sports-themed playground. The Arcadia Ballpark will feature reservable fields and weekend tournament play, and maintained and operated by professional staff.

Meadowfair Park, an 8.4-acre City neighborhood park, is located adjacent to LeyVa Middle School along the southerly site boundary at Corda Drive at Barberry Lane. It contains two playgrounds, a half basketball court, a horseshoe pit, an open turf area, barbecue pits and picnic tables, a restroom building, and a parking lot. The adjacent LeyVa Middle School has school fields that also function as neighborhood-serving park land.

In addition, the Barberry Lane Walkway runs parallel to Barberry Lane from Meadowfair Park at Corda Drive southwesterly to Dina Lane. This 0.5-mile concrete walkway along southern Lower Silver Creek includes landscaped areas with seating and views of a portion of the open creek channel. There are plans to extend the walkway along the outskirts of Meadowfair Park to Quimby Road.

Schools: The project site is in the Evergreen School District (ESD) and the East Side Union High School District (ESUHSD). These districts operate a combined 30 schools (15 elementary schools, three middle schools, and 12 high schools) serving approximately 38,087 students.[28] The project site is within the Holly Oak Elementary School (elementary school) and LeyVa Middle School attendance boundaries assigned by the ESD, and within Silver Creek High School attendance boundary assigned by the ESUHSD. Holly Oak Elementary School is located at 2995 Rossmore Way, LeyVa Middle School is located at 1865 Monrovia Drive, and Silver Creek High School is located at 3434 Silver Creek Road.

Regulatory Framework

California Government Code Section 65996

California Government Code Section 65996 stipulates that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to issuance of a building permit. The legislation states that payments of school impact fees "are hereby

[28] Envision San José 2040 General Plan Final Program EIR, certified November 2011.

deemed to provide full and complete school facilities mitigation" under CEQA [§65996(b)]. The school district is responsible for implementing the specific methods of school impact mitigation under the Government Code. The CEQA documents must identify that school impact fees and the school districts' methods of implementing measures specified by Government Code 65996 would adequately mitigate project-related increases in student enrollment.

Quimby Act – California Code Sections 66475-66478

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

Parkland Dedication Ordinance and Park Impact Ordinance

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

General Plan Policies

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

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

Envision San José 2040 Relevant Public Service Policies	
Policy ES-3.1	Provide rapid and timely Level of Service (LOS) response time to all emergencies: 1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.
Policy ES-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.
Policy ES-3.11	Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects. PR-1.1 Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
Policy PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
Policy PR-1.2	Provide 7.5 acres per 1,000 population of citywide /regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
Policy PR-1.12	Regularly update and utilize San José's Parkland Dedication Ordinance/Parkland Impact Ordinance (PDO/PIO) to implement quality facilities.
Policy PR-2.4	To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds.
Policy PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

Impacts and Mitigation

Thresholds per CEQA Checklist

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

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
e) Other public facilities?			X		1, 2

Explanation

a) **Less Than Significant Impact**. Future development of the site with 150,000 square feet of medical offices or 60,238 square feet of commercial uses would intensify the use of the site. This may result in an incremental increase in the demand for fire protection services. The project site, however, is currently served by the SJFD and the amount of proposed development represents a small fraction of the total growth identified in the General Plan. Future development of the site would not preclude the SJFD from meeting their service goals and would not require the construction of new or expanded fire facilities. In addition, future development would be constructed in accordance with current building and Fire codes and would be required to be maintained in accordance with applicable City policies to promote public and property safety. Therefore, the project would not significantly impact fire protection services or require the construction of new or remodeled facilities. This represents a less than significant impact.

b) **Less Than Significant Impact**. Future development of the site with 150,000 square feet of medical offices or 60,238 square feet of commercial uses would intensify the use of the site. This may result in an incremental increase in the demand for police protection services. The project site, however, is currently served by the SJPD and the amount of proposed development represents a small fraction of the total growth identified in the General Plan. Future development of the site would not preclude the SJPD from meeting their service goals and would not require the construction of new or expanded fire facilities. In addition, future development would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies to promote public and property safety. This represents a less than significant impact.

c) **Less Than Significant Impact**. The proposed rezoning would allow commercial uses that would not generate additional new students. The commercial components of future projects on the site would be subject to developer fees to accommodate the incremental demand on school services, including the state-mandated school district impact fee, to compensate for any impacts to school services. This represents a less than significant impact.

d) **Less Than Significant Impact**. While employees and patrons of future development on the project site may utilize nearby parks, they are unlikely to place a major physical burden on these facilities. This represents a less than significant impact.

e) **Less Than Significant Impact.** The rezoning and future development on the project site would not have an incremental increase in the demand for other public services such as library services, since no residential uses are proposed. This represents a less than significant impact.

