# MITIGATED NEGATIVE DECLARATION

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

**PROJECT NAME:** Oakland Road Industrial Project

**PROJECT FILE NUMBER:** H20-018

**PROJECT DESCRIPTION:** Site Development Permit to construct approximately 39,100 gross square feet of industrial office and warehouse uses configured in two three-story buildings (Buildings A and B) on an approximately 2.1-acre site. Building A would include 21,900 square feet of industrial office uses on the first through third floors, 2,200 square feet of warehouse space on the first floor, and 1,195 square feet of amenity space in the form of a roof deck on the third floor. Building B would include 15,000 square feet of industrial office uses. The proposed buildings would reach maximum heights of 50 feet. The project also includes the removal of 28 trees from the site.

**PROJECT LOCATION:** The approximately 2.1-acre project site is located along the west side of Oakland Road, approximately 900 feet north of East Brokaw Road in North San José.

**ASSESSORS PARCEL NO.:** 237-03-044 **COUNCIL DISTRICT:** 4

**APPLICANT CONTACT INFORMATION:** Robert Hencken, Principal, Hencken Development Consultants, 1654 The Alameda #200, San Jose, California, 95126, rhencken@hdc-llc.net, (650) 380-1756

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

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

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

**B.** **AGRICULTURE AND FORESTRY RESOURCES** – The project would not have a significant impact on this resource, therefore

**C.** **AIR QUALITY -** The project would not have a significant impact on this resource, therefore no mitigation is required.

**D.** **BIOLOGICAL RESOURCES.**

**Impact BIO-1:** Development of the proposed project could result in impacts to nesting birds, if present on the site at the time of construction.

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

**MM BIO-1.2:** If demolition and construction cannot be scheduled between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist 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 shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.

**MM BIO-1.3:** If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

**MM BIO-1.4:** Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the City's Director of Planning, Building and Code Enforcement or Director's designee.

**Impact BIO-2:** Development of the proposed project could result in impacts to roosting bats if present on the site at the time of construction.

**MM BIO-2.1:** A pre-construction survey for bats shall be conducted by a qualified biologist to determine if the potentially suitable habitat that was observed is occupied. For any areas that cannot be surveyed directly (e.g., palm tree skirts) an emergence survey will be required. Surveys will be conducted during times of the year when bats are volant (March 1st through October 15th). The results of the survey shall be submitted to the City's Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement prior to the issuance of grading and/or building permits.

**MM BIO-2.2:** If a maternity colony is located during the period of April 15th to August 15th, the area shall be avoided by construction activities, and a qualified biologist shall establish an appropriately sized construction buffer. This buffer shall remain in place until the end of the maternity season.

**MM BIO-2.3:** Should a colony or roosting bat be identified on-site outside of the maternity and overwintering seasons (i.e., March 1st-April 15th and August 15th- October 15th, respectively), a two-step passive removal shall occur under the supervision of and with instruction from a qualified biologist. The two-step removal will require that a qualified biologist direct specific demolition actions within the vicinity of the roosting bat/colony to safely render the roosting location less suitable. One day after the partial demolition the biologist will return to the site to verify that the bat/colony has self-relocated off-site. Once such a verification is made, the construction crew will be required to complete the demolition effort immediately (within 24 hours) to ensure bats are absent during demolition. In the event that passive removal is required, verification of compliance with the process described above shall be submitted to the City's

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

**E. CULTURAL RESOURCES.**

**Impact CUL-1**: Construction activities could disturb unknown buried archaeological resources associated with prehistoric Native American deposits.

**MM CUL-1.1: Preliminary Investigation.** The proposed project shall conduct presence/absence exploration for all areas that would be impacted by the project. Subsurface exploration shall be completed prior to any ground disturbing activities including grading, potholing for utilities, and building foundation removal. If these activities or similar ground-disturbing activities need to be completed prior to presence/absence work, then an archaeological monitor shall be required. As part of this effort, at least one trench shall be mechanically excavated below existing stratigraphic layers to eliminate the potential for Native American deposits and provide a better understanding for potential historic-era soil surfaces.

**MM CUL-1.2: Research Design and Work Plan.** If archaeological deposits or features that appear eligible to the California Register are identified during any stage of exploration, and if the project cannot be redesigned to avoid the cultural resource, an archaeological research design and work plan shall be prepared. The plan shall be designed to facilitate archaeological excavation and evaluate any cultural resources discovered by the California Register eligibility criteria to assess if any qualify as historical resources. Should the plan be required, it shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee.

**MM CUL-1.3: Evaluation and Documentation.** The project applicant shall notify the Director of Planning 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 grading or other construction 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 Informative center (NWIC), and/or equivalent.

**MM CUL-1.4:** In the event that 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 or Director's designee and Historic Preservation Officer of the Department of Planning, Building and Code Enforcement will be notified, and a qualified archaeologist will examine the find. The archaeologist will 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. If the finds do not meet the definition of a historical or archaeological resource, no further study or protection is necessary prior to project implementation. If the find(s) does meet the definition of a historical or archaeological resource, then it should be avoided by project activities. Project personnel should not collect or move any cultural material. Fill soils that may be used for construction purposes should not contain archaeological materials.

**MM CUL-1.5:** If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. In the event of the discovery of human remains during construction,

there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement or the Director's designee and the qualified archaeologist, who will then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American.

**MM CUL-1.6:** If the remains are believed to be Native American, the Coroner shall contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD shall inspect the remains and make a recommendation on the treatment of the remains and associated artifacts.

**MM CUL-1.7:** If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

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

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

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

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

**I. HAZARDS AND HAZARDOUS MATERIALS**.

Impact HAZ-1: Project construction could expose construction workers and/or nearby residents to contaminated soil during construction.

**MM HAZ-1.1:** Prior to the issuance of a grading permit, the applicant shall contact the Santa Clara County Department of Environmental Health and enter the Site Cleanup Program for the arsenic found on-site in soils detailed in the Soil Quality Investigation completed by Geologica from June 2020. The applicant shall complete any further investigations or document development such as a Site Management Plan (SMP), Removal Action Workplan (RAW) under SCCDEH oversight. Evidence of the meeting such as an email or letter shall be provided to the Environmental Planner of the City's Planning Department and the City's Environmental Compliance Officer. Evidence of regulatory oversight and any documents developed with the County shall be submitted to the City of San Jose's Supervising Planner of the Department of Planning, Building, and Code Enforcement and the Environmental Services Department's Environmental Compliance Officer.

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

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

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

**M. NOISE.**

**Impact NOI-1:** Temporary noise increases due to project construction would be considered significant as the construction activity 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.

**MM-NOI-1:** Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistic plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any grading or demolition permits. As a part of the noise logistic plan, construction activities for the proposed project shall include, but are not limited to, the following best management practices:

- Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence (San José Municipal Code Section 20.100.450).
- Construct temporary noise barriers, where feasible, to screen mobile and stationary construction equipment. The temporary noise barrier fences provide noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receiver and if the barrier is constructed in a manner that eliminates any cracks or gaps.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines shall be strictly prohibited.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise source and noise-sensitive receptors nearest the project site during all project construction.
- A temporary noise control blanket barrier shall be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling.
- If impact pile driving is proposed, foundation pile holes shall be pre-drilled 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.

**Impact NOI-2:** Project construction would generate vibrations in exceedance of the 0.2 in/sec PPV threshold which could cause cosmetic damage to nearby buildings.

**MM NOI-2:** The following measures shall be implemented where vibration levels due to construction activities would exceed 0.2 in/sec PPV at nearby buildings:

- 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.
- 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 (within 30 feet) 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.

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

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

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

**Q. TRANSPORTATION / TRAFFIC.**

**Impact TR-1:** The VMT generated by the project would exceed the threshold of significance for general employment in the area, thus, the project would result in a significant impact on VMT.

**MM TR-1.1:** The project shall develop and implement a Transportation Demand Management (TDM) Plan, to the satisfaction of the Director of Planning, Building and Code Enforcement, which would provide strategies and measures to reduce vehicle trips generated by the project.

**MM TR-1.2:** The project shall install a raised median island on Oakland Road to prevent left turns into and out of the project driveway. This would improve pedestrian and bicycle safety along the project frontage by eliminating dangerous illegal left turns at the project driveway.

**MM TR-1.3:** The project shall implement a marketing campaign targeting all employees and visitors that encourages the use of transit, shared rides, and active modes of transportation. Marketing strategies may include new employee orientation on alternative commute options,

event promotions, and publications. The project shall provide information and encouragement to use transit, shared ride modes, and active modes to reduce drive-alone trips and, thus, VMT. It is assumed that 100 percent of the employees would participate in the commute trip reduction education program.

**MM TR-1.4:** The project shall implement a ride-sharing program that is available for 100 percent of employees. The goal of a ride-sharing program is to match individuals interested in carpooling who have similar commute patterns. This TDM strategy encourages the use of carpooling, thereby reducing the number of single-occupant vehicle (SOV) trips and associated VMT. This TDM strategy encourages the use of carpooling, which would reduce the number of drive-along commute trips and reduce VMT.

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

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

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

**U. MANDATORY FINDINGS OF SIGNIFICANCE**

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

**PUBLIC REVIEW PERIOD**

Before 5:00 p.m. on **Monday July 12, 2021** any person may:

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

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

Chris Burton, Director
Planning, Building and Code Enforcement

6/21/2021 _____ _____

Date Deputy

Maira Blanco
Environmental Project Manager

Circulation period: June 22, 2021 to July 12, 2021

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# SECTION 1.0 INTRODUCTION AND PURPOSE

## 1.1 PURPOSE OF THE INITIAL STUDY

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

The project proposes to develop a 2.1-acre site, located along the west side of Oakland Road, approximately 900 feet north of East Brokaw Road in North San José, with up to 39,100 gross square feet of industrial office and warehouse uses configured in two three-story buildings. This Initial Study evaluates the environmental impacts that might reasonably be anticipated to result from implementation of the proposed project.

## 1.2 PUBLIC REVIEW PERIOD

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

Maira Blanco, Environmental Project Manager
City of San José
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, Tower 3rd Floor
San Jose, CA 95113
Phone: (408) 535-7837
Email: maira.blanco@sanjoseca.gov

## 1.3 CONSIDERATION OF THE INITIAL STUDY AND PROJECT

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

## 1.4 NOTICE OF DETERMINATION

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

# SECTION 2.0 PROJECT INFORMATION

## 2.1 PROJECT TITLE

Oakland Road Industrial Project

## 2.2 LEAD AGENCY CONTACT

Maira Blanco, Environmental Project Manager
City of San José
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, Tower 3rd Floor
San Jose, CA 95113
Phone: (408) 535-7837
Email: maira.blanco@sanjoseca.gov

## 2.3 PROJECT APPLICANT

Robert Hencken, Principal
Hencken Development Consultants
1654 The Alameda, #200
San José, CA 95126

## 2.4 PROJECT LOCATION

The approximately 2.1-acre project site is located along the west side of Oakland Road, approximately 900 feet north of East Brokaw Road in North San José.

## 2.5 ASSESSOR'S PARCEL NUMBER

APN 237-03-044

## 2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

General Plan Designation: *IP Industrial Park*
Zoning District: *IP Industrial Park*

## 2.7 HABITAT PLAN DESIGNATION

The project site is designated Private Development Area 4: Urban development equal to or greater than 2 acres covered (0.4 acres) on the Santa Clara Valley Habitat Plan and has a Land Cover designation of Urban-Suburban. The site is not in a designated land cover fee zone.

## 2.8 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

Development of the proposed project will require the following discretionary permit approvals by the City of San José:

- Site Development Permit

- Building Clearances: Building and Occupancy Permits
- Public Works Clearances: Grading Permit
- Tree Removal Permit

# SECTION 3.0 PROJECT DESCRIPTION

## 3.1 PROJECT DESCRIPTION

### 3.1.1 Existing Project Site

The approximately 2.1-acre project site is comprised of one parcel (APN 237-03-044) located along the west side of Oakland Road approximately 900 feet north of the intersection with East Brokaw Road in the City of San José. The project site is within the North San José Development Policy (NSJDP) area. The site is currently vacant, consisting of ruderal vegetation, several mature trees, and cement pads. The site is enclosed by chain-link fencing, and there are no developed vehicular access points to the site. Southern Pacific railroad tracks run adjacent to the western property line. Coyote Creek is located approximately 1,200 feet west of the site, and the I-880 freeway is located approximately 1,600 feet west of the site. The site is surrounded by a mix of light industrial and single-family residential uses to the north, multi-family residential development to the east across Oakland Road, a retail center to the south, and industrial uses to the west across the railroad tracks. Regional, vicinity, and aerial maps of the site can be seen on Figure 3.1-1, Figure 3.1-2, and Figure 3.1-3, respectively.

### 3.1.2 Proposed Development

The project proposes to develop the site with approximately 39,100 gross square feet of industrial office and warehouse uses configured in two three-story buildings (Buildings A and B). The proposed buildings would reach maximum heights of 50 feet. Building A would include 21,900 square feet of industrial office uses on the first through third floors, 2,200 square feet of warehouse space on the first floor, and 1,195 square feet of amenity space in the form of a roof deck on the third floor. Building B would include 15,000 square feet of industrial office uses. The project includes the removal of 28 existing trees from the site.

The project would provide 128 vehicle parking spaces in surface parking lots bordering the proposed buildings. Site access would be provided via a new 26-foot wide driveway at the southeastern corner of the site. Driveway access would be restricted to right-in and right-out turning movements. The driveway would connect to a perimeter access road along the southern boundary of the site, which would provide access to the surface parking lots adjacent to the proposed buildings. The surface lot in the northwestern portion of the site would be a secured parking area, separated by a fence and gate. The project also includes a total of 10 bicycle parking spaces and six motorcycle stalls. Bicycle parking spaces (a combination of bicycle racks and secure bicycle lockers) would be located at ground level near the building entries.

The project would provide landscaping throughout the surface parking lots, and along the property boundaries. Stormwater treatment would be integrated into the landscaping in the form of flow-through planters and bioretention basins.

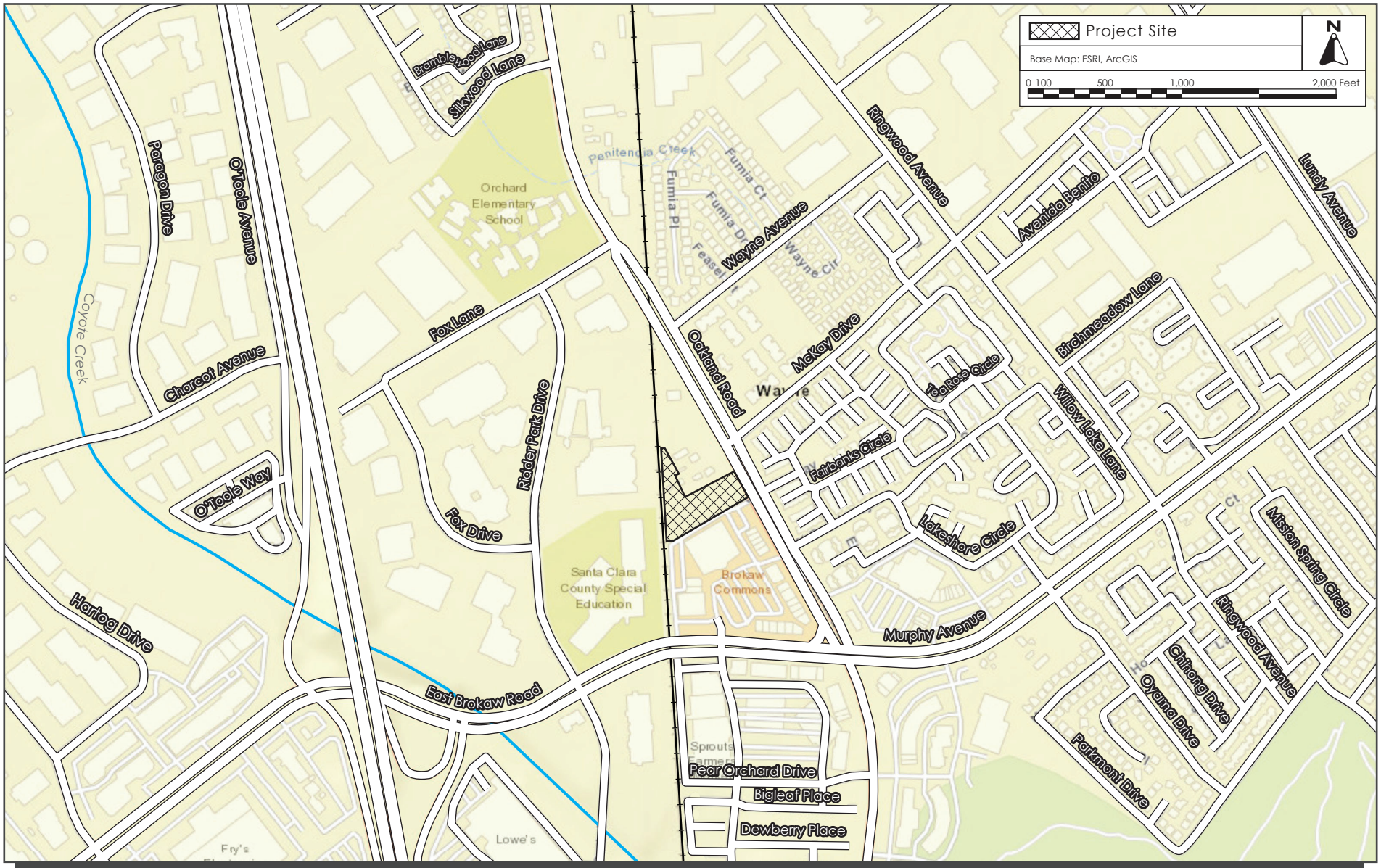
In order to reduce potential air quality impacts to surrounding residents during the construction phase of the project, the project applicant is proposing that all diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet the interim U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent.

Alternatively, equipment that is electrically powered or uses non-diesel fuels would also meet this requirement. By using Tier 4 standards for diesel equipment or using electrically-powered equipment during construction, the project would achieve a fleet-wide average 80-percent or greater reduction in diesel particulate emissions. (see discussion of construction air quality impacts in Section 4.3.2)

The site plan for the proposed project is shown on Figure 3.1-4 and building elevations are shown on Figures 3.1-5 and 3.1-6.[1] The proposed landscape plan is shown on Figure 3.1-7.

[1] At the time of preparation of this Initial Study, building elevations were only available for Building A. Building B would be subject to the maximum height limitation established for the IP Industrial Park Zoning District.