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

P. RECREATION

Existing Setting

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

Meadowfair Park, an 8.4-acre City neighborhood park, is located to the south of the site at Corda Drive and Barberry Lane. It contains two playgrounds, a 1/2 basketball court, a horseshoe pit, an open turf area, barbeque pits and picnic tables, a restroom building, and a parking lot. The adjacent Leyva Middle School has school fields that also function as neighborhood-serving park land. In addition, the Barberry Lane Walkway runs parallel to Barberry Lane from Meadowfair Park at Corda Drive southwesterly to Dina Lane. This 0.5-mile concrete walkway along southern Lower Silver Creek includes landscaped areas with seating and views of a portion of the open creek channel. The Arcadia Ballpark is a 14.5-acre located northwest of the project site. The ballpark has been fully constructed and was scheduled to officially open in Spring 2020. The Arcadia Ballpark consists of four lighted fields, a ballpark grill, restrooms, and a sports-themed playground.

Regulatory Framework

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

General Plan Policies

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

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

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
16. RECREATION. Would the project:					
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X	1, 2
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X	1, 2

Explanation

a), b) **No Impact**. Future development of the site with medical office or commercial uses is not expected to increase in the use of neighborhood or regional parks. Additional demand on recreational facilities is typically generated by residential uses. This represents a less than significant impact.

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

Q. TRANSPORTATION

The following discussion is based on a transportation analysis (February 1, 2006) and a traffic study (August 27, 2008) previously prepared for the project site by Hexagon Transportation Consultants. Additionally, Hexagon have prepared a VMT Analysis for the proposed rezoning (March 2021). This study is contained in Appendix D. The VMT Analysis was conducted to determine the potential transportation impacts related of the project and future allowable, development based on the standards and methodologies set forth by the City of San José.

Existing Setting

Street System

Access to the project site will be provided by Capitol Expressway via Asana Way. Capitol Expressway is an 8-lane expressway that provides access to US 101 and Interstate 680. Capitol Expressway in the project area is within the jurisdiction of Santa Clara County.

Public Transit

Public transit in the project area is provided by the Santa Clara Valley Transportation Authority. Bus route 71 (Milpitas BART to Capitol Station) operates along S. White Road with stops at Quimby Road and the Eastridge Transit Center. Bus route 31 (Evergreen Valley College to Eastridge Transit Center) and bus route 39 (The Villages to Eastridge Transit Center) operate along San Felipe Road and Quimby Road respectively with stops at Capitol Expressway. The project site is not located within 2,000 feet of a light rail station. The nearest station is Alum Rock light rail station, located approximately 2.9 miles from the project site.[29]

Evergreen East Hills Development Policy

The Evergreen East Hills Development Policy (formerly the Evergreen Development Policy) was developed to promote the long-term vitality of the Evergreen-East Hills area by linking together limited development with supporting transportation infrastructure. In exchange for enabling more development capacity, the Policy provides a mechanism to require commensurate traffic impact fees in order to construct transportation system investments.

Regulatory Framework

Final Plan Bay Area 2040

The Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG) adopted the Final Plan Bay Area 2040 in July 2017. The Final Plan Bay Area 2040 is an updated long-range Regional Transportation Plan and Sustainable Communities Strategy for the nine-county San Francisco Bay Area. This plan focuses on the following strategies:

- Forecasting transportation needs through the year 2040.
- Preserving the character of our diverse communities.
- Adapting to the challenges of future population growth.

[29] Source: https://www.vta.org/sites/default/files/2019-11/VTA%20Transit%20Map.pdf

This effort grew out of the California Sustainable Communities and Climate Protection Act of 2008 (California Senate Bill 375, Steinberg), which requires each of the state's 18 metropolitan areas – including the Bay Area – to reduce greenhouse gas emissions from cars and light trucks. Plan Bay Area 2040 is a limited and focused update of the region's previous integrated transportation and land use plan, Plan Bay Area, adopted in 2013.

Santa Clara County Congestion Management Program

In accordance with California Statute (Government Code 65088), Santa Clara County has established a Congestion Management Program (CMP). The intent of the CMP legislation is to develop a comprehensive transportation improvement program among local jurisdictions to reduce traffic congestion and improve land use decision-making and air quality. VTA serves as the Congestion Management Agency (CMA) for Santa Clara County and maintains the County's CMP.

Council Policy 5-1 Transportation Analysis

In alignment with SB 743 and the City's goals in the Envision San José 2040 General Plan, the City has adopted a new "Transportation Analysis Policy" (Council Policy 5-1) to replace the former Transportation Level of Service Policy (Council Policy 5-3). The new policy establishes the thresholds for transportation impacts under CEQA based on VMT rather than intersection level of service (LOS). VMT is the total miles of travel by personal motorized vehicles from a project in a day. The intent of this change in policy is to shift the focus of transportation analysis under CEQA from vehicle delay and roadway capacity to a reduction in vehicle emissions and the creation of multimodal networks that support integrated land uses.[30] According to the policy, an employment facility (e.g., office, R & D) or a residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional VMT per employee, or the existing average citywide or regional per capita VMT respectively. For industrial projects (e.g., warehouse, manufacturing, distribution), the impact would be less than significant if the project VMT is equal to or less than existing average regional VMT per employee. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible.