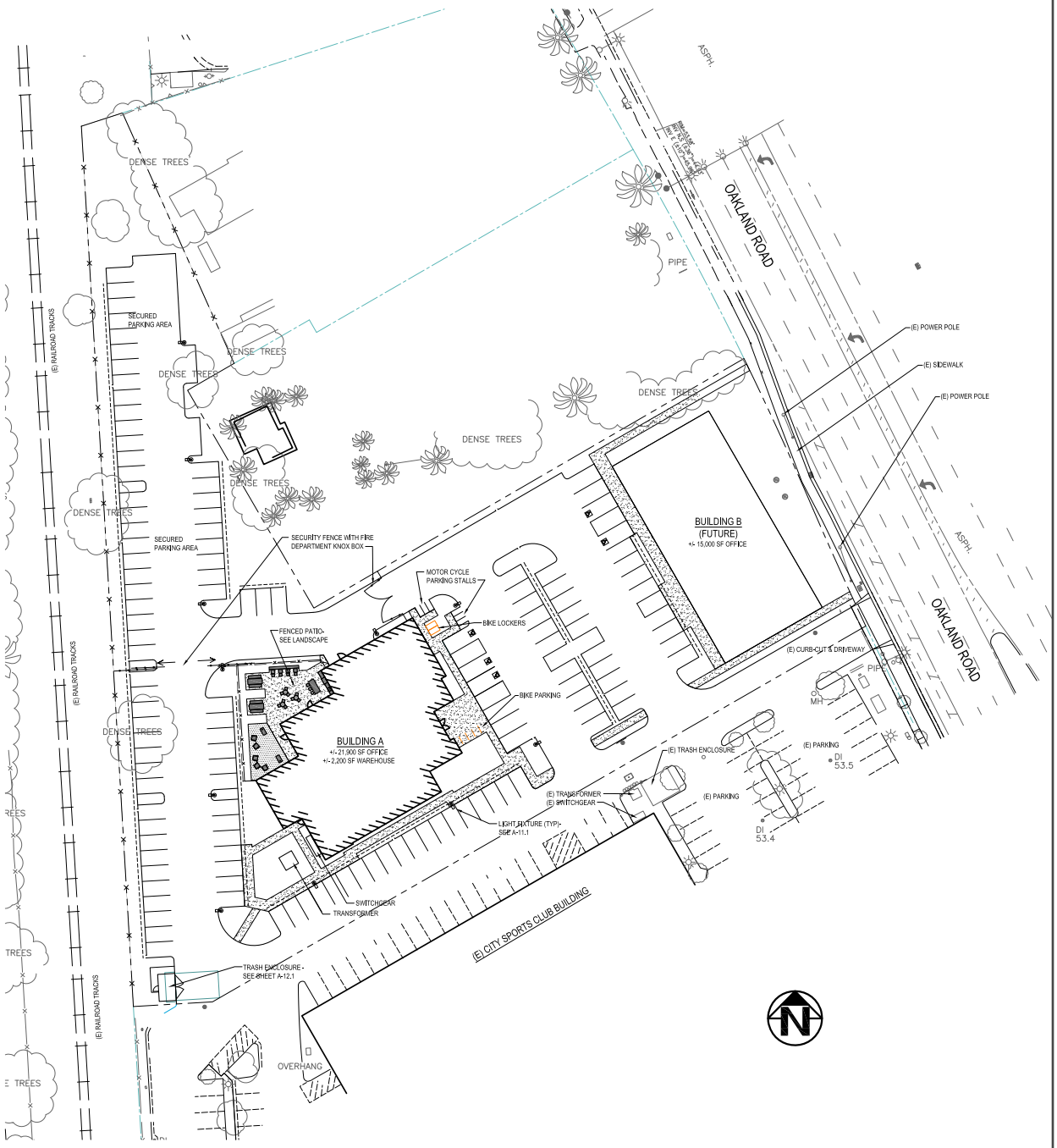

REGIONAL MAP | FIGURE 3.1-1




VICINITY MAP

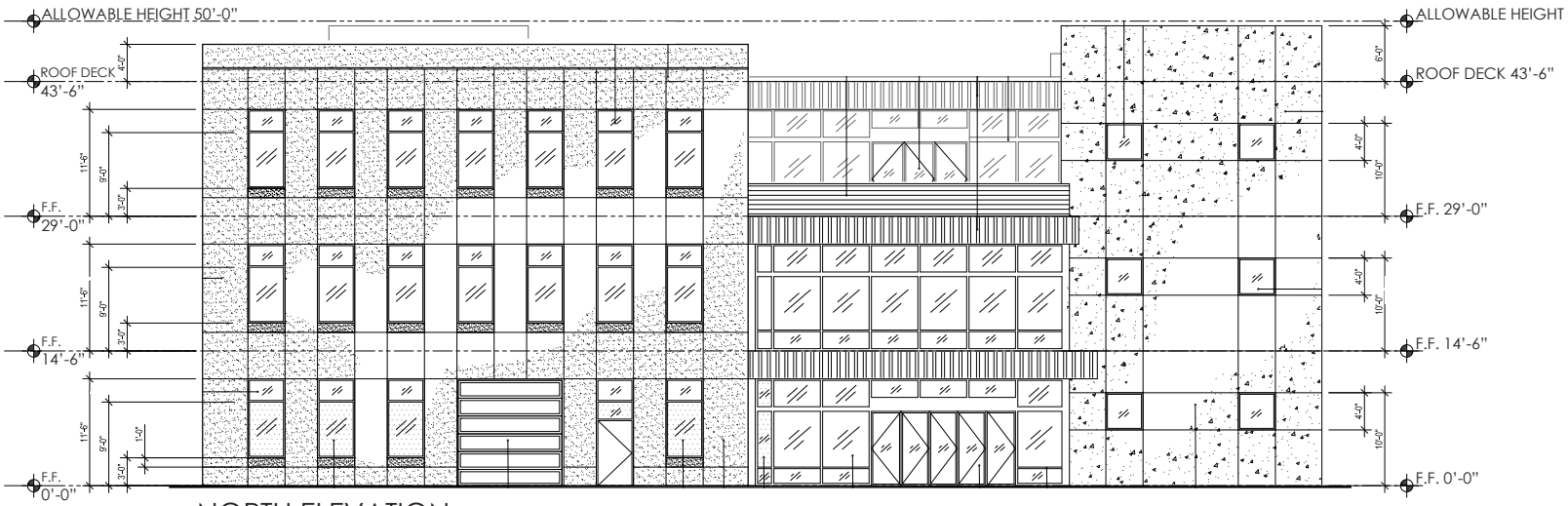
FIGURE 3.1-2


AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 3.1-3

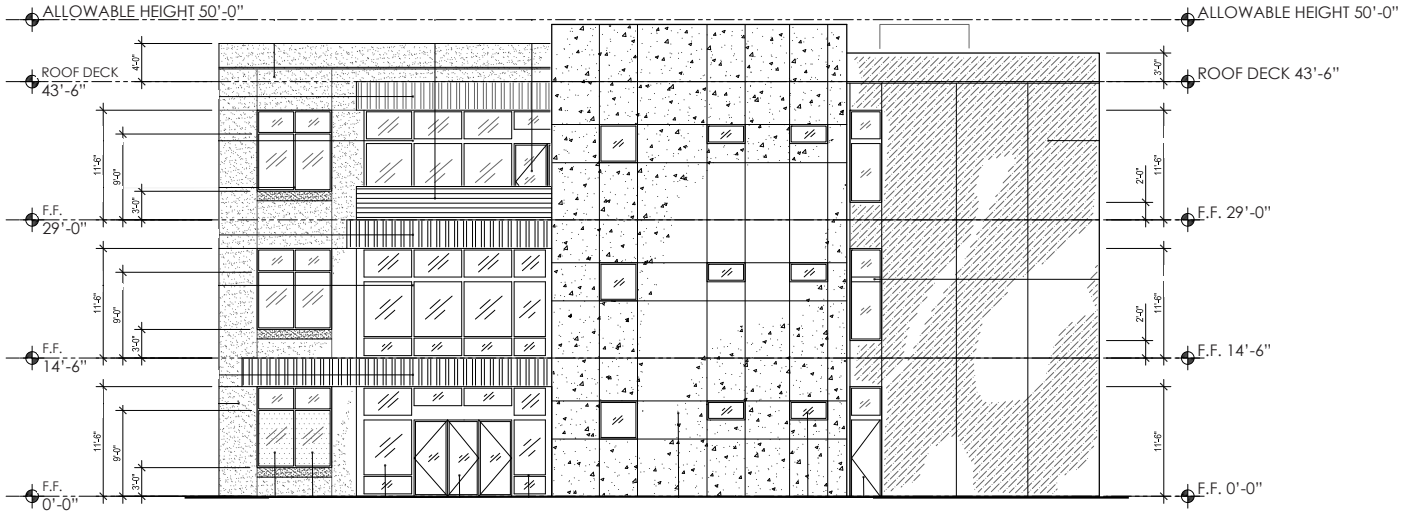



Source: McKim Design Group, June 16, 2020.

PROPOSED SITE PLAN | FIGURE 3.1-4



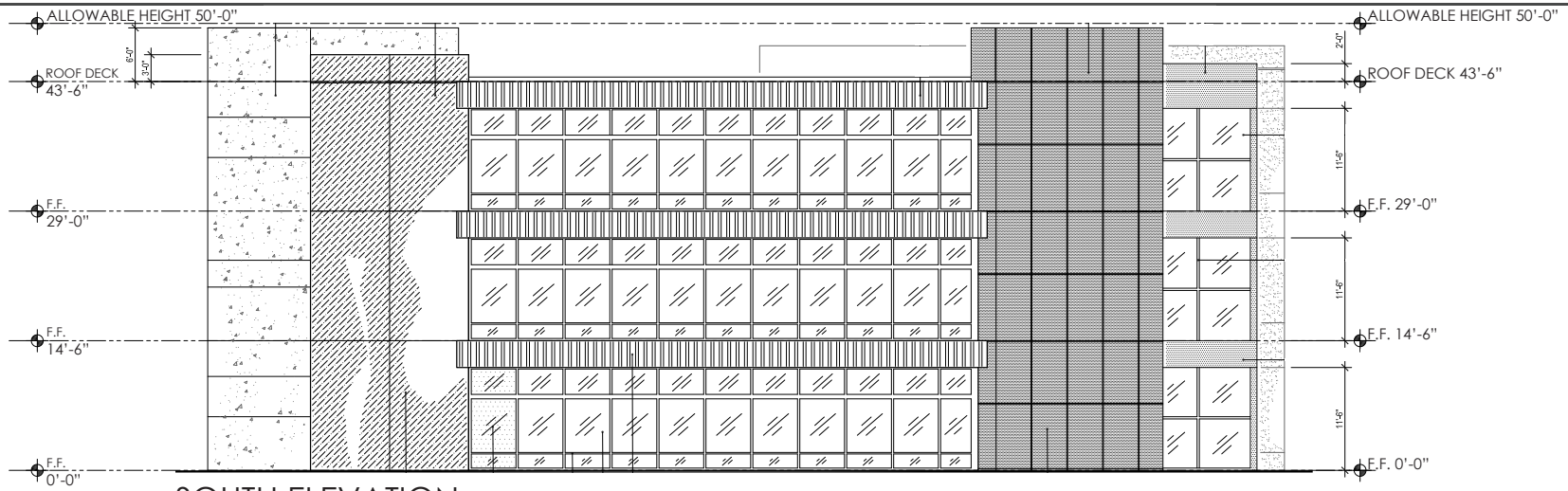

NORTH ELEVATION



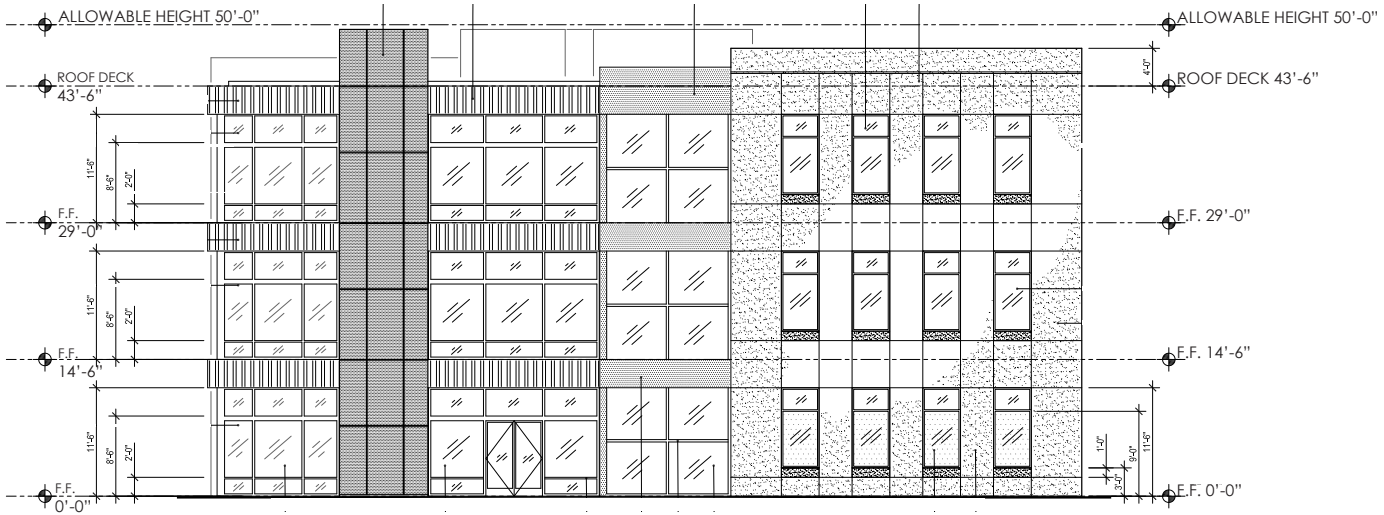

WEST ELEVATION

Source: McKim Design Group, June 16, 2020.

NORTH AND WEST BUILDING ELEVATIONS | FIGURE 3.1-5




SOUTH ELEVATION

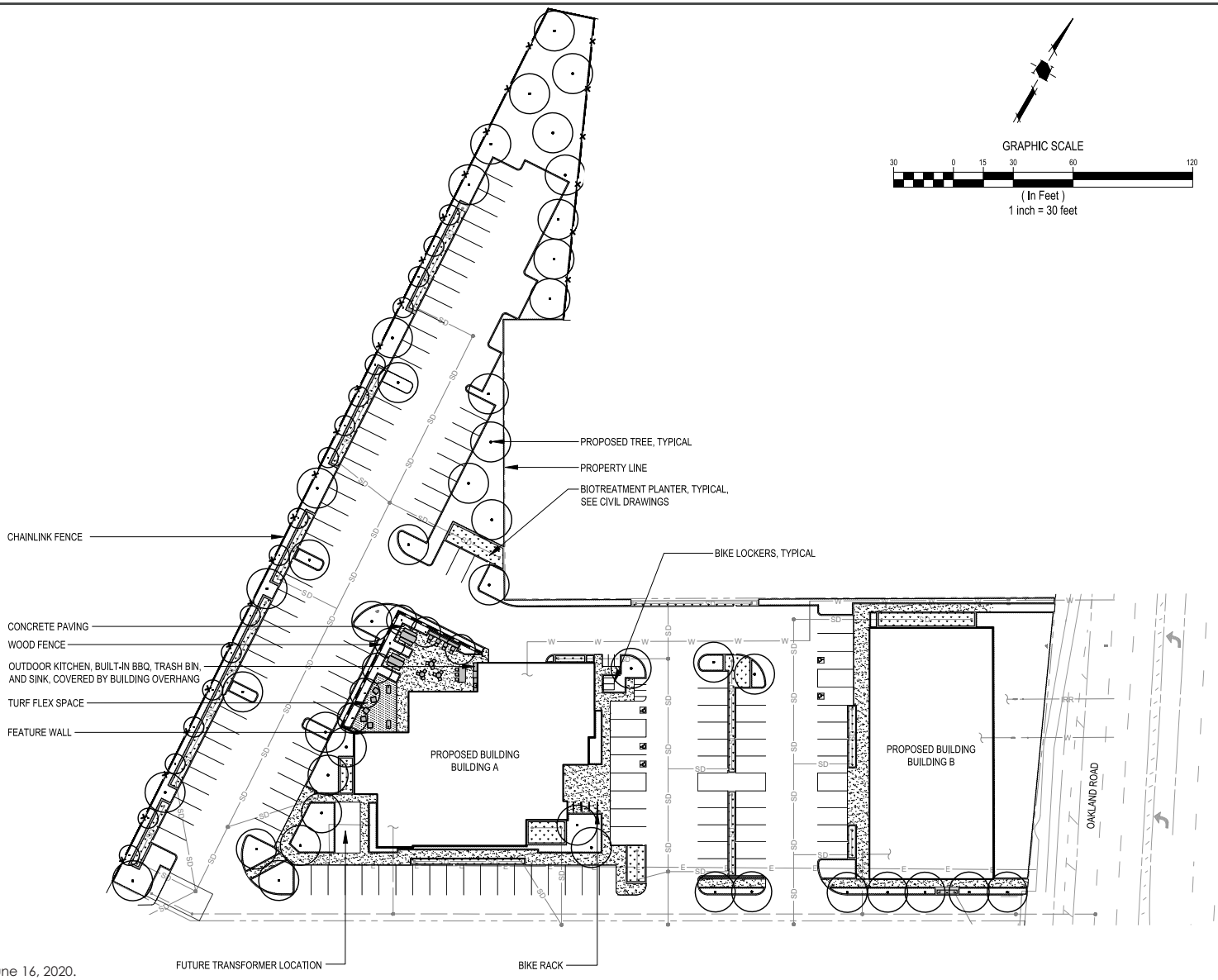



EAST ELEVATION

Source: McKim Design Group, June 16, 2020.

SOUTH AND EAST BUILDING ELEVATIONS

FIGURE 3.1-6




Source: HMH Engineers, June 16, 2020.

LANDSCAPE PLAN

FIGURE 3.1-7

### 3.1.3 Green Building Measures

The project would be constructed in accordance with California Building Code (CALGreen) requirements, which include design provisions intended to minimize wasteful energy consumption, in addition to the City of San José City Council Policy 6-32 and Green Building Ordinance. The project would also meet the energy efficiency performance requirements of the San José Reach Code (Ordinance No. 30311).

### 3.1.4 Construction Details

Construction of the project is anticipated to begin in Summer of 2021. The project would be constructed in two phases, with Building A and site improvements (parking lot, utility trenching, landscaping installation, etc.) to be constructed in the first phase and Building B constructed in the second phase. Construction of the first phase would last approximately 10 months, while the construction duration for Building B is yet to be determined. Both buildings are expected to be operational by 2023. Construction activities would include site preparation, grading, trenching and excavation, building foundation and building construction. The project would also reconstruct a 12-foot attached sidewalk with tree wells along the project frontage and construct a raised median island along the northbound Oakland Road approach to the Oakland Road/McKay Drive intersection.

### 3.1.5 Envision San José 2040 General Plan and Zoning Designation

The project site is designated *IP Industrial Park* under the Envision San José 2040 General Plan and is zoned *IP Industrial Park.* The *IP* designation supports a wide variety of industrial uses such as research and development (R&D), manufacturing, assembly, testing, and offices. Development under this designation allows a FAR of up to 10.0, with a maximum height of 15 stories.

The *IP* zoning district is intended to allow a range of industrial uses insofar as functional or operational characteristics of a hazardous or nuisance nature can be mitigated through design controls. Areas exclusively for industrial uses may contain a very limited amount of supportive commercial uses, in addition to industrial uses, when those uses are of a scale and design providing support only to the needs of businesses and their employees in the immediate industrial area. Refer to Section 4.11 Land Use and Planning of this Initial Study for a complete discussion of the project's consistency with the General Plan designation and zoning district.

# SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND IMPACT DISCUSSION

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

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

The discussion for each environmental subject includes the following subsections:

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

## 4.1 AESTHETICS

### 4.1.1 Environmental Setting

#### 4.1.1.1 *Regulatory Framework*

**State**

Streets and Highway Code Sections 260 through 263

The California Scenic Highway Program (Streets and Highway Code, Sections 260 through 263) is managed by the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. There are no state-designated scenic highways in San José. Interstate 280 (I-280) from the San Mateo County line to State Route (SR) 17, which includes segments in San José is an eligible, but not officially designated, State Scenic Highway.[2]

In Santa Clara County, the one state-designated scenic highway is SR 9 from the Santa Cruz County line to the Los Gatos city limits. Eligible State Scenic Highways (not officially designated) include: SR 17 from the Santa Cruz County line to SR 9, SR 35 from Santa Cruz County line to SR 9, I-280 from the San Mateo County line to SR 17, and the entire length of SR 152 within the County.

**Local**

Envision San José 2040 General Plan

Various policies in the City's 2040 General Plan have been adopted for the purpose of reducing or avoiding aesthetics impacts. The following policies are specific to aesthetic resources and applicable to the proposed project:

**Envision San José 2040 General Plan Relevant Aesthetics Policies**

| Policy | Description |
|---|---|
| CD-1.1 | Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses. |
| CD-1.8 | Create an attractive street presence with pedestrian-scaled building and landscaping elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity throughout the City. |

[2] California Department of Transportation. "Scenic Highways." Accessed May 1, 2020. http://www.dot.ca.gov/design/lap/livability/scenic-highways/index.html.

**Envision San José 2040 General Plan Relevant Aesthetics Policies**

| Policy | Description |
|---|---|
| CD-1.12 | Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground-level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged. |
| CD-1.13 | Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions. |
| CD-1.17 | Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses. |
| CD-1.23 | Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas. |
| CD-1.28 | To maintain and protect the integrity, character, and aesthetic environment of the streetscape in industrial, commercial, and residential neighborhoods, new billboards should be permitted only through a discretionary review process and only where they do not create visual clutter and blight. The relocation of existing billboards from impacted areas to locations where they would have a less visually blighting effect should be encouraged. |
| CD-1.29 | Provide and implement regulations that encourage high quality signage, ensure that business and organizations can effectively communicate though sign displays, promote way finding, achieve visually vibrant streetscapes, and control excessive visual clutter. |
| CD-10.2 | Require that new public and private development adjacent to Gateways and freeways (including 101, 880, 680, 280, 17, 85, 237, and 87), and Grand Boulevards consist of high-quality materials, and contribute to a positive image of San José. |
| CD-10.3 | Require that development visible from freeways (including 101, 880, 680, 280, 17, 85, 237, and 87) is designed to preserve and enhance attractive natural and man-made vistas. |

City Design Guidelines and Design Review Process

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

North San José Area Design Guidelines

The City has adopted design guidelines as part of the Implementation Strategy for the North San José Area Development Policy (NSJADP). The North San José Area Design Guidelines provide North San José-specific guidance to both private and public development in the area. The guidelines were intended to provide recommendations and/or guidance on key design elements that allows for retention and/or expansion of driving industry companies in San José.

City Council Policy 4-2: Lighting

Council Policy 4-2 requires dimmable, programmable lighting for new streetlights, which would control the amount and color of light shining on streets and sidewalks. Light is to be directed downward and outward. New and replacement streetlights should also offer the ability to change the monochromatic light from full spectrum (appearing white of near white) in the early evening to a monochromatic light in the later hours of the night and early morning. At a minimum, full-spectrum lights should be able to be dimmed by at least 50 percent in late night hours.

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

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

#### 4.1.1.2 *Existing Conditions*

**Project Site**

The project site is currently vacant, consisting of undeveloped open space covered by ruderal grassland vegetation, several mature trees, and cement pads. The site appears to be regularly disked/mowed and is enclosed by chain-link fencing. The topography of the site and the surrounding area is relatively level and views of the site are provided primarily from the Oakland Road frontage. Street-level views of the site and its surroundings are shown on Photos 1 through 8 on the following pages.

**Surrounding Land Uses**

The area surrounding the project site is developed with a variety of land uses. To the north of the project site, there is a light industrial building and a single-family dwelling; to the east of the project site are multi-family residential uses; to the south of the project site is a retail center with various commercial uses; and to the west of the site are the Southern Pacific Railroad tracks and industrial uses. Development in the area varies in age and design but generally exhibits modern architectural styles. The commercial development to the south of the site consists of one- to two-story buildings arranged around a central surface parking lot. The residential development across Oakland Road to the north/east consists of three-story condominiums and townhomes which are buffered from the roadway by landscaped areas. The adjacent light industrial building to the north is a single-story building bordered by several accessory structures. The building, which appears to be a converted residential structure, is separated from the project site by dense shrubs and trees along its southern

property line. The single-family residential building further north is an older (late 1920s), single-story dwelling with associated accessory structures. The residence is set back from Oakland Road by a long driveway and bordered by grass areas and mature trees. The industrial development across the railroad tracks to the west consists of a three-story industrial campus with a large surface parking lot and landscaped parking medians.

### Scenic Views

According to the City's General Plan, views of hillside areas, including the foothills of the Diablo Range, Silver Creek Hills, Santa Teresa Hills, and foothills of the Santa Cruz Mountains, are scenic features in the San José area. The project does not propose new development in the vicinity of these identified hillside areas that would affect views of scenic vistas. The project site and surrounding areas are flat, and intervening trees and buildings block views of distant geographic features. No scenic natural resources, such as rock outcroppings, are present on-site or in the project area.

### Scenic Corridors

There are no state-designated scenic highways in San José. The nearest officially designated state scenic highway to the project site is SR 9, located approximately 11.4 miles southwest of the site.[3] I-280 from the San Mateo County line to SR 17,[4] which includes segments of San José, is an eligible, but not officially designated, State Scenic Highway. The project site is approximately 4.9 miles northeast of that segment.

[3] California Department of Transportation. *California Scenic Highway Mapping System*. Accessed June 17, 2020. http://www.dot.ca.gov/hq/LandArch/16_livability/scenic_highways/index.htm.
[4] The segment at SR 17 is the same segment identified as one of the City's Urban Throughways.

**Photo 1:** View of the project site from its southeastern corner on Oakland Road, looking west.


**Photo 2:** View of the project site along its eastern boundary on Oakland Road, looking north.

PHOTOS 1 & 2

**Photo 3:** View of the project site from its southern boundary, looking north.


**Photo 4:** View of the project site and adjacent development at the site's eastern boundary, looking south.


**Photo 5:** View of the existing light industrial business (left) and single family residence (right) adjacent to the north side of the site, from Old Oakland Road.


**Photo 6:** View of nearby commercial uses to the north of the site.


**Photo 7:** View of residential development across Oakland Road to the northeast of the site.

**Photo 8:** View of residential development across Oakland Road to the east of the site.

The City's General Plan identifies Gateways and Urban Throughways (or "Corridors") where preservation and enhancement of views of the natural and man-made environment is crucial.[5] The nearest Gateway segment to the project site is Charcot Avenue from Junction Avenue to I-880, approximately 0.4-mile northwest of the site.[6] The City has designated SR 87, from the Highway 101 interchange to State Route 85, and I-280 from the Interstate 880 (I-880) intersection to Fair Oaks Avenue in Sunnyvale, as Urban Throughways (or "Corridors"). The nearest Urban Throughway (or "Corridor") segment to the project site is SR 87, approximately 1.8 miles west of the project site. The site is not visible from any designated Urban Corridor or Rural Scenic Corridor.[7]

**Light and Glare**

The site is currently vacant and does not generate any light or glare. Streetlights and other lighting is found throughout the area in the vicinity of the project. Sources of light and glare in the surrounding area are those typical of developed urban areas, including headlights, streetlights, parking lot lights, security lights, and reflective surfaces such as windows.

### 4.1.2 Impact Discussion

| | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|---|---|---|---|---|
| Except as provided in Public Resources Code Section 21099, would the project: | | | | |
| a) Have a substantial adverse effect on a scenic vista? | ☐ | ☐ | ☒ | ☐ |
| b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? | ☐ | ☐ | ☐ | ☒ |
| c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings?[8] If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality? | ☐ | ☐ | ☒ | ☐ |
| d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? | ☐ | ☐ | ☒ | ☐ |

[5] City of San José. *Envision San José 2040 General Plan FEIR.* September 2011. Page 739.
[6] City of San José. *Envision San José 2040 General Plan Scenic Corridors Diagram.* 2016. https://www.sanjoseca.gov/home/showpublisheddocument?id=22565. Accessed February 4, 2021.
[7] Ibid. http://www.sanjoseca.gov/index.aspx?NID=3368
[8] Public views are those that are experienced from publicly accessible vantage points.

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

The City's General Plan defines scenic vistas or resources in the City as broad views of Santa Clara Valley, the hills and mountains surrounding the valley, the urban skyline, and the baylands. The General Plan FEIR determined that new development and redevelopment consistent with the full build out of the General Plan would predominantly occur on the valley floor and would not adversely affect scenic hillside resources. The proposed project is an infill project on the valley floor and, as a result, the proposed project would not have a substantial adverse effect on a scenic vista. **(Less than Significant Impact)**

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

The project site is not visible from any eligible or State-designated scenic highway. Construction of the proposed buildings would not damage any scenic resources within a State scenic highway. **(No Impact)**

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

The project proposes to develop the 2.1-acre site with two three-story buildings, paved parking areas, and maintained landscaping. The buildings would have maximum heights of 50 feet, which does not exceed the maximum allowable height under the IP-Industrial Park zoning (50 feet). The final design of the project would be reviewed for consistency with zoning code standards which reduce visual impacts, such as landscape buffers and setbacks. Furthermore, the project would be subject to the City's Design Review Process to ensure the project's architecture and site planning are consistent with the adopted Industrial Design Guidelines and North San José Area Design Guidelines.

The project area is currently developed with a variety of land uses and is intersected with infrastructure including surface roadways and Southern Pacific Railroad tracks. The project would increase the size and scale of development on the site but would not be inconsistent with surrounding developments, including the two-story retail buildings to the south or the three-story residential buildings across Oakland Road to the east. For these reasons, the proposed project would be consistent with surrounding visual character and would not conflict with any regulations governing scenic quality. **(Less than Significant Impact)**

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

The project site is vacant and does not contain sources of light and glare. Source of light and glare that currently exist within the project area include streetlights, parking lot lights from adjacent business, security lights, vehicular headlights, internal building lights, and reflective building

surfaces and windows. The proposed buildings would include internal building lights and exterior lighting which would increase nighttime light and glare compared to existing conditions.

The proposed buildings would not use highly reflective construction materials (e.g., mirrored glass) on the facades. Finish materials for the proposed buildings include cement plaster and wood panel walls, aluminum window frames with tinted and translucent insulated glass, and composite metal panels. The design of the proposed project would be subject to the City's Design Review process and would be required to utilize exterior materials that do not result in daytime glare, consistent with General Plan policies and the City's Design Guidelines. As part of the entitlement process, the proposed project would be required to comply with the City's Outdoor Lighting on Private Development Policy (Policy 4-3); this policy requires outdoor lighting to be energy-efficient, fully shielded, and directed downward. The choice of building materials and compliance with the City's policies and regulations would ensure that the proposed project would not adversely affect day or nighttime views in the project area. **(Less than Significant Impact)**

## 4.2 AGRICULTURE AND FORESTRY RESOURCES

### 4.2.1 Environmental Setting

#### 4.2.1.1 *Regulatory Framework*

**State**

Farmland Mapping and Monitoring Program

The California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) assesses the location, quality, and quantity of agricultural land and conversion of these lands over time. Agricultural land is rated according to soil quality and irrigation status. The best quality land is called Prime Farmland. In CEQA analyses, the FMMP classifications and published county maps are used, in part, to identify whether agricultural resources that could be affected are present on-site or in the project area.[9]

California Land Conservation Act

The California Land Conservation Act (Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space uses. In return, landowners receive lower property tax assessments. In CEQA analyses, identification of properties that are under a Williamson Act contract is used to also identify sites that may contain agricultural resources or are zoned for agricultural uses.[10]

Fire and Resource Assessment Program

The California Department of Forestry and Fire Protection (CAL FIRE) identifies forest land, timberland, and lands zoned for timberland production that can (or do) support forestry resources.[11] Programs such as CAL FIRE's Fire and Resource Assessment Program and are used to identify whether forest land, timberland, or timberland production areas that could be affected are located on or adjacent to a project site.[12]

**Local**

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes the following policies that are specific to agriculture and forestry resources and applicable to the proposed project:

[9] California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed April 27, 2020. http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx.
[10] California Department of Conservation. "Williamson Act." http://www.conservation.ca.gov/dlrp/lca.
[11] Forest Land is land that can support 10 percent native tree cover and allows for management of forest resources (California Public Resources Code Section 12220(g)); Timberland is land not owned by the federal government or designated as experimental forest land that is available for, and capable of, growing trees to produce lumber and other products, including Christmas trees (California Public Resources Code Section 4526); and Timberland Production is land used for growing and harvesting timber and compatible uses (Government Code Section 51104(g)).
[12] California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed April 27, 2020. http://frap.fire.ca.gov/.

**Envision San José 2040 General Plan Relevant Agricultural Resources Policies**

| Policy | Description |
|---|---|
| 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:<br>• Limit residential uses in agricultural areas to those which are incidental to agriculture.<br>• 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.<br>• Prohibit land uses within or adjacent to agricultural lands that would compromise the viability of these lands for agricultural uses.<br>• Strictly maintain the Urban Growth Boundary in accordance with other goals and policies in this Plan. |
| LU-12.4 | Preserve agricultural lands and prime soils in non-urban areas in order to retain the aquifer recharge capacity of these lands. |

#### 4.2.1.2 *Existing Conditions*

The Santa Clara County Important Farmland Map designates the project site as Urban and Built-Up Land. Commonly, Urban and Built-Up Land consists of land uses such as residential, institutional, industrial, commercial, landfill, and other utility uses. The project site does not contain any forest land, nor is it adjacent to any forest land. The project site is not subject to a Williamson Act contract.

### 4.2.2 Impact Discussion

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

| | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|---|---|---|---|---|
| Would the project: | | | | |
| d) Result in a loss of forest land or conversion of forest land to non-forest use? | ☐ | ☐ | ☐ | ☒ |
| e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use? | ☐ | ☐ | ☐ | ☒ |

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

The project proposes construction of two buildings for industrial office uses within an urban, developed area of San José. As discussed above, the project site is designated as Urban and Built-Up Land on the Santa Clara County Important Farmland Map, and is not considered Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. For this reason, the proposed project would have no impact due to the conversion of important farmland to non-agricultural use. **(No Impact)**

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

The project site is zoned IP Industrial Park and agricultural uses are not permitted within this zoning. In addition, the property is not subject to a Williamson Act contract. Therefore, the proposed project would have no impact due to conflict with agricultural zoning or a Williamson Act contract. **(No Impact)**

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

The project site is not zoned as forest land, timberland, or timberland zoned Timberland Production. Therefore, the project would not conflict with existing zoning or cause rezoning of forest land, timberland, or timberland zoned Timberland Production. **(No Impact)**

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

As discussed above, the project site is not zoned for forest land. The project site is located within an urbanized area and would not result in a loss of forest land or a conversion of forest land to non-forest uses. **(No Impact)**

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

The project site is surrounded by urban development and there is no land currently used or zoned for agriculture or forestry-related uses in the project area. For these reasons, the project would not result in the conversion of agricultural or forest lands to other uses. **(No Impact)**

## 4.3 AIR QUALITY

The following discussion is based, in part, on an air quality assessment prepared for the project by *Illingworth & Rodkin, Inc*. A copy of the report dated December 8, 2020, is included in Appendix A of this Initial Study.

### 4.3.1 Environmental Setting

#### 4.3.1.1 *Background Information*

**Criteria Pollutants**

Air quality in the Bay Area is assessed relative to six common air pollutants (referred to as criteria pollutants), including ground-level ozone ($O_3$), nitrogen oxides ($NO_x$), particulate matter (PM), carbon monoxide (CO), sulfur oxides ($SO_x$), and lead.[13] Criteria pollutants are regulated because they result in health effects on humans. An overview of the sources of criteria pollutants and their associated health are summarized in Table 4.3-1. The most commonly regulated criteria pollutants in the Bay Area are discussed further below.

**Table 4.3-1: Health Effects of Air Pollutants**

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

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

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

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

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

**Toxic Air Contaminants**

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

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs. Diesel exhaust is a complex mixture of gases, vapors, and fine particles. Medium- and heavy-duty diesel trucks represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (most susceptible to injury).[14] Chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the California Air Resources Board (CARB).

**Sensitive Receptors**

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

#### 4.3.1.2 *Regulatory Framework*

**Federal and State**

Clean Air Act

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

[14] California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed April 28, 2020. https://www.arb.ca.gov/research/diesel/diesel-health.htm.

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

Risk Reduction Plan

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

**Regional**

2017 Clean Air Plan

The Bay Area Air Quality Management District (BAAQMD) is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how state and federal air quality standards will be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The 2017 CAP focuses on two related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 CAP describes how BAAQMD will continue its progress toward attaining state and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities. To protect the climate, the 2017 CAP includes control measures designed to reduce emissions of methane and other super greenhouse gases (GHGs) that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.[15]

CEQA Air Quality Guidelines

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

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

## Local

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes the following policies that are specific to air quality and applicable to the proposed project:

**Envision San José 2040 General Plan Relevant Air Quality Policies**

| Policy | Description |
|---|---|
| MS-10.1 | Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement air emissions reduction measures. |
| MS-10.2 | Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law. |
| MS-11.1 | Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety. |
| MS-11.2 | For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors. |
| MS-11.5 | Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses. |
| MS-11.7 | Consult with BAAQMD to identify stationary and mobile TAC sources and determine the need for and requirements of a health risk assessment for proposed developments. |
| MS-11.8 | For new projects that generate truck traffic, require signage which reminds drivers that the State truck idling law limits truck idling to five minutes. |
| MS-13.1 | Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type. |
| MS-13.4 | Adopt and periodically update dust, particulate, and exhaust control standard measures for demolition and grading activities to include on project plans as conditions of approval based upon construction mitigation measures in the BAAQMD CEQA Guidelines. |
| 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. |
| TR-9.1 | Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips. |

#### 4.3.1.3 *Significance Thresholds*

In June 2010, BAAQMD adopted thresholds of significance to assist in the review of projects under CEQA and these significance thresholds were contained in the District's 2011 CEQA Air Quality Guidelines. These thresholds were designed to establish the level at which BAAQMD believed air pollution emissions would cause significant environmental impacts under CEQA. The thresholds were challenged through a series of court challenges and were mostly upheld. BAAQMD updated the CEQA Air Quality Guidelines in 2017 to include the latest significance thresholds, which were used in this analysis and are summarized in Table 4.3-2 below.

| Table 4.3-2: BAAQMD Air Quality Significance Thresholds | | | |
|---|---|---|---|
| ***Criteria Air Pollutant*** | **Construction Thresholds** | **Operation Thresholds** | |
| | ***Average Daily Emissions (pounds/day)*** | ***Average Daily Emissions (pounds/day)*** | ***Annual Average Emissions (tons/year)*** |
| ROG, $NO_x$ | 54 | 54 | 10 |
| $PM_{10}$ | 82 (exhaust) | 82 | 15 |
| $PM_{2.5}$ | 54 (exhaust) | 54 | 10 |
| CO | Not Applicable | 9.0 ppm (eight-hour) or 20.0 ppm (one-hour) | |
| Fugitive Dust | Dust Control Measures/Best Management Practices | Not Applicable | |
| ***Health Risks and Hazards*** | ***Single Sources Within 1,000-foot Zone of Influence*** | ***Combined Cumulative Sources*** | |
| Excess Cancer Risk | >10 per one million | >100 per one million | |
| Hazard Index | >1.0 | >10.0 | |
| Incremental Annual $PM_{2.5}$ | >0.3 µg/$m^3$ | >0.8 µg/$m^3$ (average) | |
| ***Greenhouse Gas Emissions*** | | | |
| Land Use Projects – direct and indirect emissions | Compliance with a Qualified GHG Reduction Strategy<br>OR<br>1,100 metric tons annually or 4.6 metric tons per service population * | | |
| Note: ROG = reactive organic gases, NOx = nitrogen oxides, PM10 = course particulate matter or particulates with an aerodynamic diameter of 10 micrometers (µm) or less, $PM_{2.5}$ = fine particulate matter or particulates with an aerodynamic diameter of 2.5µm or less. GHG = greenhouse gases.<br>*BAAQMD does not have a recommended post-2020 GHG threshold. | | | |

#### 4.3.1.4 *Existing Conditions*

The Bay Area is considered a non-attainment area for ground-level $O_3$ and $PM_{2.5}$ under both the federal Clean Air Act and state Clean Air Act. The area is also considered nonattainment for $PM_{10}$ under the state act, but not the federal act. The area has attained both state and federal ambient air quality standards for CO. As part of an effort to attain and maintain ambient air quality standards for $O_3$ and $PM_{10}$, BAAQMD has established thresholds of significance for these air pollutants and their

precursors. These thresholds are for $O_3$ precursor pollutants (ROG and $NO_X$), $PM_{10}$, and $PM_{2.5}$, and apply to both construction period and operational period impacts.