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

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

1. Small Infill Projects,
2. Local-Serving Retail,
3. Local-Serving Public Facilities,

[30] The new policy took effect on March 29, 2018.

4. Transit Supportive Projects in Planned Growth Areas with Low VMT and High-Quality Transit,
5. Restricted Affordable, Transit Supportive Residential Projects in Planned Growth Areas with High Quality Transit, and
6. Transportation Projects that reduce or do not increase VMT.

General Plan Policies

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

Envision San José 2040 Relevant Transportation Policies	
Policy TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).
Policy TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
Policy TR-1.4	Through the entitlement process for new development, projects shall be required to fund or construct needed transportation improvements for all transportation modes giving first consideration to improvement of bicycling, walking and transit facilities and services that encourage reduced vehicle travel demand. • Development proposals shall be reviewed for their impacts on all transportation modes through the study of Vehicle Miles Traveled (VMT), Envision San José 2040 General Plan policies, and other measures enumerated in the City Council Transportation Analysis Policy and its Local Transportation Analysis. Projects shall fund or construct proportional fair share mitigations and improvements to address their impacts on the transportation systems. • The City Council may consider adoption of a statement of overriding considerations, as part of an EIR, for projects unable to mitigate their VMT impacts to a less than significant level. At the discretion of the City Council, based on CEQA Guidelines Section 15021, projects that include overriding benefits, in accordance with Public Resources Code Section 21081 and are consistent with the General Plan and the Transportation Analysis Policy 5-1 may be considered for approval. The City Council will only consider a statement of overriding considerations for (i) market-rate housing located within General Plan Urban Villages; (ii) commercial or industrial projects; and (iii) 100% deed-restricted affordable housing as defined in General Plan Policy IP-5.12. Such projects shall fund or construct multimodal improvements, which may include improvements to transit, bicycle, or pedestrian facilities, consistent with the City Council Transportation Analysis Policy 5-1. • Area Development Policy. An "area development policy" may be adopted by the City Council to establish special transportation standards that identifies development impacts and mitigation measures for a specific geographic area. These policies may take other names or forms to accomplish the same purpose.
Policy TR-1.5	Design, construct, operate, and maintain public streets to enable safe, comfortable, and attractive access and travel for motorists and for pedestrians, bicyclists, and transit users of all ages, abilities, and preferences.

Envision San José 2040 Relevant Transportation Policies	
Policy TR-1.6	Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.
Policy TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
Policy TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
Policy TR-5.3	Development projects' effects on the transportation network will be evaluated during the entitlement process and will be required to fund or construct improvements in proportion to their impacts on the transportation system. Improvements will prioritize multimodal improvements that reduce VMT over automobile network improvements. • Downtown. Downtown San José exemplifies low-VMT with integrated land use and transportation development. In recognition of the unique position of the Downtown as the transit hub of Santa Clara County, and as the center for financial, business, institutional and cultural activities, Downtown projects shall support the long-term development of a world class urban transportation network.
Policy TR-8.4	Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.
Policy TR-9.1	Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.
Policy CD-3.3	Within new development, create a pedestrian friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
17. TRANSPORTATION. Would the project:					
a) Conflict with program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?			X		1, 2, 15
b) Would the project conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?			X		1, 2, 13
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?			X		1, 2
d) Result in inadequate emergency access?			X		1, 2

Explanation

a) **Less Than Significant Impact**. The EEHDP originally provided traffic allocation for a development pool of up to 500,000 square feet of new retail development within the Evergreen East Hills area in 2008. Near-term traffic impacts resulting from the adoption of the EEHDP were analyzed in the Supplemental EIR, which supplements the long-term traffic analysis in the EEHSV EIR. The near-term traffic analysis was completed in accordance with the Santa Clara Valley Transportation Authority CMP guidelines. The Supplemental EIR evaluated traffic impacts using three different standards, or thresholds of significance: 1) the Citywide Transportation Impact Policy LOS standard; 2) the CMP standard; and 3) the proposed Evergreen East Hills Development Policy standard.

The Supplemental EIR concluded that the level of service would degrade to a worse LOS (but not worse than LOS D) at four intersections. Because the improvements necessary to restore traffic LOS to background conditions would create undesirable conflicts with other modes of travel or unacceptable impacts to biological resources, the new EEHDP exempted these impacts from requiring mitigation. The Supplemental EIR also identified significant unavoidable impacts at two other intersections, for which the City has adopted a statement of overriding considerations (CEQA Resolution No. 74742). For the remaining LOS impacts, the Supplemental EIR identified mitigation measures, in the form of specific improvements to the transportation network, to reduce the impacts to less than significant levels. The EEHVS Final EIR provided project-level environmental review for several of these mitigation measures.

Future development on the project site would be required to pay the Traffic Impact Fee that has been created to fund the identified transportation improvements. Therefore, LOS impacts resulting from the project would not require further mitigation, and the project would not result in any additional significant traffic impacts. In addition, future development must adhere to the recommendations in the Traffic Operational Analysis prepared by Hexagon Transportation Consultants, Inc. (October 7, 2011), as set forth in the development standards for the Arcadia – Evergreen Village Mixed Use (PDC10-022).