The project site is currently vacant and does not contain land uses which generate any air pollutants. The project site is adjacent to the Southern Pacific railroad tracks on the western property edge and Oakland Road on the eastern edge. Oakland Road in the vicinity of the project has an average daily traffic (ADT) volume in excess of 10,000 vehicles and is considered an existing source of TACs, as are the railroad tracks. East Brokaw Road is within 1,000 feet of the project site and has an ADT in excess of 10,000 vehicles. Therefore, it is also considered an existing source of TACs for this analysis. No other stationary sources of TAC emissions are located within 1,000 feet of the project site.

### 4.3.2 Impact Discussion

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

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

BAAQMD is the regional agency responsible for overseeing compliance with State and Federal laws, regulations, and programs within the San Francisco Bay Area Air Basin (SFBAAB). BAAQMD, with assistance from the Association of Bay Area Governments (ABAG) and Metropolitan Transportation Commission (MTC), has prepared and implements specific plans to meet the applicable laws, regulations, and programs. The most recent and comprehensive of which is the Bay Area 2017 Clean Air Plan. The primary goals of the Clean Air Plan are to attain air quality standards, reduce population exposure and protect public health, and reduce GHG emissions and protect the climate. The BAAQMD has also developed CEQA guidelines to assist lead agencies in evaluating the significance of air quality impacts. In formulating compliance strategies, BAAQMD relies on planned land uses established by local general plans. Land use planning affects vehicle travel, which in turn affects region-wide emissions of air pollutants and GHGs.

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 (see checklist question b, below); 2) the project would be considered urban infill; and 3) the project would be located near transit with regional connections. **(Less than Significant Impact)**

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

The Bay Area is considered a non-attainment area for ground-level $O_3$ 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 (CO). As part of an effort to attain and maintain ambient air quality standards for $O_3$, $PM_{2.5}$ and $PM_{10}$, the BAAQMD has established thresholds of significance for these air pollutants and their precursors. These thresholds are for $O_3$ precursor pollutants (ROG and $NO_X$), $PM_{10}$, and $PM_{2.5}$ and apply to both construction period and operational period impacts.

**Construction Emissions**

The proposed project is small enough in scale to be screened out for requiring a quantitative air quality analysis, according to the BAAQMD CEQA Guidelines. However, in order to ensure that impacts to surrounding sensitive receptors were thoroughly evaluated, *Illingworth & Rodkin, Inc.* performed modeling for the project, as discussed below.

The California Emissions Estimator Model (CalEEMod) Version 2016.3.2 was used to estimate emissions from construction activity, construction vehicle trips, and evaporative emissions. The project land use types and size were input to CalEEMod, as were the construction data initially provided by the applicant (i.e., construction schedule, phases, durations, and equipment). The construction schedule was later modified by the applicant to a staged approach, one that would construct the general office building after the research and development building and warehouse. This modified schedule would result in approximately the same total emissions but would reduce daily construction emissions. Thus, the initial construction schedule used in the analysis would result in higher (i.e., more conservative) impacts than the staged approach.

The CARB EMission FACtors 2017 (EMFAC2017) model was used to predict emissions from construction traffic, which includes worker travel, vendor trucks and haul trucks. The proposed project land uses were input into CalEEMod as follows:

- 21,860 square feet entered as “Commercial – Research & Development” on 2.0 acres;
- 15,000 square feet entered as “Commercial – General Office Building”;
- 2,180 square feet entered as “Industrial – Unrefrigerated Warehouse – No Rail”; and

- 128 spaces and 38,511 square feet entered as “Parking – Parking Lot”.

Construction Inputs

CalEEMod computes annual emissions from construction that are based on the project type, size and acreage. The model provides emission estimates for both on-site and off-site construction activities. On-site activities are primarily made up of construction equipment emissions, while off-site activity includes worker, hauling, and vendor traffic. The initial construction build-out scenario provided by the applicant, including schedule, phases, durations, equipment list, equipment quantities, average hours of equipment use per day, and work schedule for each phase was for this project was used for the analysis. The construction start date was May 25, 2021. The construction schedule was approximately 10 months, or 224 construction workdays. Construction was estimated to be complete by April 2022, with the first full year of operation for both buildings assumed to be 2023. The revised scenario has the general office building being constructed sometime after the other improvements are constructed.

Construction Truck Traffic Emissions

Construction would produce traffic in the form of worker trips and truck traffic. The traffic-related emissions are based on worker and vendor trip estimates produced by CalEEMod and haul trips that were estimated for soil material exported from the site and cement and asphalt truck trips. CalEEMod provides daily estimates of worker and vendor trips for each applicable phase. The total trips for those were computed by multiplying the daily trip rate by the number of days in that phase. The number of concrete and asphalt total round haul trips were estimated using the project plans provided by the applicant to estimate material volumes and an assumed nine cubic yards (CY) per cement truck delivery and ten CY per asphalt material delivery for the project. Concrete/asphalt deliveries were converted to total one-way trips by assuming two trips per delivery. A total of 800 CY of soil is expected to be exported from the site.

Summary of Computed Construction Period Emissions

*Illingworth & Rodkin, Inc*. supplemented the CalEEMod estimates with the CARB EMission FACtors 2017 (EMFAC2017) model in order to account for construction site trip emissions. Average daily emissions were computed by dividing the total construction emissions by the number of construction days (224 construction workdays). Table 4.3-2 summarizes the project’s construction emissions estimates generated by CalEEMod.

**Table 4.3-2: Construction Period Emissions - Unmitigated**

| Scenario | ROG | $NO_x$ | $PM_{10}$ Exhaust | $PM_{2.5}$ Exhaust |
|---|---|---|---|---|
| Total Construction Emissions (tons) | 0.4 | 0.7 | 0.03 | 0.03 |
| Average Daily Emissions (lbs.)* | 3.6 | 6.3 | 0.3 | 0.3 |

| | | | | |
|---|---|---|---|---|
| BAAQMD Thresholds (lbs./day) | 54 | 54 | 82 | 54 |
| **Exceeds Threshold?** | **No** | **No** | **No** | **No** |
| *Assumes 224 workdays | | | | |

As shown in Table 4.3-2, the project's construction period emissions would not exceed BAAQMD thresholds of significance for the region's criteria air pollutants of non-attainment.

Dust Generation

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

**Standard Permit Conditions:** The project applicant shall implement the following measures during all phases of construction to control dust and exhaust at the project site:

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks transporting soil, sand, or 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 by using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to five minutes (as required by the California Airborne Toxics Control Measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
- Maintain and properly tune construction equipment in accordance with manufacturer's specifications.
- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

The measures above would achieve greater than a 55 percent reduction in on-site fugitive $PM_{10}$ and $PM_{2.5}$ emissions, and are consistent with BAAQMD-recommended basic control measures for reducing fugitive particulate matter, as set forth in the BAAQMD CEQA Air Quality Guidelines.

With implementation of the standard permit conditions described above, construction dust and exhaust emissions would be less than significant. **(Less than Significant Impact)**

### Operational Period Emissions

Operational air emissions from the proposed industrial project would be generated primarily by automobiles driven by future employees and vendors. Evaporative emissions from architectural coatings and maintenance products (classified as consumer products) are also typical emissions from these types of uses. As with construction emissions, the project is not large enough to require an operational quantitative analysis per the BAAQMD CEQA Guidelines screening criteria, but the *Illingworth & Rodkin* report contained the result of modeling conducted to assess potential impacts on surrounding sensitive receptors.

Operational air emissions from the project would be generated primarily from autos driven by future employees and vendors. Evaporative emissions from architectural coatings and maintenance products (classified as consumer products) are typical emissions from these types of uses. CalEEMod was used to estimate emissions from operation of the proposed project assuming full build out. Emissions associated with vehicle travel depend on the year of analysis because emission control technology requirements are phased in over time. Therefore, the earlier the year analyzed in the model, the higher the emission rates utilized by CalEEMod. The earliest full year of operation would be 2023 if construction begins at the end of May 2021. Emissions associated with build-out later than 2023 would be lower than those estimated for 2023. Vehicle trip information associated with the project was provided by *Hexagon Transportation Consultants, Inc.* (see Section 4.17 Transportation). Table 4.3-3 summarizes the operational emissions estimates for the project.

**Table 4.3-3: Operational Emissions**

| Scenario | ROG | $NO_x$ | $PM_{10}$ | $PM_{2.5}$ |
|---|---|---|---|---|
| 2023 Project Operational Emissions (tons/year) | 0.31 | 0.22 | 0.28 | 0.08 |
| BAAQMD Thresholds (tons/year) | 10 | 10 | 15 | 10 |
| **Exceed Threshold?** | **No** | **No** | **No** | **No** |
| 2023 Project Operational Emissions (lbs./day)* | 1.7 | 1.2 | 1.6 | 0.4 |
| BAAQMD Thresholds (lbs./day) | 54 | 54 | 82 | 54 |
| **Exceed Threshold?** | **No** | **No** | **No** | **No** |
| *Assumes 365-day operation | | | | |

As shown in Table 4.3-3Table 4.3-2, the project's operational emissions would not exceed BAAQMD thresholds of significance for the region's criteria air pollutants of non-attainment. **(Less than Significant Impact)**

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

Project construction activity would generate dust and equipment exhaust on a temporary basis that could affect nearby sensitive receptors. *Illingworth & Rodkin* prepared a construction community health risk assessment to address project construction impacts on the surrounding off-site sensitive receptors. Operation of the project is not expected to be a source of TAC or localized air pollutant emissions, as the project would not generate substantial truck traffic (only 365 new net trips - see Section 4.17 Transportation) or include stationary sources of emissions, such as generators powered by diesel engines. Emissions from automobile traffic generated by the project would be spread out over a broad geographical area and not localized.

The project is adjacent to the Southern Pacific Railroad tracks on the western property edge and Oakland Road on the eastern edge. Oakland Road in the vicinity of the project has an average daily traffic (ADT) volume in excess of 10,000 vehicles and is considered an existing source of TACs, as are the railroad tracks. East Brokaw Road is within 1,000 feet of the project site and has an ADT in excess of 10,000 vehicles. Therefore, it is also considered an existing source of TACs for this analysis. No other stationary sources of TAC emissions are located within 1,000 feet of the project site. Thus, a cumulative risk assessment including these two high-volume roadways and the railroad upon existing nearby sensitive receptors was assessed with the impacts associated with project construction.

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. This requires modeling of TAC and $PM_{2.5}$ emissions, dispersion modeling and cancer risk computations.

**Project Construction Activity**

Construction equipment and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC. Although it was concluded previously (see Checklist Question b) that construction exhaust air pollutant emissions would not 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 concerns associated with construction emissions are cancer risk and exposure to $PM_{2.5}$. A health risk assessment of the project construction activities was conducted that evaluated potential health effects to nearby sensitive receptors from construction emissions of DPM and $PM_{2.5}$.

Construction Period Emissions

The CalEEMod model provided total annual $PM_{10}$ exhaust emissions (assumed to be DPM) for the off-road construction equipment and EMFAC2017 was used to estimate exhaust emissions from on-road vehicles. Total DPM emissions from the construction site was estimated to be 0.03 tons (59 pounds). The on-road emissions are a result of haul truck travel during grading activities, worker

travel, and vendor deliveries during construction. A trip length of a half mile was used to represent vehicle travel while at or near the construction site. It was assumed emissions from on-road vehicles traveling at or near the site would occur at the construction site. Fugitive $PM_{2.5}$ dust emissions were estimated to be less than 0.0004 tons (0.8 pounds) using the same methods and assumptions used to estimate site DPM emissions.

Dispersion Modeling

The U.S. EPA AERMOD dispersion model was used to predict DPM and $PM_{2.5}$ concentrations at sensitive receptors (i.e., residents, school children, elderly) in the vicinity of the project construction area. The AERMOD dispersion model is a BAAQMD-recommended model for use in modeling ambient impacts of these types of emission activities for CEQA projects. The modeling utilized two area sources to represent the on-site construction emissions, one for DPM exhaust emissions and one for fugitive dust ($PM_{2.5}$) emissions. To represent construction equipment exhaust, an emission release height of 19.7 feet (6 meters) was used for DPM. The elevated source height reflects the height of the equipment exhaust pipes plus an additional distance for the height of the exhaust plume above the exhaust pipes to account for plume rise of the exhaust gases. For modeling fugitive $PM_{2.5}$ emissions, a near-ground level release height of 6.6 feet (two meters) was used. Emissions from the construction equipment and on-site vehicle travel were distributed throughout the modeled area sources. Construction emissions were modeled as occurring daily between 7:00 a.m. to 4:00 p.m. when most of the site activity would occur.

The modeling used a five-year data set (2013-2017) of hourly meteorological data from San José Airport that was prepared for use with the AERMOD model by BAAQMD. Annual DPM and $PM_{2.5}$ concentrations from construction activities during the construction period (May 2021 through April 2022) were calculated using the model. DPM and $PM_{2.5}$ concentrations were calculated at nearby sensitive receptors. Receptor heights of five feet (1.5 meters) first floor, 14.9 feet (4.5 meters) second floor, and 24.9 feet (7.6 meter) third floor were used to represent the breathing heights at the nearby single-family and multi-family residences, as appropriate. These heights represent the floor height plus the breathing height of the receptor (1.5 meters).

Project Construction Community Risk Impacts

The maximum modeled annual DPM and fugitive $PM_{2.5}$ concentrations were identified at nearby sensitive receptors (as shown in Figure 4.3-1) to find the maximally exposed individuals (MEIs). Using the maximum annual modeled DPM concentrations, the maximum increased cancer risks were calculated using BAAQMD recommended methods and exposure parameters. Non-cancer health hazards and maximum annual $PM_{2.5}$ concentrations were also calculated and identified.

Results of this assessment indicated that the construction MEI was located on the first floor of a multi-family residence across and adjacent to Oakland Road, southeast of the project site (seen in Figure 4.3-1). The unmitigated maximum increased cancer risks and maximum $PM_{2.5}$ concentration from construction do not exceed the BAAQMD single-source thresholds of greater than 10.0 per million for cancer risk and greater than 0.3 µg/m3 for annual PM2.5 concentration. Additionally, the unmitigated non-cancer hazards (HI) from construction activities would be below the single-source significance threshold of 1.0. Table 4.3-4 summarizes the maximum cancer risks, PM2.5

concentrations, and health hazard indexes for project related construction activities affecting the off-site residential MEI.

**Figure 4.3-1: Project Construction Site, Locations of Off-Site Receptors, ad Locations of TAC Impacts**


| Table 4.3-4: Construction Risk Impacts at the Off-site Residential MEI | | | |
|---|---|---|---|
| ***Source*** | ***Cancer Risk (per million)*** | ***Annual $PM_{2.5}$ ($\mu g/m^3$)*** | ***Hazard Index*** |
| Project Construction (unmitigated) | 7.8 (infant) | 0.04 | <0.01 |
| *BAAQMD Single-Source Threshold* | *>10.0* | *>0.3* | *>1.0* |
| Exceed Threshold? (unmitigated) | No | No | No |

After the dispersion modeling analysis was conducted, a single-family home was discovered north of the project site (see Figure 4.3-1). This receptor may be the actual MEI, given its proximity to the project site. However, the project applicant has elected to voluntarily mitigate emissions from construction equipment, reducing DPM impacts to all nearby receptors, including the nearby single-family residence. In accordance with the applicant's proposed project description, the project shall implement the following condition of approval.

Condition of Approval:

The project applicant shall develop a plan demonstrating that the off-road equipment used onsite to construct the project would achieve a fleet-wide average 80-percent reduction in DPM exhaust emissions or greater. One feasible plan to achieve this reduction would include the following:

- All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet the interim U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent. Equipment that is electrically powered or uses non-diesel fuels would also meet this requirement.

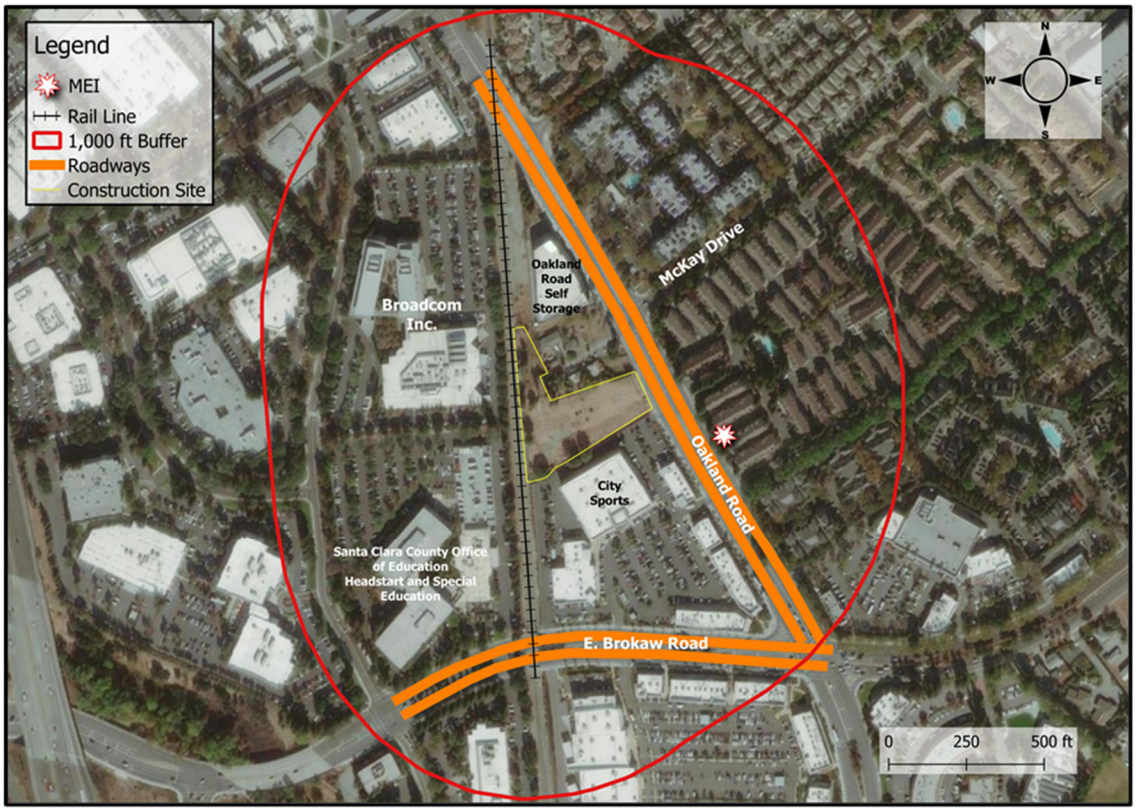
The annual DPM and $PM_{2.5}$ concentrations at the Headstart school and special education building at the Santa Clara County Office of Education were evaluated as part of the analysis. The maximum unmitigated cancer risk at the school would be 0.2 in a million, the maximum $PM_{2.5}$ concentration would be less than 0.01 µg/m3, and the HI would be less than 0.01. These values are below the BAAQMD single-source thresholds.

CalEEMod was used to compute emissions assuming that all equipment met interim U.S. EPA Tier 4 engines standards. With the proposed use of Tier 4 or electrically-powered equipment as described above, the project cancer risk levels and annual $PM_{2.5}$ concentrations would be substantially reduced such that they would not exceed the BAAQMD single-source significance thresholds at the single-family home north of the project site.

Combined Impact of All TAC Sources on the Off-Site Construction MEI

Community health risk assessments typically look at all substantial sources of TACs that can affect sensitive receptors that are located within 1,000 feet of the project site (i.e. influence area). These sources include railroads, freeways or highways, busy surface streets, and stationary sources identified by BAAQMD. A review of the project area indicates that traffic on Oakland Road and East Brokaw Road exceeds 10,000 ADT. All other roadways within the area are below 10,000 ADT. Additionally, the Southern Pacific Railroad tracks are adjacent to the western edge of the project. No other stationary sources of TACs are located within the 1,000-foot influence area according to BAAQMD's stationary source website map. Figure 4.3-2 shows the existing TAC sources affecting the project site. Community risk impacts from these sources upon the MEI, based on the results of the community health risk modeling conducted by *Illingworth & Rodkin, Inc.* are reported in Table 4.3-5.

**Figure 4.3-2: Project Site and Nearby TAC and $PM_{2.5}$ Sources**




Combined Community Health Risk at Off-Site Construction MEI

Table 4.3-4 shows both the project and cumulative community risk impacts at the construction MEI identified in the analysis (the first floor of a multi-family residence across and adjacent to Oakland Road, southeast of the project site). The project does not exceed single-source thresholds and the cumulative source impacts would not exceed BAAQMD significance threshold. Cumulative cancer risks are below 100 in a million, annual $PM_{2.5}$ concentration would not exceed 0.8 $\mu g/m^3$, and hazard risk would not exceed their thresholds. No additional mitigation is needed to meet the single source or cumulative source thresholds for this MEI.

**Table 4.3-5: Community Health Risk Impacts**

| Source | Cancer Risk (per million) | Annual $PM_{2.5}$ ($\mu g/m^3$) | Hazard Index |
|---|---|---|---|
| ***Project Construction Impacts*** | | | |
| Project Construction | 7.8 (infant) | 0.04 | <0.01 |
| BAAQMD Single-Source Threshold | >10.0 | >0.3 | >1.0 |
| **Exceeds Single-Source Threshold?** | **No** | **No** | **No** |
| ***Cumulative Impacts**** | | | |

| | | | |
|---|---|---|---|
| Oakland Road | 7.4 | 0.38 | <0.01 |
| E. Brokaw Road | 1.2 | 0.03 | <0.01 |
| Southern Pacific Railroad Tracks | 1.9 | <0.01 | NA |
| Cumulative Total | 18.3 | 0.46 | <0.02 |
| BAAQMD Cumulative Source Threshold | >100 | >0.8 | >10.0 |
| **Exceed Cumulative Source Threshold?** | **No** | **No** | **No** |
| * includes Project Construction | | | |

After the dispersion modeling analysis was conducted, a single-family home was discovered north of the project site (see Figure 4.3-1). This receptor may be the actual MEI, given its proximity to the project site. However, the applicant has elected to voluntarily mitigate emissions from construction equipment, reducing DPM impacts to all nearby receptors, including the identified MEI and the likely MEI (i.e., nearby single-family residence). Given use of Tier 4 or electrically-powered equipment as described above, cumulative cancer risks would be below 100 in a million, annual $PM_{2.5}$ concentration would not exceed 0.8 $\mu g/m^3$, and hazard risk would not exceed its thresholds. **(Less than Significant Impact)**

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

The existing Industrial Park (IP) zoning designation on the site is intended for a wide variety of industrial users such as research and development, manufacturing, assembly, testing, and offices. Although the specific uses of the proposed project buildings are not known at this time, future uses of the project site would be required to conform to the performance standards of the IP Zoning District, which include the prohibition of on-site incineration of any waste material and limitations on air pollution generated on-site. Localized odors, mainly resulting from diesel exhaust and construction equipment on-site, would be created during the construction phase of the project. These odors would be temporary and not likely be noticed beyond the project site's boundaries. The proposed project would, therefore, result in less than significant odor impacts. **(Less than Significant Impact)**

## 4.4 BIOLOGICAL RESOURCES

This discussion is based in part on a biological report prepared by Live Oak Associates, Inc. dated May 9, 2019 and a certified arborist report prepared by HMH Engineers, dated August 14, 2020. These reports are included in this Initial Study as Appendix B1 and Appendix B2, respectively.

### 4.4.1 Environmental Setting

#### 4.4.1.1 *Regulatory Framework*

**Federal and State**

Endangered Species Act

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

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

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, capture, possession, or trade of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. Hunting and poaching are also prohibited. The taking and killing of birds resulting from an activity is not prohibited by the MBTA when the underlying purpose of that activity is not to take birds.[16] Nesting birds are considered special-status species and are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

Sensitive Habitat Regulations

Wetland and riparian habitats are considered sensitive habitats under CEQA. They are also afforded protection under applicable federal, state, and local regulations, and are generally subject to

[16] United States Department of the Interior. "Memorandum M-37050. The Migratory Bird Treaty Act Does Not Prohibit Incidental Take." Accessed April 28, 2020. https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf.

regulation by the United States 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.

Fish and Game Code Section 1602

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

### Regional and Local

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

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

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes the following policies that are specific to biological resources and applicable to the proposed project:

**Envision San José 2040 General Plan Relevant Biological Resources Policies**

| Policy | Description |
|---|---|
| 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. |
| CD-1.24 | Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Any adverse effect on the health and longevity of such trees should be avoided 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. |
| ER-5.1 | Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts. |
| ER-5.2 | Require that development projects incorporate measures to avoid impacts to nesting migratory birds. |
| 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. |

**Envision San José 2040 General Plan Relevant Biological Resources Policies**

| Policy | Description |
|---|---|
| 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. |
| 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. |
| 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:<br>1. Avoid conflicts with nearby power lines.<br>2. Avoid potential conflicts between tree roots and developed areas.<br>3. Avoid use of invasive, non-native trees.<br>4. Remove existing invasive, non-native trees.<br>5. Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species.<br>6. Plant native oak trees and native sycamores on sites which have adequately sized landscape areas and which historically supported these species. |

San José Tree Ordinance

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

### 4.4.1.2 *Existing Conditions*

**Habitats**

The site is within the boundaries of the SCVHP and has a land cover designation of Urban-Suburban. Two habitat/land use types, developed and California annual grassland, were identified on-site during a site visit in April 2019.

Developed land on the site consists of cement pads where previous development may have occurred. Animals occurring in the California annual grassland portion of the site would be expected to move through this habitat as well.

California annual grassland on-site is largely made up of weedy non-native species, including, but not limited to, wild oats, black mustard, ripgut brome, filaree, fescue, bedstraw, bristly ox-tongue,

barley, prickly lettuce, mallow, burclover, smilo grass, wild radish, curly dock, sowthistle, vetch, and grapes, with scattered coyote brush. The edge of the grassland supports some trees as well, including, but not limited to tree-of-heaven, ash, and fan palms with skirts.

## Special Status Species

A search of published accounts for all relevant special status plant and animal species was conducted for the Milpitas United States Geological Survey (USGS) 7.5" quadrangle in which the project site occurs and for the eight surrounding quadrangles (Newark, Niles, La Costa Valley, Mountain View, Calaveras Reservoir, Cupertino, San JoséWest, San José East) using the California Natural Diversity Data Base (CNDDB) Rarefind (CDFW 2019). Special status plant and animal species with the potential to occur on the project site and in the surrounding area are discussed below.

### Special Status Plants

The site and the surrounding areas have a history of development. Based on aerial imagery from 2011 and 2012, most of the site was used as a laydown yard or other construction purpose and the site was disturbed at that time. Therefore, the site does not support habitat suitable for special status plant species.

### Special Status Wildlife

Most special status animal species known to occur in the region would not be found on-site because habitats on the site are not suitable for them or the site is located outside of the species' known range. Five of the twenty-four special status animal species that are known to occur in the region may occur on-site because the site provides potentially suitable habitat. These species include the white-tailed kite, American peregrine falcon, northern harrier, Townsend's big-eared bat, and pallid bat. In addition, other species of migratory birds may also nest in trees, shrubs, and buildings on or adjacent to the site and palm tree skirts may provide habitat for roosting bats on-site.

Animals observed during the April 2019 site visit were limited to the American crow and striped skunk, neither of which are special status species.

## Trees

There is a total of 28 trees within the project site, 22 of which are classified as ordinance trees under the City of San José Tree Ordinance. The tree species are summarized in Table 4.4-1 and the locations of each tree can be seen in Figure 4.4-1. Detailed information on each tree surveyed (DBH, circumference, ordinance status, health, preservation suitability) is included in the arborist report in Appendix B2).


Source: HMH Engineers, August 14, 2020.

EXISTING TREE MAP

FIGURE 4.4-1

| Table 4.4-1: Tree Quantity by Species | | | |
|---|---|---|---|
| **Botanical Name** | **Common Name** | **Quantity** | **Percent of Trees on Site** |
| *Ailanthus altissima* | Tree of Heaven | 5 | 18% |
| *Diospyros kaki* | Japanese Persimmon | 1 | 4% |
| *Fraxinus uhdei* | Evergreen Ash | 7 | 25% |
| *Phoenix canariensis* | Canary Island Date Palm | 1 | 4% |
| *Prunus persica* | Peach Tree | 1 | 4% |
| *Quercus agrifolia* | Coast Live Oak | 2 | 7% |
| *Sambucus nigra subsp. cerulea* | Blue Elderberry | 1 | 4% |
| *Washington robusta* | Mexican Fan Palm | 10 | 36% |
| | **Total Trees** | **28** | **100%** |

### 4.4.2 Impact Discussion

| | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|---|---|---|---|---|
| Would the project: | | | | |
| a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)? | ☐ | ☒ | ☐ | ☐ |
| b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS? | ☐ | ☐ | ☐ | ☒ |
| c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? | ☐ | ☐ | ☐ | ☒ |
| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? | ☐ | ☐ | ☒ | ☐ |

| | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|---|---|---|---|---|
| Would the project: | | | | |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? | ☐ | ☐ | ☒ | ☐ |
| f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? | ☐ | ☐ | ☒ | ☐ |

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

### Special Status Plants

As previously stated, no special status plant species were observed on site and the site does not support suitable habitat for any special status plant species. Therefore, the project would not have a substantial adverse effect on special status plant species. **(No Impact)**

### Special Status Wildlife

The proposed development of the site would remove a relatively small area of grassland in the middle of a densely developed urban area. Most special status animal species known to occur in the region would not be impacted because habitats on the site are not suitable for them or the site is located outside of the species' known range. However, the project site may provide suitable habitat for four of the twenty-four special status animal species that are known to occur in the region - the white-tailed kite, American peregrine falcon, northern harrier, Townsend's big-eared bat, and/or pallid bat. None of these species were observed during the field reconnaissance by *Live Oak Associates*. In addition to the special status bird species, other species of migratory birds may also nest in trees, shrubs, and buildings on and adjacent to the site, and palm tree skirts may also provide habitat for roosting bats onsite. Construction of the project would result in a negligible decrease in foraging or breeding habitat for these species regionally. Because of the minimal impact to habitat regionally, impacts to habitat for special status animal species would be considered less-than-significant, and no mitigations would appear to be warranted. **(Less than Significant Impact)**

<u>Nesting Raptors and Migratory Birds</u>

Grasslands, trees, shrubs, and buildings occurring on and adjacent to the site could be used by nesting raptors and other migratory birds for breeding. All nesting raptors and migratory birds are protected by state and federal laws. Therefore, construction activities that adversely affect the nesting success of any raptors and migratory birds (i.e., activities that lead to the abandonment of active nests) or result in mortality of individual birds would constitute a violation of state and federal laws.

**Impact BIO-1:** Development of the proposed project could result in impacts to nesting birds, if present on the site at the time of construction.

**Mitigation Measures:** The following mitigation measures would reduce and/or avoid impacts to nesting birds (if present on or adjacent to the site) to a less than significant level.

**MM BIO-1.1:** The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive).

**MM BIO-1.2:** If demolition and construction cannot be scheduled between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist 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 shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.

**MM BIO-1.3:** If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

**MM BIO-1.4:** Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the City's Director of Planning, Building and Code Enforcement or Director's designee.

With implementation of MM BIO-1.1 through MM BIO-1.4, the project's impact to nesting birds would be less than significant. **(Less than Significant Impact with Mitigation Incorporated)**

Bats

Potentially suitable bat habitat was identified within the site during the April 2019 site visit. Bat access points into the structure adjacent to the site were observed, and palm trees on-site have sufficient skirts to support roosting bats. Thus, it is possible that bats may utilize the site and/or could colonize the site in the future. Impacts to roosting bats would be considered significant.

**Impact BIO-2:** Development of the proposed project could result in impacts to roosting bats if present on the site at the time of construction.

**Mitigation Measures:** The following mitigation measures would reduce and/or avoid impacts to roosting bats (if present on or adjacent to the site) to a less than significant level.

**MM BIO-2.1:** A pre-construction survey for bats shall be conducted by a qualified biologist to determine if the potentially suitable habitat that was observed is occupied. For any areas that cannot be surveyed directly (e.g., palm tree skirts) an emergence survey will be required. Surveys will be conducted during times of the year when bats are volant (March 1st through October 15th). The results of the survey shall be submitted to the City's Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement prior to the issuance of grading and/or building permits.

**MM BIO-2.2:** If a maternity colony is located during the period of April 15th to August 15th, the area shall be avoided by construction activities, and a qualified biologist shall establish an appropriately sized construction buffer. This buffer shall remain in place until the end of the maternity season.

**MM BIO-2.3:** Should a colony or roosting bat be identified on-site outside of the maternity and overwintering seasons (i.e., March 1st-April 15th and August 15th- October 15th, respectively), a two-step passive removal shall occur under the supervision of and with instruction from a qualified biologist. The two-step removal will require that a qualified biologist direct specific demolition actions within the vicinity of the roosting bat/colony to safely render the roosting location less suitable. One day after the partial demolition the biologist will return to the site to verify that the bat/colony has self-relocated off-site. Once such a verification is made, the construction crew will be required to complete the demolition effort immediately (within 24 hours) to ensure bats are absent during demolition. In the event that passive removal is required, verification of compliance with the process described above shall be submitted to the City's Director of Planning, Building, and Code Enforcement or Director's designee.,.

With implementation of MM BIO-2.1 through MM BIO-2.3, the project's impact to roosting bats would be less than significant. **(Less than Significant Impact with Mitigation Incorporated)**

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

There are no riparian habitats on the project site. The nearest riparian habitat to the project site is located within Coyote Creek, approximately ¼-mile (1,200 feet) west of the site. The only habitat types on the project site are developed land and California annual grassland, neither of which are considered suitable for sensitive natural communities.

The project site is located approximately1,200 feet from the Coyote Creek riparian corridor, therefore, the City's Riparian Corridor Protection and Bird-Safe Design Policy (Council Policy 6-

34), which is applicable to projects within 300 feet of a riparian corridor's top of bank or edge of vegetation, is not applicable to the proposed project. The project would not conflict with the Policy 6-34, or have an adverse effect on any riparian habitat, and would not result in a loss of sensitive habitat. The project would therefore not have a substantial adverse effect on any riparian habitat or other sensitive natural communities. **(No Impact)**

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

There are no wetlands on or adjacent to the site.[17] Therefore, the project would not have a substantial adverse effect on state or federally protected wetlands. **(No Impact)**

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

Impacts to migratory birds and roosting bats and applicable mitigation measures are described in the response to checklist question a. The site is surrounded by urban land uses and is not suitable as a migratory wildlife corridor or nursery site for fish or any other wildlife species. 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. **(Less than Significant Impact)**

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

The urban forest consists of planted landscape trees along residential and commercial streets, in landscaped areas at residences, local parks, in parking lots, and at the perimeter of commercial and industrial developments. Within the City of San José, the urban forest is considered an important biological resource because most mature trees provide some nesting, cover, and foraging habitat for a variety of birds (including raptors) and mammals, as well as providing necessary habitat for beneficial insects. Although the urban forest is not the best environment for native wildlife, trees in the urban forest are often the only or the best habitat commonly or locally available within urban areas.

As previously described, there are 28 trees within the project site, 22 of which are classified as ordinance-size trees. The project proposes to remove all of the on-site trees, which would be required to be replaced in accordance with applicable laws, policies or guidelines, including:

- City of San José Tree Protection Ordinance
- San José Municipal Code Section 13.28
- General Plan Policies MS-21.4, MS-21.5, and MS-21.6

[17] U.S. Fish and Wildlife Service. "National Wetlands Inventory." https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/. Accessed July 21, 2020.

In alignment with the laws, policies, and guidelines described above, the project would be required to implement the following standard permit conditions.

**Standard Permit Conditions:**

- **Tree Replacement.** The removed trees would be replaced according to tree replacement ratios required by the City, as provided in Table 4.4-2 below, as amended.

**Table 4.4-2: City of San José Tree Replacement Ratios**

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

[1]As measured 4.5 feet above ground level

[2]X:X = tree replacement to tree loss ratio

[3]Ordinance-sized tree

Notes: Trees greater than or equal to 38 inches in circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For multi-family residential, commercial, and industrial properties, a Tree Removal Permit is required for removal of trees of any size.

A 38-inch tree equals 12.1 inches in diameter.

A 24-inch box tree = two 15-gallon trees.

- Since all 28 trees onsite would be removed, two trees would be replaced at a 5:1 ratio, 20 trees would be replaced at a 4:1 ratio, one tree would be replaced at a 3:1 ratio, three trees would be replaced at a 2:1 ratio, and the remaining two trees would be replaced at a 1:1 ratio. There are three native trees on-site. The total number of replacement trees required to be planted would be 101 trees. The species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.
- In the event the project site does not have sufficient area to accommodate the required tree mitigation, implement one or more of the following measures, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage:
  - The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees.
  - Pay Off-Site Tree Replacement In-lieu Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance with the City Council approved Fee Resolution. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

The conceptual Landscape Plan for the project shows new plantings of several species of trees and shrubs throughout the site, as well as groundcover plants and vines. The project will be required to conform to the tree replacement sizes, quantities and ratios described above. By conforming to the above standard conditions and mitigation measures, the proposed project would also meet all applicable tree removal and tree protection guidelines set forth by the City of San José. Therefore, the proposed project would not conflict with any ordinance protecting biological resources and would not result in a significant impact to trees and the community forest. **(Less than Significant Impact)**

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

The project site has a land cover designation of Urban-Suburban land and the proposed development would be a covered activity under the SCVHP. The project site is not located in a SCVHP survey area for any special-status plant or wildlife species. The SCVHP considers covered activities to result in a certain amount of indirect impacts from urban development, mostly in the form of increased impervious surfaces and from the effects of nitrogen deposition.

Urban development that increases the intensity of land use results in increased air pollutant emissions from passenger and commercial vehicles and other industrial and nonindustrial sources. Emissions from these sources are known to increase airborne nitrogen, of which a certain amount is converted into forms that can fall to earth as depositional nitrogen. It has been shown that increased nitrogen in serpentine soils can favor the growth of nonnative annual grasses over native serpentine species and these nonnative species, if left unmanaged, can overtake the native serpentine species, which are host plants for larval Bay Checkerspot butterfly. As such, covered projects within the SCVHP area are subject to paying a "Nitrogen Deposition Impact Fee" which is calculated based on the number of daily vehicle trips attributed to the activity and collected prior to the commencement of the use.

Consistent with the SCVHP, the proposed project shall implement the following standard permit condition.