Additionally, the City would review any future designs for vehicle, bicycle, and pedestrian access as well as access to public transportation for consistency with the General Plan Policies and development policies for future proposed development. Therefore, the project would not conflict with program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities. This represents a less than significant impact.

b) **Less Than Significant Impact**. As described above, City Council Policy 5-1 establishes the thresholds for transportation impacts under CEQA based on VMT. The project would be consistent with CEQA Guidelines Section 15064.3 (b), which calls for evaluation of a project's transportation impacts based on VMT.

San José's VMT policy does not explicitly include medical office use, but the City treats it as retail because it has the same characteristics and similar daily trip generation rate as retail. According to San José's VMT policy, local-serving retail development is considered to have a less than significant VMT impact. The definition of local-serving retail is up to 100,000 square feet. The trip generation of medical office space is roughly equivalent to retail space, so medical office space less than 100,000 square feet would be considered local serving. VMT

analysis is required for retail or medical office projects larger than 100,000 square feet because they could increase the total VMT by attracting regional traffic. The medical office is proposed to be larger than 100,000 square feet; therefore, a VMT analysis using the model is required. Since the approximately 60,238 square feet of commercial space equivalency would be local serving and would total less than 100,000 square feet, the commercial space would meet the City's screening criteria and would not require a CEQA-level VMT analysis.

The project's transportation analysis zone (TAZ 547) in the City model is comprised of the area generally bounded by Quimby Road to the north, Capitol Expressway to the east, Leyva Middle School to the south, and King Road to the west. Based on the City's 2015 land use database, the TAZ has 183 jobs. The City's model was used to calculate the change in VMT resulting from the proposed medical office. The new medical office would not cause an increase in trips but rather result in a change in trip making because, when the project is built, patients and medical personnel would utilize the proposed medical office instead of other medical offices. City staff identified four similar medical office centers in the area: Regional Medical Center and Offices (TAZs 1034 and 1035), Kaiser Permanente Medical Offices (TAZ 926), Santa Clara Valley Medical Center (TAZs 795, 3033, and 3034), Valley Health Center (TAZ 1126) (see Figure 1). For the purpose of this analysis, it is assumed that some employees and patients would no longer utilize these four facilities but would instead utilize the proposed medical.

In order to estimate the impact on VMT with the model, the project's 150,000 s.f. of building area was converted to retail jobs, using a ratio of one job per 400 s.f. = 375 jobs. Therefore, the 375 new jobs were removed from the four identified existing medical facilities proportionally based on the number of existing jobs at each site. These job changes were made in the 2015 land use file, and the model was run with and without the project. Daily VMT for work and patient trips, with and without the project, were calculated for the affected TAZs.

The model results show that the job changes due to the proposed project would cause the daily VMT for workers to decrease by 135, and the daily VMT for the patients would decrease by 745 for a total reduction of 880 daily VMT (see Table 11). The proposed project would result in a decrease in regional total VMT. The 60,238 square feet of commercial equivalency is less than 100,000 square feet and screened out. Therefore, according to San José's VMT policy, the project's CEQA transportation impact would be less than significant.

Table 11
Daily VMT Analysis

VMT Characteristics	No Project	Project	Project -No Project
Home-Based Work VMT	112,683	112,548	-135
Home-Based Shop/Other VMT	47,347	46,602	-745
Total VMT	160,030	159,150	-880
Number of Jobs	7,623	7,623	0
Home-Based Work VMT/Job	14.78	14.76	-0.02
Home-Based Shop/Other VMT/Job	6.21	6.11	-0.10
VMT/Job	20.99	20.88	-0.12

c) **Less Than Significant Impact**. Access to the project site for future medical office or commercial development would likely be provided by Evergreen Circle via E. Capitol Expressway. Future projects would be required to comply with City of San José's Standard Specifications & Details for Roadway Geometrics and zoning design requirements. This represents a less than significant impact.

d) **Less Than Significant Impact**. Future development on the site would be required to comply with City of San José Fire Department and zoning design requirements for emergency access. This represents a less than significant impact.

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

R. TRIBAL CULTURAL RESOURCES

Environmental Setting

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

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are also either:
    - Included or determined to be eligible for inclusion in the California Register of Historic Resources,[31] or
    - Included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k).
- Resources determined by the lead agency to be TCRs.

AB 52 notification and consultation applies to projects for which a Notice of Intent or Notice of Availability is issued after the effective date of AB 52 in 2015. Notification and consultation are not required for projects covered by a prior EIR or Mitigated Negative Declaration (MND) that either predates AB 52 or that has already complied with AB 52.

Regulatory Framework

The Native American Heritage Commission

The Native American Heritage Commission (NAHC) was created by statute in 1976, is a nine-member body appointed by the Governor to identify and catalog cultural resources (i.e., places of special religious or social significance to Native Americans and known graves and cemeteries of Native Americans on private lands) in California. The Commission is responsible for preserving and ensuring accessibility of sacred sites and burials, the disposition of Native American human remains and burial items, maintaining an inventory of Native American sacred sites located on public lands, and reviewing current administrative and statutory protections related to these sacred sites.