**Standard Permit Condition:**

- The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning or Director's designee of the City of San José Department of PBCE for review and shall complete subsequent forms, reports, and/or studies as needed prior to the issuance of grading permits. The SCVHP and supporting materials can be viewed at www.scv-habitatplan.org.

With implementation of the standard permit condition described above, the project would not conflict with the provisions of the SCVHP. **(Less than Significant Impact)**

## 4.5 CULTURAL RESOURCES

This discussion is based in part on an archaeological literature search prepared by *Holman & Associates, Inc*. dated May 7, 2019. The report is available for review at the City of San José Department of Planning, Building, and Code Enforcement.

### 4.5.1 Environmental Setting

#### 4.5.1.1 *Regulatory Framework*

**Federal and State**

National Historic Preservation Act

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

California Register of Historical Resources

The California Register of Historical Resources (CRHR) is administered by the State Office of Historic Preservation and encourages protection of resources of architectural, historical, archeological, and cultural significance. The CRHR identifies historic resources for state and local planning purposes and affords protections under CEQA. Under Public Resources Code Section 5024.1(c), a resource may be eligible for listing in the CRHR if it meets any of the NRHP criteria.[18]

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

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

California Native American Historical, Cultural, and Sacred Sites Act

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

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

Public Resources Code Sections 5097 and 5097.98

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

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

### Local

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes the following policies that are specific to cultural resources and applicable to the proposed project:

**Envision San José 2040 General Plan Relevant Cultural Resources Policies**

| Policy | Description |
|---|---|
| ER-10.1 | For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design. |
| ER-10.2 | Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced. |
| ER-10.3 | Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources. |
| LU-13.8 | Require that new development, alterations, and rehabilitation/remodels adjacent to a designated or candidate landmark or Historic District be designed to be sensitive to its character. |
| LU-13.15 | Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources. |

**Envision San José 2040 General Plan Relevant Cultural Resources Policies**

| Policy | Description |
|---|---|
| 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. |

Historic Preservation Ordinance

The City of San José Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code) is designed to identify, protect, and encourage the preservation of significant resources and foster civic pride in the City's cultural resources. The Historic Preservation Ordinance requires the City to establish a Historic Landmarks Commission, maintain a Historic Resources Inventory (HRI), preserve historic properties using a Landmark Designation process, require Historic Preservation Permits for alterations of properties designated as a Landmark or within a City historic district, and provide financial incentives through a Mills Act Historical Property Contract.

City Council's Development Policy on the Preservation of Historic Landmarks

The City Council's Development Policy on the Preservation of Historic Landmarks (as amended May 23, 2006) calls for preservation of candidate or designated landmark structures, sites, or districts wherever possible. The City also has various historic design guidelines that suggest various methods for the restoration or rehabilitation of older/historic structures and establish a general framework for the evaluation of applications involving historic preservation issues.

#### 4.5.1.2 *Existing Conditions*

The project site is vacant and does not contain any built historical resources. According to the City of San José Historic Resources Inventory, there are no historic resources in the site's immediate vicinity.[19]

In April 2019, *Holman & Associates* conducted an archaeological records search for the project site at the Northwest Information Center of the California Historical Resources Information System. All records of identified archaeological resources within ¼-mile, and all archaeological resources reports for studies within 83 feet (25 meters) of the project site were reviewed. The records search showed that no cultural resources are plotted within the project site. No historic resources or properties listed on federal, state, or local inventories are located within or adjacent to the site. In this portion of San José, Native American sites have been identified within ½-mile of the Guadalupe River and Coyote Creek, and within ¼-mile of their tributaries. The project site is located ¼-mile northeast of Coyote Creek. Additionally, there are nearby Native American sites consisting of a shell midden and a multiple burial location capped by 30 inches of alluvium. Therefore, the project site has a moderate potential for prehistoric surficial archaeological sites and a moderate to high potential for buried sites, depending on the historic flow of Coyote Creek.

The archaeological records search also examined historic-era maps to determine the potential for historical archaeological resources to be present within the site. The site has been historically planted

[19] City of San José. "Historic Resources Inventory." Accessed June 23, 2020. https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/historic-preservation/historic-resources-inventory

with orchards and has remained undeveloped to the present day. Thus, the site has low potential for historic-era archaeological deposits.

### 4.5.2 Impact Discussion

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

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

As described in Section 4.5.1.2 Existing Conditions, no historic resources are located on or adjacent to the project site. The site has a low potential for historic-era archaeological deposits. Therefore, the project would not cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5. **(No Impact)**

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

As stated in Section 4.5.1.2 Existing Conditions, the project site has a moderate potential for surficial archaeological sites and a moderate to high potential for buried sites. The proposed project would require minor excavation on-site to establish utility connections. While no archaeological resources or sites have been identified on the project site, project construction activities have the potential to disturb as-yet undiscovered resources. Any disturbance of these resources would constitute a significant impact.

**Impact CUL-1:** Construction activities could disturb unknown buried archaeological resources associated with prehistoric Native American deposits.

**Mitigation Measures:** Implementing the following mitigation measures, modified from the City's standard permit conditions, would reduce the project's impact on subsurface cultural resources:

**MM CUL-1.1:** **Preliminary Investigation.** The proposed project shall conduct presence/absence exploration for all areas that would be impacted by the project. Subsurface exploration shall be completed prior to any ground

disturbing activities including grading, potholing for utilities, and building foundation removal. If these activities or similar ground-disturbing activities need to be completed prior to presence/absence work, then an archaeological monitor shall be required. As part of this effort, at least one trench shall be mechanically excavated below existing stratigraphic layers to eliminate the potential for Native American deposits and provide a better understanding for potential historic-era soil surfaces.

**MM CUL-1.2:** **Research Design and Work Plan.** If archaeological deposits or features that appear eligible to the California Register are identified during any stage of exploration, and if the project cannot be redesigned to avoid the cultural resource, an archaeological research design and work plan shall be prepared. The plan shall be designed to facilitate archaeological excavation and evaluate any cultural resources discovered by the California Register eligibility criteria to assess if any qualify as historical resources. Should the plan be required, it shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee.

**MM CUL 1-3:** **Evaluation and Documentation**. The project applicant shall notify the Director of Planning 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 grading or other construction 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 Informative center (NWIC), and/or equivalent.

**MM CUL-1.4:** In the event that 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 or Director's designee and Historic Preservation Officer of the Department of Planning, Building and Code Enforcement will be notified, and a qualified archaeologist will examine the find. The archaeologist will 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. If the finds do not meet the definition of a historical or archaeological resources, no further study or protection is necessary prior to project implementation. If the find(s) does meet the definition of a historical or archaeological resource,

then it should be avoided by project activities. Project personnel should not collect or move any cultural material. Fill soils that may be used for construction purposes should not contain archaeological materials.

**MM CUL-1.5:** If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement or the Director's designee and the qualified archaeologist, who will then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American.

**MM CUL-1.6:** If the remains are believed to be Native American, the Coroner shall contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD shall inspect the remains and make a recommendation on the treatment of the remains and associated artifacts.

**MM CUL-1.7:** If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

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

With the implementation of the mitigation measures detailed above, the proposed project would have a less than significant impact to archaeological resources. **(Less than Significant Impact with Mitigation Incorporated)**

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

While the project site does not contain a recognized Native American burial site, or other interred human remains, project construction could disturb as-yet undiscovered human remains. If discovered during construction, human remains could be impacted. Mitigation measure MM CUL-1.1 requires subsurface exploration of the site prior to any grading or ground disturbing activities. Mitigation measures MM CUL-1.3 through CUL-1.5 describe the appropriate process that the project would

adhere to if human remains are discovered during any field investigations, grading, or other construction activities. Adherence to these mitigation measures would ensure the proposed project does not significantly impact human remains. **(Less than Significant Impact with Mitigation Incorporated)**

## 4.6 ENERGY

### 4.6.1 Environmental Setting

#### 4.6.1.1 *Regulatory Framework*

**Federal and State**

Energy Star and Fuel Efficiency

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

Renewables Portfolio Standard Program

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

California Building Standards Code

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6 of the 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.[20] Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[21]

California Green Building Standards Code

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

[20] California Building Standards Commission. "California Building Standards Code." Accessed April 29, 2020. https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo.
[21] California Energy Commission (CEC). "2019 Building Energy Efficiency Standards." Accessed April 29, 2020. https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2019-building-energy-efficiency.

Advanced Clean Cars Program

CARB adopted the Advanced Clean Cars program in 2012 in coordination with the EPA and National Highway Traffic Safety Administration. The program combines the control of smog-causing pollutants and GHG emissions into a single coordinated set of requirements for vehicle model years 2015 through 2025. The program promotes development of environmentally superior passenger cars and other vehicles, as well as saving the consumer money through fuel savings.[22]

**Local**

Greenhouse Gas Reduction Strategy

The City of San José prepared its first Greenhouse Gas Reduction Strategy (GHGRS) in combination with the Envision San José 2040 General Plan Update in 2011, and updated it in 2015. The GHGRS ensures that implementation of the General Plan aligns with the implementation requirements of the California Assembly Bill 32 (AB 32) and follows BAAQMD) thresholds of significance. Since the GHGRS update in 2015, the state has expanded on AB 32 by establishing statewide GHG reduction targets for 2030 through Senate Bill 32 (SB 32), followed by an Executive Order (EO B-55-18) defining a carbon neutrality goal for the state to be achieved by 2045. The GHGRS update (2030 GHGRS) builds on the goals of the previous GHGRS and furthers the strategies embedded in other City plans to align with the state's 2030 GHG reduction targets of SB 32 and with consideration for the state's long-term emissions goal.[23]

The primary purposes of the 2030 GHGRS are as follows:

- Develop an emissions target that is consistent with the state's adopted 2030 GHG target and demonstrates San José fair share reductions toward statewide target achievement;
- Analyze and compare the City's prior inventories (2008 and 2014) with the 2017 GHG inventory, emissions trends over time, and forecasts in comparison to the identified emissions target;
- Identify policies, plans, and programs that will contribute to GHG reductions in the city and achievement of the City's 2030 target, including actions that implement the City's Envision San José 2040 General Plan;
- Provide a roadmap by which the City can reduce its GHG emissions to achieve the identified target by application of a development checklist that identifies clear strategies for GHG reductions that new projects in the city must implement to demonstrate consistency with the 2030 GHGRS; and
- Serve as a GHG reduction plan to streamline GHG emissions analysis of future development and plans within the city, according to CEQA Guidelines Sections 15152, 15183, and 15183.5.

[22] California Air Resources Board. "The Advanced Clean Cars Program." Accessed April 6, 2018. https://www.arb.ca.gov/msprog/acc/acc.htm.
[23] City of San José. "2030 Greenhouse Gas Reduction Strategy". August 2020.

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes strategies, policies, and action items that are incorporated into the City's GHGRS to help reduce GHG emissions. Multiple policies and actions in the General Plan have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings. The General Plan also includes the following policies for the purpose of reducing or avoiding impacts related to the conservation and development of energy resources.

**Envision San José 2040 General Plan Relevant Energy Resources Policies**

| Policy | Description |
|---|---|
| MS-2.2 | Encourage maximized use of on-site generation of renewable energy for all new and existing buildings. |
| MS-2.3 | Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption. |
| MS-2.11 | Require new development to incorporate green building 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). |
| MS-3.1 | Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation or other area functions. |
| MS-5.5 | Maximize recycling and composting from all residents, businesses, and institutions in the City. |
| 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. |
| MS-6.8 | Maximize reuse, recycling, and composting citywide. |
| MS-14.3 | Consistent with the California Public Utilities Commission's California Long Term Energy Efficiency Strategic Plan, as revised and when technological advances make it feasible, require all new residential and commercial construction to be designed for zero net energy use. |
| 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, and passive solar building design and planting of trees and other landscape materials to reduce energy consumption. |
| MS-14.5 | Consistent with State and Federal policies and best practices, require energy efficiency audits and retrofits prior to or at the same time as consideration of solar electric improvements. |

Climate Smart San José

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

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

City of San José Green Building Standards

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)[24], GreenPoint[25], or Build It Green checklist with the development proposal. Private developments are required to implement green building practices if they meet the Applicable Projects criteria defined by Council Policy 6-32 and shown in Table 4.6-1 below.

**Table 4.6-1: Private Sector Green Building Policy Applicable Projects**

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

**Notes:** *For mixed-use projects – only that component of the project triggering compliance with the policy shall be required to achieve the applicable green building standard.
**Source:** City of San José. "Private Sector Green Building." Accessed May 5, 2020. https://www.sanjoseca.gov/your-government/environment/energy/green-building

City of San José Municipal Code

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

[24] Created by the non-profit organization United States Green Building Council, LEED is a certification system that assigns points for green building measures based on a 110-point rating scale.
[25] Created by the California based non-profit organization Build It Green, GreenPoint is a certification system for residential development that assigns points for green building measures based on a 381-point rating scale for multi-family development and 341-point rating scale for single-family developments.

and a Construction and Demolition Diversion Deposit Program that fosters recycling of construction and demolition materials (Chapter 9.10).

Reach Building Code

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

#### 4.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 7,881 trillion British thermal units (Btu) in the year 2017, the most recent year for which this data was available.[26] Out of the 50 states, California is ranked second in total energy consumption and 48th in energy consumption per capita. The breakdown by sector was approximately 18 percent (1,416 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.[27] This energy is primarily supplied in the form of 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.[28]

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

**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

[26] United States Energy Information Administration. "State Profile and Energy Estimates, 2017." Accessed April 30, 2020. https://www.eia.gov/state/?sid=CA#tabs-2.
[27] United States Energy Information Administration. "State Profile and Energy Estimates, 2017." Accessed April 30, 2020. https://www.eia.gov/state/?sid=CA#tabs-2.
[28] California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed May 1, 2020. http://ecdms.energy.ca.gov/elecbycounty.aspx.

imported from other western states and Canada.[29] In 2018, residential and commercial customers in California used 34 percent of the state's natural gas, power plants used 35 percent, the industrial sector used 21 percent, and other uses used 10 percent. Transportation accounted for one percent of natural gas use in California. In 2018, Santa Clara County used approximately 3.5 percent of the state's total consumption of natural gas.[30]

**Fuel for Motor Vehicles**

In 2018, 15.5 billion gallons of gasoline were sold in California.[31] 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 25.5 mpg in 2019.[32] 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. [33,34]

**On-site Energy Use**

The project site is currently vacant. No energy is being used on-site other than from occasional vegetation management/weed removal.

### 4.6.2 Impact Discussion

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

[29] California Gas and Electric Utilities. 2019 *California Gas Report.* Accessed May 1, 2020. https://www.socalgas.com/regulatory/documents/cgr/2019_CGR_Supplement_7-1-19.pdf.
[30] California Energy Commission. "Natural Gas Consumption by County." Accessed May 1, 2020. http://ecdms.energy.ca.gov/gasbycounty.aspx.
[31] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed May 1, 2020. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.
[32] United States Environmental Protection Agency. "The 2019 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." March 2020. https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100YVFS.pdf
[33] United States Department of Energy. *Energy Independence & Security Act of 2007.* Accessed May 1, 2020. http://www.afdc.energy.gov/laws/eisa.
[34] Public Law 110–140—December 19, 2007. *Energy Independence & Security Act of 2007.* Accessed May 1, 2020. http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf.

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

### Construction

The anticipated construction schedule assumes the project would be built out in two phases, with the first phase lasting approximately ten months, and the second phase occurring sometime thereafter. Construction is expected to begin in 2021 and the site is expected to be fully operational by 2023. The project would require site preparation, grading, trenching, building construction, paving, and the building interior. The overall construction schedule and process is designed to be efficient in order to avoid excess monetary costs. That is, equipment and fuel would not be used wastefully on the site because of the added expense associated with renting, maintaining, and fueling equipment.

Per General Plan Policy MS-14.3 and MS-2.11, the project would implement the City's Green Building Policies to ensure that construction of the project meets industry best practices and techniques are applied to maximize energy performance at the construction stage. The City's Zero Waste Strategic Plan would be implemented at a project level to enhance construction and demolition debris recycling, thus increasing diversion from landfills and further contributing to the energy efficiency of the project's construction activities. Therefore, construction of the proposed project would not consume energy in a manner that is wasteful, inefficient, or unnecessary. **(Less than Significant Impact)**

### Operation

Electricity and Natural Gas

The proposed project would increase electricity use at the project site by approximately 689,818 kilowatt-hours per year according to CalEEMod. The proposed office buildings would increase natural gas use at the project site by approximately 605,690 kBtu per year.

The energy use increase is likely overstated, however, because the estimates for energy use do not take into account the efficiency measures which would be incorporated into the project. The project would be subject to energy conservation requirements in the CBC (Title 24, Part 6, of the California Code of Regulations, California's Energy Efficiency Standards for Residential and Nonresidential Buildings) and CALGreen (Title 24, Part 11 of the California Code of Regulations). In addition to CBC requirements, the City of San José has adopted more stringent green building regulations. Adherence to Title 24, the City's Green Building Standards, and Reach Code would ensure that the project would not result in wasteful and inefficient use of non-renewable resources due to building operation.

Transportation Energy

The proposed office/industrial buildings would increase vehicle miles traveled (VMT) by approximately 546,821 VMT annually[35] and 21,444 gallons of vehicle fuel (assuming an average vehicle fuel economy of 25.5 mpg)[36] would be consumed annually as a result of the project. The amount of fuel consumed per year would decrease over time as older vehicles are phased out and more efficient vehicles are used more commonly. Vehicle fuel usage would not be wasteful or unnecessary. As described later in Section 4.17 Transportation, a Transportation Demand Management Plan will be required for the project, in which employees generated by the project would be provided incentives for using transit and ride-sharing as well as provided opportunities to telecommute. **(Less than Significant Impact)**

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

Statewide energy efficiency and renewable energy goals are set forth in the California Renewables Portfolio Standard Program, which is one of California's key programs for advancing renewable energy. The CEC verifies the eligibility of renewable energy procured by all entities serving retail sales of electricity in California, as these entities are obligated to participate and report energy portfolios to the CEC to comply with the Renewables Portfolio Standard Program.[37] Electricity would be provided to the project by SJCE from sources of renewable and carbon-free power including wind, solar, geothermal, and hydroelectric. As described above, SJCE is subject to verification by the CEC as an electricity-providing entity. By sourcing electricity from SJCE, in addition to complying with statewide and local energy efficiency requirements, the project would be compliant with statewide energy goals as set forth in the California Renewables Portfolio Standard Program.

The proposed project would be required to comply with various local policies and regulations adopted to improve energy efficiency in new developments and increase utilization of renewable energy sources, including the City's Green Building Program, Private Sector Green Building Policy, Greenhouse Gas Reduction Strategy, Climate Smart San José, Reach Code and General Plan energy policies. Implementation of local policies and regulations would ensure the project is compliant with regional and statewide energy efficiency and renewable energy plans and policies, such as the California Public Utilities Commission's California Long Term Energy Efficiency Strategic Plan (General Plan Policy MS-14.3), the Model Water Efficient Landscape Ordinance (General Plan Policy MS-3.1), and CALGreen (City of San José Building Code). By adhering to adopted policies and regulations and sourcing electricity from SJCE, the proposed project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. **(Less than Significant Impact)**

[35] 123 employees x 12.18 VMT per employee x 365 days/year = 546,821 VMT/year (see Section 4.17 Transportation)
[36] United States Environmental Protection Agency. "The 2019 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." March
[37] California Energy Commission. "Renewables Portfolio Standard – Verification and Compliance." Accessed June 18, 2020. https://www.energy.ca.gov/programs-and-topics/programs/renewables-portfolio-standard/renewables-portfolio-standard

## 4.7 GEOLOGY AND SOILS

This discussion is based in part on a geotechnical investigation prepared by *Silicon Valley Soil Engineering*, dated May 9, 2019. This report is included in this Initial Study as Appendix C.