[31] See Public Resources Code section 5024.1. The State Historical Resources Commission oversees the administration of the CRHR and is a nine-member state review board that is appointed by the Governor, with responsibilities for the identification, registration, and preservation of California's cultural heritage. The CRHR "shall include historical resources determined by the commission, according adopted procedures, to be significant and to meet the criteria in subdivision (c) (Public Resources Code, Section 5024.1 (a)(b)).

Assembly Bill 52

The intent of AB 52 is to provide a process and scope that clarifies California tribal government's involvement in the CEQA process, including specific requirements and timing for lead agencies to consult with tribes on avoiding or mitigating impacts to tribal cultural resources. See additional discussion above in the "Environmental Setting."

General Plan

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

Envision San José 2040 Relevant Tribal Cultural Resources Policies	
Policy ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
Policy ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced
Policy ER-10.3	Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
18. TRIBAL CULTURAL RESOURCES. Would the project:					
a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and, and that is: i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.			X		1, 2

a) i, ii **Less Than Significant Impact**. Tribal cultural resources consider the value of a resource to tribal cultural tradition, heritage, and identity, in order to establish potential mitigation and to recognize that California Native American tribes have expertise concerning their tribal history and practices. No tribal cultural resources have been listed or determined eligible for listing in the California Register or a local register of historical resources.

AB 52 requires lead agencies to conduct formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the lead agency. At the time of preparation of this Initial Study, no Native American tribes have sent written requests for notification of projects to the City of San José except for those in Coyote Valley (approximately 11 miles south of the site) and downtown San José (about three miles west of the site).

The City sent out referral and consultation requests to all applicable tribal representatives within the City of San José for the project on February 9, 2021. The City received a response letter from a representative of the Indian Canyon Band of Costanoan Ohlone People on March 2, 2021. This letter requested that a Native American Monitor and Archaeologist be present onsite at all times during site disturbance. The tribe also suggested educational materials such as a plaque. Information regarding likelihood of accidental discovery on site is discussed in the *Section E. Cultural Resources*, and mitigation is presented requiring additional testing and possible monitoring for archaeological resources.

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

S. UTILITIES AND SERVICE SYSTEMS

Setting

Utilities and services are furnished to the project site by the following providers:

- Wastewater Treatment: treatment and disposal provided by the San José/Santa Clara Water Regional Wastewater Facility (RWF); sanitary sewer lines maintained by the City of San José
- Water Service: San José Municipal Water
- Storm Drainage: City of San José
- Solid Waste: Republic Services (for commercial operations)
- Natural Gas & Electricity: PG&E

Regulatory Framework

State

Assembly Bill 939

California AB 939 established the California Integrated Waste Management Board (CalRecycle), which required all California counties to prepare Integrated Waste Management Plans. In addition, AB 939 required all municipalities to divert 50 percent of their waste stream by the year 2000.

California Green Building Standards Code

In January 2017, California adopted the most recent version of the California Green Building Standards Code, which establishes mandatory green building standards for new and remodeled structures in California. These standards include a mandatory set of guidelines and more stringent voluntary measures for new construction projects, in order to achieve specific green building performance levels as follows:

- Reduce indoor water use by 20 percent;
- Reduce wastewater by 20 percent;
- Recycle and/or salvage 50 percent of nonhazardous construction and demolition debris; and
- Provide readily accessible areas for recycling by occupant.

Local

San José Zero Waste Strategic Plan/Green Vision

The City's Green Vision provides a comprehensive approach to achieving sustainability through technology and innovation. The Zero Waste Strategic Plan outlines policies to help the City of San José facilitate a healthier community and achieve its Green Vision goals, including 75 percent waste diversion by 2013, which has been achieved, and zero waste by 2022.

Council Policy 8-13 Green Building Policy

Council Policy 8-13 "Green Building Policy" for private sector new construction encourages building owners, architects, developers, and contractors to incorporate sustainable building goals early in the building design process. This policy establishes baseline green building standards for new private construction projects and provides a framework for the implementation of these standards. The Policy is also intended to enhance the public health, safety, and welfare of the City's residents, workers, and visitors by encouraging design, construction, and maintenance practices that minimize the use and waste of energy, water, and other resources in the City.

General Plan Policies

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

Envision San José 2040 Relevant Utilities and Service System Policies	
Policy MS-1.4	Foster awareness in San José's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.
Policy MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
Policy MS-3.2	Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.
Policy MS-3.3	Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
Policy MS-19.3	Expand the use of recycled water to benefit the community and the environment.
Policy MS-19.4	Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.
Action EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.
Policy IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
Policy IN-3.5	Require development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D", to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.
Policy IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.

Envision San José 2040 Relevant Utilities and Service System Policies	
Policy IN-3.10	Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES) permit.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
19. UTILITIES AND SERVICE SYSTEMS. Would the project:					
a) Require or result in the relocation or construction of new or expanded water, or wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?			X		1, 2
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?			X		1, 2
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?			X		1, 2
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?			X		1, 2
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?			X		1, 2

Explanation

a) **Less Than Significant Impact**. Future development of the site with 150,000 square feet of medical offices or 60,238 square feet of commercial uses could result in an incremental increase in the use of public services/utilities. The amount of proposed development represents a small fraction of the total growth identified in the General Plan.

Water service to the site is supplied by San José Municipal Water. Potable water can be accessed via the existing main located at Quimby Road. Potable and recycled water main extensions for future development on the project site can be constructed from the southeast end of the project site along Capitol Expressway to Neiman Boulevard where they connect to existing mains.

As described in *Section J. Hydrology and Water Quality*, future medical office or commercial development on the project site would not significantly impact storm drainage facilities. While development would increase the amount of impervious surfaces on the site; the resulting increase in runoff from the site would be managed and treated in accordance with City policies, which includes implementation of a stormwater control plan.

As described in *Section F. Energy,* future development on the project site with medical office or commercial equivalency uses would have a less than significant impact related to natural gas and electricity use (among other energy sources). The future provision/relocation of telecommunication facilities would be coordinated between the project applicant and telecommunication provider and no significant environmental effects are anticipated.

For the reasons presented above, future development is not expected to require or result in the relocation or construction of new or expanded water, wastewater treatment, storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects.

b) **Less Than Significant Impact**. See a) above regarding potable water.

c) **Less Than Significant Impact**. Future development of the site with medical office or commercial equivalency uses could increase wastewater generation. The existing sanitary sewer line in the project site vicinity consist of a 10-inch VCP main on Evergreen Place and would serve the site. The wastewater treatment provider has adequate capacity to serve the anticipated demands.

d) **Less Than Significant Impact**. Commercial solid waste disposal service for the project site is provided by the City of San José, using Republic Services. Future development on the site with medical office or commercial uses would not generate substantial solid waste that would adversely affect any landfills. The City's General Plan EIR concluded that growth identified in the General Plan would not exceed the capacity of existing landfills serving the City of San José.

The increase in solid waste generation from future development of the project site would be avoided through implementation of the City's Zero Waste Strategic Plan, which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022. The Waste Strategic Plan in combination with existing regulations and programs, would ensure that the project would not result in significant impacts on solid waste generation, disposal capacity, or otherwise impair the attainment of solid waste reduction goals. Furthermore, with the implementation of City policies to reduce waste the project would comply with all federal, state, and local statutes and regulations related to solid waste. This represents a less than significant impact.

e) **Less Than Significant Impact**. Final project design of future development of the site would be required to comply with all federal, State, and local statutes and regulations related to solid waste disposal.

Conclusion: The project would have a less than significant impact on utilities and service systems.

T. WILDFIRE

Existing Setting

The project site, located in an urbanized part of the City, is surrounded by residential development, commercial development, and vacant land, and is not located within a Very-High Fire Hazard Severity Zone (VHFHSZ) for wildland fires, as designated by the California Department of Forestry and Fire Protection (Cal Fire, Fire Hazard Severity Maps, 2007, 2008).

Regulatory Framework

State

Public Resources Code Section 4201 – 4204

Sections 4201 through 4204 of the California Public Resources Code direct Cal Fire to map Fire Hazard Severity Zones (FHSZ) within State Responsibility Areas (SRA), based on relevant factors such as fuels, terrain, and weather. Mitigation strategies and building code requirements to reduce wildland fire risks to buildings within SRAs are based on these zone designations.

Government Code Section 51175 – 51189

Sections 51175 through 51189 of the California Government Code directs Cal Fire to recommend FHSZs within Local Responsibility Areas (LRA). Local agencies are required to designate VHFHSZs in their jurisdiction within 120 days of receiving recommendations from Cal Fire, and may include additional areas not identified by Cal Fire as VHFHSZs.

California Fire Code

The 2016 California Fire Code Chapter 49 establishes the requirements for development within wildland-urban interface areas, including regulations for wildfire protection building construction, hazardous vegetation and fuel management, and defensible space maintained around buildings and structures.

Local

General Plan Policies

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

Envision San José 2040 Relevant Wildfire Policies	
Policy EC-8.1	Minimize development in very high fire hazard zone areas. Plan and construct permitted development so as to reduce exposure to fire hazards and to facilitate fire suppression efforts in the event of a wildfire.
Policy EC-8.2	Avoid actions which increase fire risk, such as increasing public access roads in very high fire hazard areas, because of the great environmental damage and economic loss associated with a large wildfire.

Envision San José 2040 Relevant Wildfire Policies	
Policy EC-8.3	For development proposed on parcels located within a very high fire hazard severity zone or wildland-urban interface area, implement requirements for building materials and assemblies to provide a reasonable level of exterior wildfire exposure protection in accordance with City-adopted requirements in the California Building Code.
Policy EC-8.4	Require use of defensible space vegetation management best practices to protect structures at and near the urban/wildland interface.