### 4.7.1 Environmental Setting

#### 4.7.1.1 *Regulatory Framework*

**State**

Alquist-Priolo Earthquake Fault Zoning Act

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

Seismic Hazards Mapping Act

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

California Building Standards Code

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

California Division of Occupational Safety and Health Regulations

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

Public Resources Code Section 5097.5

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

## Local

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes the following policies that are specific to geology and soils and applicable to the proposed project:

**Envision San José 2040 General Plan Relevant Geology Policies**

| Policy | Description |
|---|---|
| EC-3.1 | Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces. |
| EC-4.1 | Design and build all new or remodeled habitat structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls. |
| EC-4.2 | Development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process. |
| EC-4.4 | Require all new development to conform to the City of San José's Geologic Hazard Ordinance. |
| EC-4.5 | Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 30. |
| ES-4.9 | Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level. |

City of San José Municipal Code

Title 24 of the San José Municipal Code includes the 2019 California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. Requirements for building safety and earthquake hazard reduction are also addressed in Chapter 17.40 (Dangerous Buildings)

and Chapter 17.10 (Geologic Hazards Regulations) of the Municipal Code. Requirements for grading, excavation, and erosion control are included in Chapter 17.04 (Building Code, Part 6 Excavation and Grading). In accordance with the Municipal Code, the Director of Public Works must issue a Certificate of Geologic Hazard Clearance prior to the issuance of grading and building permits within defined geologic hazard zones, including State Seismic Hazard Zones for Liquefaction.

#### 4.7.1.2 *Existing Conditions*

**Regional Geology**

The site lies in the San Francisco Bay Region, which is part of the Coast Range province. The regional structure is dominated by the northwest trending Santa Cruz Mountains to the southwest and the Diablo Range across the bay to the northeast. The site lies on the east flank of the Santa Cruz Mountains on a thin layer of Holocene alluvial deposits overlying the Merced formation, Lower Pleistocene, and Upper Pliocene marine deposits.

**Soil and Groundwater**

Subsurface soil conditions were explored by drilling three borings to depths ranging from approximately five to 50 feet below existing site grade during a site reconnaissance in May 2019. The results from the exploratory boring show that surface soils consist of four inches of organic material while the subsurface soil material to the depth of 50 feet consists of a medium brown, moist, stiff to very stiff silty clay. Color changes of brown, tan brown, black, bluish gray, dark gray, and olive brown were noted at depths of five feet, 10 feet, 16 feet, 20 feet, 30 feet, and 38 feet, respectively. Based on the Plasticity Index of the on-site soils (less than 12 percent), the soils have a low to very low expansion potential.[38]

Groundwater was initially encountered at the depth of 15 feet and rose to a static level of 11 feet at the end of the drilling operation. It should be noted that the groundwater level would fluctuate as a result of seasonal changes and hydrogeological variations such as groundwater pumping and/or recharging. The highest expected groundwater level is less than 10 feet below ground elevation (California Geological Survey Seismic Hazard Zone Report 058). Thus, the depth of the groundwater table at five feet was used for the liquefaction analysis.

**Seismicity and Seismic Hazards**

The San Francisco Bay Area is classified as the most seismically active region in the United States. Based on a 2015 forecast completed by the USGS, there is a 72 percent probability of experiencing at least one magnitude 6.7 earthquake during the next 30 years.[39] Seven major faults are located near the site: the Monte Vista-Shannon fault, the San Andreas fault, the Calaveras fault, the Hayward fault, the Zavante-Vergeles fault, the Greenville fault, and the Mount Diablo Thrust fault. The faults with the greater probability of a magnitude 6.7 or higher earthquake are the Hayward fault at 31

[38] Robert W. Day. *Geotechnical Engineer's Portable Handbook*. 2001. Table 12.2.
[39] United States Geological Survey. *Earthquake Outlook for the San Francisco Bay Region 2014–2043*. Revised August 2016. Accessed May 18, 2020. https://pubs.usgs.gov/fs/2016/3020/fs20163020.pdf.

percent and the San Andreas fault at 21 percent. The project site is not within a County or State earthquake hazard zone for any of the faults described above.[40]

Liquefaction, Landslides, and Lateral Spreading

The site is not within a landslide hazard zone but is within a State seismic liquefaction zone.[40] The screening criteria of liquefaction susceptibility states that silts, sands, and clay with a Plasticity Index (PI) less than 12 and moisture content greater than 85 percent are susceptible to liquefaction. The soil material on the project site was evaluated for its liquefaction susceptibility. The stiff silty clay layer from the surface to the depth of five feet is not susceptible to liquefaction because it is above the highest expected groundwater table (five feet). The stiff silty clay layer from the depths of five feet to the 50 feet is also not susceptible to liquefaction because the PI and moisture content were found to be below the screening levels. Thus, there is no suspected liquefiable soil layer and the potential of liquefaction at the project site is minimal.

Lateral spreading is a liquefaction-related ground failure consisting of horizontal movement of soil deposits toward a free face such as a channel or excavation. Lateral spreading is typically associated with liquefaction of one or more subsurface layers near the base of an exposed slope. The project site is not located adjacent to any exposed slopes or embankments and is not susceptible to liquefaction; therefore, the risk of lateral spread occurring at the site is low.

**Paleontological Resources**

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

### 4.7.2 Impact Discussion

| | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|---|---|---|---|---|
| Would the project: | | | | |
| a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving: | | | | |
| – Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42)? | ☐ | ☐ | ☒ | ☐ |
| – Strong seismic ground shaking? | ☐ | ☐ | ☒ | ☐ |
| – Seismic-related ground failure, including liquefaction? | ☐ | ☐ | ☒ | ☐ |

[40] Santa Clara County Department of Planning and Development. *Geologic Hazard Zones Map.* Accessed May 18, 2020. https://sccplanning.maps.arcgis.com/home/index.html

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

| | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|---|---|---|---|---|
| Would the project: | | | | |
| – Landslides? | ☐ | ☐ | ☒ | ☐ |
| b) Result in substantial soil erosion or the loss of topsoil? | ☐ | ☐ | ☒ | ☐ |
| c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse? | ☐ | ☐ | ☒ | ☐ |
| d) Be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property? | ☐ | ☐ | ☒ | ☐ |
| e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater? | ☐ | ☐ | ☐ | ☒ |
| f) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature? | ☐ | ☐ | ☒ | ☐ |

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

### Fault Rupture

The project is not located within an Alquist-Priolo Earthquake Fault Zone. Therefore, the potential for fault rupture to occur at the site is low. **(Less than Significant Impact)**

### Seismic Ground Shaking

The project site is in the seismically active San Francisco Bay Area, which has a 72 percent probability of experiencing at least one magnitude 6.7 earthquake during the next 30 years. Earthquake faults in the region, specifically the San Andreas and Hayward faults, are capable of generating earthquakes larger than 7.0 in magnitude. As discussed above in Section 4.7.1.2 Existing Conditions there are seven major faults located near the project site, including the San Andreas and Hayward faults. The project site would experience intense ground shaking in the event of a large earthquake.

In accordance with the City's General Plan and Municipal Code, and to avoid or minimize potential damage from seismic shaking, the proposed development would be built using standard engineering and seismic safety design techniques. All earthwork including, grading, backfilling, foundation excavation will be observed and inspected by a geotechnical engineer. The project shall implement the following standard permit condition as a condition of approval.

**Standard Permit Condition:**

- To avoid or minimize potential damage from seismic shaking, the project would be built using standard engineering and seismic safety design techniques. Building design and construction at the site will 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 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.
- Schedule all excavation and grading work in dry weather months or weatherize construction sites.
- Cover stockpiles and excavated soils with secured tarps or plastic sheeting.

  Install ditches to divert runoff around excavations and graded areas if necessary.
- Construct the project in accordance with standard engineering practices in the California Building Code, as adopted by the City of San José. Obtain a grading permit from the Department of Public Works 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.

With implementation of the above standard permit condition, the proposed project would not expose people or structures to substantial adverse effects due to ground shaking; nor would the project exacerbate existing geological hazards on the project site such that it would impact (or worsen) off-site geological and soil conditions. **(Less than Significant Impact)**

### Liquefaction

As previously stated above in Section 4.7.1.2 Existing Conditions, the project site is located in a State seismic liquefaction zone. However, analysis of the PI and moisture content of soil samples obtained on-site determined that the soil on the project site has a low susceptibility to liquefaction. Implementation of the above standard permit condition would further reduce the risk of liquefaction on-site. Therefore, the proposed project would not expose people or structures to substantial adverse effects due to liquefaction. **(Less than Significant Impact)**

### Landslides

The project site is not within any landslide hazard zones. The site is located on relatively flat, stable terrain on the floor of the Santa Clara Valley. There are no hillsides or areas of differential elevation

nearby and there is minimal risk of a landslide affecting or being exacerbated by the proposed development. **(Less than Significant Impact)**

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

Construction of the proposed project would disturb the ground and expose soils, thereby increasing the potential for wind- or water-related erosion and sedimentation at the site until the completion of construction. The Construction General Permit and the City's Municipal Code and urban runoff policies (which are discussed in Section 4.10 Hydrology and Water Quality of this Initial Study) are the primary means of enforcing erosion control measures. The City would require the project to comply with all applicable State and City regulatory programs pertaining to construction-related erosion, including the following standard permit conditions.

**Standard Permit Conditions:**

- Schedule all excavation and grading work in dry weather months or weatherize construction sites.
- Cover stockpiles and excavated soils with secured tarps or plastic sheeting.
- Install ditches to divert runoff around excavations and graded areas if necessary.

Because the proposed project would comply with the identified standard permit conditions above and with the standard conditions identified in response to Question a) and applicable State and City policies related to erosion control, the proposed project would result in a less than significant erosion impact. **(Less than Significant Impact)**

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

As discussed in the response to checklist question a, the soils on the project site have low susceptibility to liquefaction and the site is not in a landslide hazard zone. The project site would be required to adhere to the recommendations set forth in the design-level geotechnical investigation for building design, engineering techniques, and general hazard avoidance related to on-site geologic conditions. For these reasons, future development at the project site would adequately address and reduce potential impacts that could result from unstable geologic units or soil. **(Less than Significant Impact)**

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

The expansion potential of the soils on-site is low, as described in Section 4.7.1.2 Existing Conditions. Nonetheless, the project shall implement the following standard permit condition as a condition of approval.

**Standard Permit Condition:**

- Construct the project in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. Obtain a grading permit from the San José Department of Public Works 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.

By implementing the above standard permit condition, the project would not exacerbate existing hazards posed by soil conditions on the project site, including expansive soils, and would not create substantial risks to life and property. **(Less than Significant Impact)**

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

The project site is located within an urbanized area of San José, and the existing sewer system is available to dispose of wastewater generated by the project. Therefore, development of the site would not require the use of septic tanks or alternative wastewater disposal systems. **(No Impact)**

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

The project site is located in an area of high paleontological sensitivity at depth, but not high sensitivity at the ground surface. The project does not propose any underground parking or other substantial below-ground excavation and it is not expected that paleontological resources would be encountered during project construction. Nonetheless, project construction activities could impact paleontological resources if they are encountered. The project shall implement the following standard permit condition as a condition of approval.

**Standard Permit Condition:** The following condition shall be adhered to during development of the project site to reduce and/or avoid impacts to paleontological resources:

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

Implementation of the above standard permit condition, in accordance with General Plan policies, would ensure that the proposed project would not significantly impact paleontological resources. **(Less than Significant Impact)**

## 4.8 GREENHOUSE GAS EMISSIONS

The following discussion is based, in part, on a greenhouse gas assessment prepared for the project in December, 2020 by *Illingworth & Rodkin, Inc*., and on a Greenhouse Gas Reduction Strategy Compliance Checklist prepared by the project applicant. Copies of the report and checklist are included in Appendix A of this Initial Study.

### 4.8.1 Environmental Setting

#### 4.8.1.1 *Background Information*

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

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

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

#### 4.8.1.2 *Regulatory Framework*

**Federal**

Clean Air Act

The EPA is the federal agency responsible for implementing the Clean Air Act. The U.S. Supreme Court in its 2007 decision in Massachusetts et al. v. Environmental Protection Agency et al., ruled that CO2 is an air pollutant as defined under the Clean Air Act, and that EPA has the authority to regulate emissions of GHGs. Following the court decision, EPA has taken actions to regulate, monitor, and potentially reduce GHG emissions (primarily mobile emissions).

**State**

Assembly Bill 32

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

In 2016, SB 32 was signed into law, amending the California Global Warming Solution Act. SB 32, and accompanying Executive Order B-30-15, require CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its Climate Change Scoping Plan in December of 2017 to express the 2030 statewide target in terms of million metric tons of $CO_2E$ ($MMTCO_2e$). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 $MMTCO_2e$.

Senate Bill 375

SB 375, known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. SB 375 builds upon AB 32 by requiring CARB to develop regional GHG reduction targets for automobile and light truck sectors for 2020 and 2035, as compared to 2005 emissions levels. The per-capita GHG emissions reduction targets for passenger vehicles in the San Francisco Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.

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

## Regional

2017 Clean Air Plan

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

CEQA Air Quality Guidelines

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

## Local

Envision San José 2040 General Plan and Greenhouse Gas Reduction Strategy

The General Plan includes strategies, policies, and action items that are incorporated into the City's GHG Reduction Strategy (GHGRS) to help reduce GHG emissions. Multiple policies and actions in the General Plan have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings. The GHGRS is intended to meet the mandates outlined in the BAAQMD CEQA Air Quality Guidelines, as well as the BAAQMD requirements for Qualified GHG Reduction Strategies.

The City's GHGRS identifies GHG emissions reduction measures to be implemented by development projects as part of 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 and could be incorporated as mitigation measures for proposed projects, at the City's discretion. The GHGRS was first adopted by City Council in 2015 and was updated in 2020. The 2030 GHGRS, approved in November 2020 by the City Council, is a comprehensive update to the city's original GHGRS and reflects the plans, policies, and codes as approved by the City Council. The strategy builds on the City's Envision San José 2040 General Plan and Climate Smart San José, which expanded the City's Green Vision to advance the City towards urban sustainability. The 2030 GHGRS is a comprehensive update to the City's original GHGRS and reflects the plans, policies, and codes that the City of San José has adopted to achieve a 2030 GHG target consistent with the state's SB 32 reduction goal.

The primary test for consistency with the City's GHGRS is conformance with the General Plan Land Use / Transportation Diagram and supporting policies. CEQA clearance for development proposals are required to address the consistency of individual projects with the goals and policies in the General Plan designed to reduce GHG emissions. Compliance with the mandatory measures and voluntary measures (if required by the City) would ensure an individual project's consistency with the GHGRS. Projects that are consistent with the GHGRS would have a less than significant impact

related to GHG emissions through 2030 and would not conflict with targets in the Climate Change Scoping Plan through 2030.

The following General Plan policies are related to GHG emissions and are applicable to the proposed project:

**Envision San José 2040 General Plan Relevant Greenhouse Gas Policies**

| Policy | Description |
|---|---|
| Action 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). |
| 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. |

City of San José Municipal Code

The City's Municipal Code includes the following regulations designed to reduce GHG emissions from development:

- Green Building Ordinance (Chapter 17.84)
- Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10)
- Construction and Demolition Diversion Deposit Program (Chapter 9.10)
- Wood Burning Ordinance (Chapter 9.10)

San José Transportation Analysis Policy (Council Policy 5-1)

This policy, which was adopted in 2018, changed the methodology for the evaluation of traffic impacts of all projects from a delay-based metric (i.e., level of service) to one based on vehicle-miles-traveled (VMT). The intent of the policy is to reduce the emission GHGs and other pollutants associated with vehicular travel. Please see Section 4.17 Transportation for a detailed discussion of this policy and its applicability to the proposed project.

Climate Smart San José

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

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

Reach Building Code

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

#### 4.8.1.3 *Existing Conditions*

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

The project site is currently vacant and undeveloped. Existing GHG generation from the project site is assumed to be insignificant.

### 4.8.2 Impact Discussion

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

#### 4.8.2.1 *BAAQMD Significance Thresholds*

The BAAQMD's CEQA Air Quality Guidelines do not use quantified thresholds for projects that are in a jurisdiction with a qualified adopted GHG reductions plan (i.e., a Climate Action Plan). Such a qualified Climate Action Plan should address emissions reductions with the associated period that the

project would operate (e.g., beyond year 2020). As described previously, the City recently updated its GHG Reduction Strategy to account for GHG emissions reduction targets through 2030. Projects which would not be fully operational prior to 2030 would require quantification of GHG emissions and comparison to a service population threshold which reflects a future emissions reduction target.

For quantified emissions, the guidelines recommended a GHG threshold of 1,100 MT or 4.6 MT per capita. These thresholds were developed based on meeting the 2020 GHG targets set in the scoping plan that addressed AB 32. Development of the project would occur beyond 2020, so a threshold that addresses a future target is appropriate. Although BAAQMD has not published a quantified threshold for 2030 yet, this assessment uses a "Substantial Progress" efficiency metric of 2.6 MT $CO_2e$/year/service population, consistent with the GHG reduction goals of EO B-30-15 and EO S-3-05 to reduce GHG emissions by 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050, respectively. This service population threshold is calculated for 2030 based on the GHG reduction goals of SB 32/EO B-30-15, taking into account the 1990 inventory and the projected 2030 statewide population and employment levels.[42]

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

GHG emissions associated with development of the proposed project would occur over the short-term from construction activities, consisting primarily of emissions from equipment exhaust and worker and vendor trips. There would also be long-term operational emissions associated with vehicular traffic, energy and water usage, and solid waste disposal. Emissions for the proposed project are discussed below and were analyzed using the methodology recommended in the BAAQMD CEQA Air Quality Guidelines.

**Construction Emissions**

The proposed development would result in minor increases in GHGs associated with construction activities, including operation of construction equipment and emissions from construction workers' personal vehicles traveling to and from the construction site. Construction-related GHG emissions vary depending on the level of activity, length of construction period, types of equipment, etc. The California Emissions Estimator Model (CalEEMod) was used to quantify the project's construction emissions. Construction of the project, including on-site operation of construction equipment, vendor and hauling truck trips, and worker trips, would generate approximately 113 MT of $CO_2e$. Neither the City nor BAAQMD have an adopted threshold of significance for construction-related GHG emissions, although BAAQMD recommends quantifying emissions and disclosing that GHG emissions would occur during construction. BAAQMD also encourages the incorporation of best management practices to reduce GHG emissions during construction where feasible and applicable. Best management practices assumed to be incorporated into construction of the project include but are not limited to using local building materials (at least ten percent) and recycling or reusing at least 50 percent of construction waste or demolition materials. Because project construction would be temporary and would not result in a permanent increase in GHG emissions that would interfere with

[42] Association of Environmental Professionals, 2016. *Beyond 2020 and Newhall: A Field Guide to New CEQA Greenhouse Gas Thresholds and Climate Action Plan Targets for California*. April 2016.

the implementation of SB 32, the increase in emissions would be considered less than significant. **(Less than Significant Impact)**

**Operational Emissions**

As previously discussed, the recently-adopted 2030 GHGRS uses Envision San José 2040 General Plan land use designations as the basis from which to prepare its emissions forecasts. As the project is consistent with the General Plan land use designations for the site, GHG emissions generated by the project would be covered by the 2030 GHGRS, which is considered a qualified Climate Action Plan. On a qualitative basis, the project's emissions would be considered less than significant, given they are covered by a qualified Climate Action Plan. Nevertheless, the project's emissions were quantified, since at the time the analysis was initiated, the City had not yet adopted the 2030 GHGRS. Therefore, this discussion also presents a quantitative discussion of the project's emissions.