Impacts and Mitigation

ENVIRONMENTAL IMPACTS	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
20. WILDFIRE. If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:					
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?			X		1, 2, 3
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?			X		1, 2, 14
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?			X		1, 2, 14
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?			X		1, 2, 14

Explanation

a) **Less Than Significant Impact**. The project would not substantially impair an adopted emergency response plan or emergency evacuation plan. As stated above in *Section J. Hazards and Hazardous Materials*, the project is a rezoning and would not create any barriers to emergency or other vehicle movement in the area. Furthermore, final design of future development would incorporate all Fire Code requirements. This represents a less than significant impact.

b) **Less Than Significant Impact**. The project would not exacerbate wildfire risks due to slope, prevailing winds, and other factors due to the project's urbanized location away from natural areas susceptible to wildfire. The project site is not located within an area of moderate, high, or very high Fire Hazard Severity for the Local Responsibility Area nor does it contain any areas of moderate, high, or very high Fire Hazard Severity for the State Responsibility Area. This represents a less than significant impact.

c) **Less Than Significant Impact**. Due to the project's urbanized location and lack of interface with any natural areas susceptible to wildfire, the project would not require the installation or maintenance of associated fire suppression or related infrastructure. This represents a less than significant impact.

d) **Less Than Significant Impact**. See above discussion. The project would not expose people or structures to significant wildfire risks given its highly urban location away from natural areas susceptible to wildfire. This represents a less than significant impact.

Conclusion: The project would result in a less than significant impact related to wildfire.

U. MANDATORY FINDINGS OF SIGNIFICANCE

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
21. MANDATORY FINDINGS OF SIGNIFICANCE.					
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?		X			1-14
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?			X		1-14
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?		X			1-14

Explanation

a) **Less Than Significant with Mitigation Incorporated**. Based on the analysis provided in this Initial Study, future development on the project site with 150,000 square feet of medical offices or 60,238 square feet of commercial space would not have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory. Mitigation measures and standard permit conditions are identified for potential impacts of the project to reduce any adverse effects in these areas to a less than significant level.

b) **Less Than Significant Impact**. Based on the analysis provided in this Initial Study, future development on the project site with 150,000 square feet of medical offices or 60,238 square feet of commercial space could result in potential impacts in the following areas: 1) impacts to air quality related to toxic air contaminant emissions; 2) impacts on biological resources during construction from disturbance to birds, including burrowing owls, 3) possible hazardous materials release; 4) noise impacts from outdoor mechanical equipment, and 5) vibration impacts to nearby buildings during construction. These impacts would be minimized by implementation of identified mitigation measures and standard permit conditions identified in this Initial Study. These impacts would be minimized by implementation of identified mitigation measures and standard permit conditions presented in this Initial Study and would not significantly contribute to cumulative impacts in these areas.

c) **Less Than Significant with Mitigation Incorporated**. Based on the analysis provided in this Initial Study, the project would not result in environmental effects that would cause substantial adverse effects on human beings, either directly or indirectly, with implementation of identified mitigation measures and standard permit conditions.

Conclusion: The project would have a less than significant impact on the CEQA mandatory findings of significance with the incorporation of mitigation measures, standard permit conditions, and General Plan policies identified in this document.

This Page Intentionally Left Blank

Chapter 4. References

LEAD AGENCY

City of San José Department of Planning, Building and Code Enforcement
Chu Chang, Acting Director
Robert Manford, Deputy Director
Thai-Chau Le, Supervising Planner

REPORT PREPARATION

Denise Duffy & Associates, Inc.
Environmental Consultant
Leianne Humble, Senior Planner
Robyn Simpson, Assistant Planner

PERSONS CONTACTED

Gary Black, Hexagon Transportation Consultants
Gerry De Young, Ruth & Going
Casey Divine, Illingworth & Rodkin
Nathan Hale, Live Oak Associates
Rick Hopkins, Live Oak Associates
Michael Thill, Illingworth & Rodkin

BIBLIOGRAPHY

AEI Consultants, *Phase I Environmental Site Assessment,* April 2014.

Bay Area Air Quality Management District, *BAAQMD CEQA Guidelines*, revised May 2017.

Bay Area Air Quality Management District, *Bay Area 2017 Clean Air Plan: Spare the Air, Cool the Climate*, April 2017.

California Department of Conservation, *Santa Clara County Important Farmlands Map*, accessed online.

California Department of Finance, E-5 Population and Housing Estimates for Cities, Counties, and the State, 2011-2020 with 2010 Census Benchmark, Accessed January 2021, Available at: https://www.dof.ca.gov/Forecasting/Demographics/Estimates/e-5/

California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed February 11, 2020. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.

California Department of Water Resources, Sustainable Groundwater Management Act Map Viewer. Accessed January 2021, Available at: https://sgma.water.ca.gov/webgis/?appid=SGMADataViewer#gwlevels

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

California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed March 15, 2019. http://ecdms.energy.ca.gov/elecbycounty.aspx.

California Energy Commission. "Natural Gas Consumption by County." Accessed February 21, 2019. http://ecdms.energy.ca.gov/gasbycounty.aspx.

California Gas and Electric Utilities. 2019 *California Gas Report.* Accessed August 27, 2019. https://www.socalgas.com/regulatory/documents/cgr/2019_CGR_Supplement_7-1-19.pdf.

Dowding, C.H., Construction Vibrations, Prentice Hall, Upper Saddle River, 1996.

Hexagon Transportation Consultants, Transportation Impact Analysis for the Evergreen/East Hills Vision Strategy, January 2006.

Hexagon Transportation Consultants, Inc. *Traffic Study for the Proposed Evergreen-East Hills Vision Strategy Project*. July 2008.

Hexagon Transportation Consultants, *Communications Hill Residential and Industrial Buildout Traffic Impact Analysis*, prepared for David J. Powers & Associates, May 2014.

Hexagon Transportation Consultants, Inc., *Vehicle Miles Traveled (VMT) Analysis for the Proposed Arcadia Medical Office Project in San Jose, California*, March 2021.

IFC International, *Final Santa Clara Valley Habitat Plan*, August 2012.

Illingworth & Rodkin, *Evergreen Circle Mixed-use Project Noise Assessment*, prepared for DeNova Homes, March 2017.

Illingworth & Rodkin, *Evergreen Circle Medical Office Building Air Quality and Greenhouse Gas Assessment*, January 2021.

Illingworth & Rodkin, *2376 South Evergreen Loop Medical Office Building Noise and Vibration Assessment*, January 2021.

Kleinfelder, Inc., Feasibility-Level Geologic Hazards Assessment for the Arcadia Property, San José, California, June 2005.

Live Oak Associates, *Biotic Evaluation of the Arcadia Evergreen Property*, October 2014.

Live Oak Associates, letter report entitled "Burrowing Owl (*Athene cunicularia*) impact analysis for the Evergreen Circle Rezoning in the City of San Jose, Santa Clara County, California (PN 639-04)," January 19, 2021.

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

PaleoWest, *Draft Archaeological Monitoring Report, Evergreen Circle Project, City of San Jose, Santa Clara County, California*, July 8, 2020.

Public Law 110–140—December 19, 2007. Energy Independence & Security Act of 2007. Accessed January 21, 2020. http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf.

San José, City of, *Draft EIR for the Evergreen East Hills Vision Strategy Project, San Jose, California*, February 2006.

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

San José, City of, *Draft Supplemental Environmental Impact Report for Revision of the Evergreen Development Policy*, August 2008.

San José, City of, *San José 2040 Envision San José General Plan*, adopted November 2012 and updated through 2019.

San José, City of, *Addendum to the Evergreen East Hills Vision Strategy & Supplemental Environmental Impact Reports for the Evergreen Circle Rezoning Project & Arcadia Softball Fields Project*, November 2014.

San José, City of, Search Parks & Playgrounds - Meadowfair Park, Accessed January 2021, Available at: https://www.sanjoseca.gov/Home/Components/FacilityDirectory/FacilityDirectory/2279/2028?fsiteid=1&selcat=102&npage=5

San José, City of, Search Parks & Playgrounds – Arcadia Ballpark, Accessed January 2021, Available at: https://www.sanjoseca.gov/Home/Components/FacilityDirectory/FacilityDirectory/2961/2028

Siskind, D.E., M.S. Stagg, J.W. Kopp, and C.H. Dowding, Structure Response and Damage Produced by Ground Vibration form Surface Mine Blasting, RI 8507, Bureau of Mines Report of Investigations, U.S. Department of the Interior Bureau of Mines, Washington, D.C., 1980.

United States Department of Energy. Energy Independence & Security Act of 2007. Accessed January 21, 2020. http://www.afdc.energy.gov/laws/eisa.

United States Environmental Protection Agency (USEPA), Highlights of the Automotive Trends Report, Accessed January 2021, Available at: https://www.epa.gov/automotive-trends/highlights-automotive-trends-report#:~:text=Preliminary%20data%20suggest%20improvements%20in,0.8%20mpg%20to%2025.7%20mpg

United States Geological Surveys (USGS), The National Map Viewer, Accessed January 2021, Available at: https://www.usgs.gov/core-science-systems/national-geospatial-program/national-map

CHECKLIST SOURCES

1. CEQA Guidelines and professional expertise of consultant
2. Project plan and site review
3. 2040 Envision San José General Plan
4. 2014 Santa Clara County Important Farmlands Map
5. BAAQMD 2017 CAP
6. BAAQMD CEQA Guidelines, 2017
7. Air Quality & GHG Assessment, 2021
8. Burrowing Owl Memo, 2021
9. Santa Clara Valley Habitat Plan, 2012
10. Santa Clara Valley Habitat Agency Geobrowser
11. Archaeological Monitoring Report, 2020
12. Noise & Vibration Assessment, 2021
13. VMT Transportation Analysis, 2020
14. Cal Fire, Fire Hazard Severity Maps, 2007 & 2008