*Illingworth & Rodkin, Inc*. completed an individual assessment the project's GHG emissions through 2030 to determine if the project would exceed the applicable adjusted thresholds for 2030. As with construction emissions, CalEEMod was used to estimate operational emissions of the project. The CalEEMod model, along with the project vehicle trip generation rates, was used to estimate daily emissions associated with operation of the fully developed site under the proposed project. As shown in Table 4.8-1, the net annual emissions resulting from operation of the proposed project are predicted to be 339 MT of CO2e in 2030 (373 MT of CO2e in 2023). The service population emission for 2030 is predicted to be 4.1 MT/CO2e/year/service population (4.5 in 2023).

**Table 4.8-1: Operational GHG Emissions**

| Source Category | Annual Project Emissions ($CO_2e$) in Metric Tons |
|---|---|
| | **2030** |
| Area | 0 |
| Energy Consumption | 90 |
| Mobile | 224 |
| Solid Waste Generation | 9 |
| Water Usage | 16 |
| Total Net Emissions (MT $CO_2e$/yr) | 339 |
| ***Bright-line Significance Threshold*** | ***660*** |
| Service Population Emissions | 4.1 |
| ***Per Capita Significance Threshold*** | ***2.6*** |
| ***Exceeds both Thresholds?*** | ***No*** |

As shown in Table 4.8-1, the total net emissions for the project (339) would not exceed the 660 MT $CO_2e$/year bright-line threshold in 2030. As a result, the project is not considered to be a significant source of GHG emissions. To be considered an exceedance, the project must exceed both the GHG

significance threshold in metric tons per year and the service population significance threshold. As shown in Table 4.8-1, the project would not exceed the 660 MT CO2e/year bright-line threshold in 2030 but would exceed the per capita threshold of 2.6 MT of CO2e/year/service population in 2030. As a result, the project is not considered to be a significant source of GHG emissions. **(Less than Significant Impact)**

It is noted the impact of new development on GHG emissions was addressed in the *Envision San José 2040 General Plan Draft Program EIR*. The City of San José concluded that the build-out of the 2040 General Plan would have significant and unavoidable GHG emissions beyond 2020. Therefore, this project would not contribute or result in a new GHG impact that has not already been identified.

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

### CARB

The proposed project would not conflict or otherwise interfere with the statewide GHG reduction measures identified in CARB's Scoping Plan. For example, proposed buildings would be constructed in conformance with CALGreen and the Title 24 Building Code, which requires high-efficiency water fixtures and water-efficient irrigation systems.

### Envision San José 2040 General Plan

The project is consistent with the General Plan policies identified in Section 4.8.1.2 Regulatory Framework to reduce GHG emissions by:

- Constructing in accordance with CALGreen and Title 24
- Planting trees for shade
- Providing bicycle parking on-site
- Implementing a TDM plan to mitigate VMT impact

Additionally, the project site is served by existing pedestrian, bicycle, and transit facilities with regional connections. The alternative modes of transportation available in the area would help reduce GHG emissions. The proposed project would be consistent with the City's General Plan policies intended to reduce GHG emissions.

For these reasons, the project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs. **(Less Than Significant Impact)**

### 2030 Greenhouse Gas Reduction Strategy Compliance Checklist

BAAQMD adopted revised CEQA Air Quality Guidelines on June 2, 2010 and then adopted a modified version of the Guidelines in May 2017. The BAAQMD CEQA Air Quality Guidelines include thresholds of significance for GHG emissions. Pursuant to the latest CEQA Air Quality Guidelines, a local government may prepare a Qualified Greenhouse Gas Reduction Strategy (GHGRS) that is consistent with AB 32 goals. The City of San José adopted the updated 2030

GHGRS in 2020. If a project is consistent with the City's GHGRS, it can be presumed that the project would not have significant GHG emissions under CEQA.

The 2030 GHGRS identifies required General Plan policies and strategies to be implemented by development projects in the areas of green building/energy use, multimodal transportation, water conservation, and solid waste reduction. Compliance with these mandatory policies and strategies and any voluntary measures proposed by the project ensure a project's consistency with the GHG Reduction Strategy. The proposed project's consistency with these measures is detailed below. A copy of the 2030 GHGRS Compliance Checklist is included in Appendix A of this Initial Study.

Table A: General Plan Consistency

Table A of the GHGRS lists the following four criteria with which a project can be compared for compliance:

1. Consistency with the Land Use/Transportation Diagram (Land use and Density)

2. Implementation of Green Building Measures (General Plan Policies: MS-2.2, MS-2.3, MS-2.7, MS-2.11, and MS-16.2)

3. Pedestrian/Bicycle Site Design Measures (General Plan Policies: CD-2.1, CD-2.5, CD-2.11, CD3.2, CD-3.4, LU-3.5, TR-2.8, TR-7.1, and TR-8.5)

4. Water Conservation and Urban Forestry Measures (General Plan Policies: MS-3.1, MS-3.2, MS19.4, MS-21.3, MS-26.1, and ER-8.7)

The project is consistent with the *IP Industrial Park* General Plan designation. Therefore, the proposed project would be consistent with criteria 1.

The proposed project would be required to comply with Policy 6-32, the City's Green Building Ordinance, and CBC requirements as well as General Plan Action MS-2.11 which requires development to incorporate green building practices through construction, architectural design, and site design techniques. The project would be designed to achieve LEED Applicable New Construction Checklist certification and would be designed to be Reach Code compliant. Additionally, the project would comply with the City's climate action goals as set forth in Climate Smart San José. The project would therefore be consistent with criteria 2.

The project would be consistent with Policy CD-2.5 by incorporating LID-based stormwater treatment measures on-site and minimizing impervious surfaces to the extent feasible. Policy CD-2.11 is not applicable, as the project is not located within the Downtown or Urban Village boundaries. As discussed in Section 4.17 Transportation, the proposed would not substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections). The project driveway would meet the AASHTO minimum stopping sight distance standards. The existing pedestrian and bicycle facilities provide adequate connectivity and safe routes to the surrounding destinations. Consistent with Policies CD-3.2 and LU-3.5, the project provides pedestrian access to the existing transit stop adjacent to the site on Oakland Road, as well as bicycle access to the existing and planned bike lanes on Oakland Road adjacent to the site. Bicycle parking

(consistent with Table 20-90 of the City's Municipal Code) is proposed as part of the project. Consistent with Policy TR-7.1, the project will be required to develop a transportation demand management (TDM) plan for the purpose of mitigating VMT impacts. The measures recommended for inclusion in the TDM plan by the *Hexagon* transportation analysis include the provision of end of trip bicycle facilities, which would consist of short term (bike racks) and long-term (bike lockers) bicycle facilities to encourage bicycle use among employees and reduce vehicle trips. This would be consistent with Policy TR-2.8. Policy CD-3.4 is not applicable to the project given the configuration of the site and adjacent structures. The project would not participate in any car-share programs, but will reduce vehicle trips via other measures, as recommended in the required TDM plan. (Policy TR-8.5). The project would be consistent with criteria 3.

The project would comply with General Plan Policy MS-3.1 which requires projects to provide water-efficient landscaping. The project does not propose the use of captured rainwater, graywater, or recycled water. As mentioned above, the project would be required to comply with Policy 6-32, the City's Green Building Ordinance, General Plan Action MS-2.11, and the most recent CBC requirements. Any tree removed as a result of the project would be required to be replaced in accordance with all applicable laws, policies or guidelines. The project does not propose to install rain barrels, cisterns, or other water storage and reuse facilities. For these reasons, the project would be consistent with criteria 4.

Table B: 2030 Greenhouse Gas Reduction Strategy Compliance

Table B describes a project's compliance with the following GHGRS strategies:

> *GHGRS #1*: The City will implement the San José Clean Energy program to provide residents and businesses access to cleaner energy at competitive rates.
>
> *GHGRS #2*: The City will implement its building reach code ordinance (adopted September 2019) and its prohibition of natural gas infrastructure ordinance (adopted October 2019) to guide the city's new construction toward zero net carbon (ZNC) buildings.
>
> *GHGRS #3:* The City will expand development of rooftop solar energy through the provision of technical assistance and supportive financial incentives to make progress toward the Climate Smart San José goal of becoming a one-gigawatt solar city.
>
> *GHGRS #4:* The City will support a transition to building decarbonization through increased efficiency improvements in the existing building stock and reduced use of natural gas appliances and equipment.
>
> *GHGRS #5*: As an expansion to Climate Smart San José, the City will update its Zero Waste Strategic Plan and reassess zero waste strategies. Throughout the development of the update, the City will continue to divert 90 percent of waste away from landfills through source reduction, recycling, food recovery and composting, and other strategies.
>
> *GHGRS #6*: The City will continue to be a partner in the Caltrain Modernization Project to enhance local transit opportunities while simultaneously improving the city's air quality.

*GHGRS #7*: The City will expand its water conservation efforts to achieve and sustain long-term per capita reductions that ensure a reliable water supply with a changing climate, through regional partnerships, sustainable landscape designs, green infrastructure, and water-efficient technology and systems.

Table 4.8-2 below describes the proposed project's compliance with Table B of the 2030 GHGRS.

**Table 4.8-2: Table B of GHGRS Compliance Checklist**

| GHGRS Strategy and Consistency Options | Description of Project Measure | Project Conformance |
|---|---|---|
| **Part 1: Residential Projects Only** | | |
| **Zero Net Carbon Residential Construction**<br>1. Achieve/exceed the City's Reach Code, and<br>2. Exclude natural gas infrastructure in new construction, or<br>3. Install on-site renewable energy systems or participate in a community solar program to offset 100% of the project's estimated energy demand, or<br>4. Participate in San José Clean Energy at the Total Green level (i.e., 100% carbon-free electricity) for electricity accounts associated with the project until which time SJCE achieves 100% carbon-free electricity for all accounts.<br>**Supports Strategies:** GHGRS #1, GHGRS #2, GHGRS #3 | The project would comply with project consistency options 1 and 2. The proposed project would be required to comply with the reach code which aligns with Climate Smart San José goals. In addition, all new development (including the proposed project) would be required to be designed for energy efficiency and conservation per Climate Smart San José. The project would comply with Building Energy Efficiency Standards (Title 24), the City's REACH code, and the City's Green Building Ordinance and the most recent CALGreen requirements. The proposed project would be designed to achieve LEED Applicable New Construction Checklist certification | ☐ Alternative Measure Proposed<br>☐ Proposed<br>☐ Not Applicable<br>☒ Not Feasible<br>☐ Alternative Measure Proposed |
| **Part 2: Residential and Non-Residential Projects** | | |
| **Renewable Energy Development**<br>1. Install solar panels, solar hot water, or other clean energy power generation sources on development sites, or | Installation of solar panels, solar hot water, or other clean energy power generation sources onsite would not feasible for this project. The project would be designed to orient buildings on | ☐ Proposed<br>☐ Not Applicable<br>☒ Not Feasible |

| Table 4.8-2: Table B of GHGRS Compliance Checklist | | |
|---|---|---|
| **GHGRS Strategy and Consistency Options** | **Description of Project Measure** | **Project Conformance** |
| 2. Participate in community solar programs to support development of renewable energy in the community, or<br>3. Participate in San José Clean Energy at the Total Green level (i.e., 100% carbon-free electricity) for electricity accounts associated with the project.<br>**Supports Strategies:** GHGRS #1, GHGRS #3 | sites to maximize the effectiveness of passive solar design. | ☐ Alternative Measure Proposed |
| **Building Retrofits – Natural Gas**<br>This strategy only applies to projects that include a retrofit of an existing building. If the proposed project does not include a retrofit, select "Not Applicable" in the Project Conformance column.<br>1. Replace an existing natural gas appliance with an electric alternative (e.g., space heater, water heater, clothes dryer), or<br>2. Replace an existing natural gas appliance with a high-efficiency model<br>**Supports Strategies:** GHGRS #4 | The project would not comply with any of the listed project consistency options. The project does not propose to retrofit an existing building. | ☐ Proposed<br>☒ Not Applicable<br>☐ Not Feasible<br>☐ Alternative Measure Proposed |
| **Zero Waste Goal**<br>1. Provide space for organic waste (e.g., food scraps, yard waste) collection containers, and/or | The project would comply with project consistency option 1. The project will provide on-site recycling facilities, including space for organic waste (e.g., | ☒ Proposed<br>☐ Not Applicable<br>☐ Not Feasible<br>☐ Alternative Measure Proposed |

| Table 4.8-2: Table B of GHGRS Compliance Checklist | | |
|---|---|---|
| **GHGRS Strategy and Consistency Options** | **Description of Project Measure** | **Project Conformance** |
| 2. Exceed the City's construction & demolition waste diversion requirement.<br>**Supports Strategies:** GHGRS #5 | food scraps, yard waste) collection containers. | |
| **Caltrain Modernization**<br>1. For projects located within ½ mile of a Caltrain station, establish a program through which to provide project tenants and/or residents with free or reduced Caltrain passes or<br>2. Develop a program that provides project tenants and/or residents with options to reduce their vehicle miles traveled (e.g., a TDM program), which could include transit passes, bike lockers and showers, or other strategies to reduce project related VMT.<br>**Supports Strategies:** GHGRS #6 | The project would comply with project consistency option 2. The site is not located within 0.5-mile of Caltrain. The project would include bicycle racks and bicycle storage facilities. | ☒ Proposed<br>☐ Not Applicable<br>☐ Not Feasible<br>☐ Alternative Measure Proposed |
| **Water Conservation**<br>1. Install high-efficiency appliances/fixtures to reduce water use, and/or include water-sensitive landscape design, and/or<br>2. Provide access to reclaimed water for outdoor water use on the project site | The project would comply with project consistency option 1.<br><br>As mentioned previously, the project proposes to achieve LEED Applicable New Construction Checklist certification which requires outdoor water use reduction (water efficiency). Additionally, the project would comply with the Policy 6-32 which requires that applicable projects achieve minimum green building | ☒ Proposed<br>☐ Not Applicable<br>☐ Not Feasible<br>☐ Alternative Measure Proposed |

| Table 4.8-2: Table B of GHGRS Compliance Checklist | | |
|---|---|---|
| **GHGRS Strategy and Consistency Options** | **Description of Project Measure** | **Project Conformance** |
| | performance levels using the Council adopted standards. In addition, the project would include water efficient plumbing fixtures. | |

The proposed project would be mostly consistent with most applicable GHGRS strategy and consistency options intended to reduce GHG emissions. **(Less Than Significant Impact)**

By conforming to the GHG reduction measures of CARB's Scoping Plan and implementing HG emissions reduction measures contained in the 2030 GHGRS, the project would not conflict with any applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs. **(Less than Significant Impact)**

## 4.9 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based on a Phase I Environmental Site Assessment (ESA), dated July 10, 2019, and a Soil Quality Investigation report, dated June 9, 2020, prepared for the project site by *Geologica, Inc*. The reports are included in this Initial Study as Appendices D1 and D2, respectively.

### 4.9.1 Environmental Setting

#### 4.9.1.1 *Regulatory Framework*

**Overview**

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and state laws. Federal regulations and policies related to development include the Comprehensive Environmental Response, Compensation, and Liability Act, commonly known as Superfund, and the Resource Conservation and Recovery Act. In California, the EPA has granted most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (CalEPA). In turn, local agencies have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program.

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

**Federal and State**

Federal Aviation Regulations Part 77

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

Government Code Section 65962.5

Section 65962.5 of the Government Code requires CalEPA to develop and update a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by state and local agencies and developers to comply with CEQA requirements. The Cortese List includes hazardous

substance release sites identified by the Department of Toxic Substances Control (DTSC) and State Water Resources Control Board (SWRCB).[43]

California Accidental Release Prevention Program

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

**Regional and Local**

Norman Y. Mineta San José International Airport Comprehensive Land Use Plan

The Norman Y. Mineta San José International Airport is located approximately 2.0 miles southwest of the project site. Development within the Airport Influence Area (AIA) can be subject to hazards from aircraft and pose hazards to aircraft traveling to and from the airport. The County of Santa Clara Airport Land Use Commission (ALUC) adopted an Airport Comprehensive Land Use Plan (CLUP) in October of 2010, amended November 16, 2016, to address these potential hazards and establish review procedures for potentially incompatible land uses.

The AIA is a composite of areas surrounding the airport that are affected by noise, height and safety considerations. These hazards are addressed in federal and state regulations as well as in land use regulations and policies in the CLUP. The CLUP set standards focused on three areas of ALUC responsibility: noise, objects in navigable airspace, and the safety of persons on the ground and in aircraft. Projects within the AIA are subject to an additional level of review by the City to determine how policies established in the CLUP may impact the proposed development.

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes the following policies that are specific to hazards and hazardous materials and applicable to the proposed project:

**Envision San José 2040 General Plan Relevant Hazards Policies**

| Policy | Description |
|---|---|
| EC-7.1 | For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment. |
| EC-7.2 | Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards. |

[43] CalEPA. "Cortese List Data Resources." Accessed April 27, 2020. https://calepa.ca.gov/sitecleanup/corteselist.

**Envision San José 2040 General Plan Relevant Hazards Policies**

| Policy | Description |
|---|---|
| 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-based paint and asbestos containing materials, shall be implemented in accordance with State and Federal laws and regulations. |
| EC-7.5 | In development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements. |
| EC-7.9 | Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists. |
| TR-14.2 | Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards navigation |
| TR-14.3 | For development in the vicinity of airports, take into consideration the safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid-Hillview airports. |
| TR-14.4 | Require avigation and "no build" easement dedications, setting forth maximum elevation limits as well as for acceptance of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports. |
| CD-5.8 | Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety. |

### 4.9.1.2 *Existing Conditions*

**Historic Uses of the Site**

Available historical records indicate that the site has never been developed but was formerly used for agricultural purposes. The site was part of an orchard from 1937 until the early 1970s. The orchard was removed in the early 1970s and the site was then a cultivated field until the 1990s. The site appears to have remained vacant after that. A rectangular building (inferred from a 1956 photo to be a barn) was present in the northwest corner of the site from the 1950s until the early 1990s. The barn appears to have been part of the farm residence that bordered the site to the north throughout the period of record.

**On-Site Sources of Contamination**

The site is an undeveloped parcel with a dense cover of wild grasses, weeds, and other annuals. There are also a few mature trees, areas of old pavement, and building pads scattered throughout the site. During the site reconnaissance completed for the Phase I ESA, three piles of soil were noted in the southwest corner of the site. Additionally, a patch of roof tar was observed being removed from the northwest portion of the site. No potential hazardous materials were observed at the site. There

are no aboveground storage tanks (ASTs), underground storage tanks (USTs) or other types of fixed chemical containment structures present on-site.

Given the presence of soil piles from an unknown source and the past agricultural use of the site, the Phase I ESA recommended the collection of near-surface soil samples to test for potential contaminants and agricultural chemicals. Soil sampling was performed, and a Soil Quality Investigation report was prepared in June 2019. A total of five soil borings were advanced at separate locations throughout the site, and discrete soil samples were collected at depths of 0.5, 1.5 and 3.0 feet bgs at each location. Soil samples were collected for comparison to the 2019 RWQCB Environmental Screening Levels (ESLs) for commercial/industrial land uses.[44] The contaminants tested for included total petroleum hydrocarbons (TPH), organochlorine pesticides (OCPs), and metals.

The analytical results for the soil sampling found that none of the constituents tested were detected in any samples at concentrations exceeding the RWQCB ESLs for commercial/industrial land uses, except for arsenic. Arsenic was generally detected at levels that are within the range of naturally occurring background levels, but above the ESLs in some of the samples tested. .

### Off-Site Sources of Contamination

The Phase I ESA include a database search for listings of hazardous sites within one mile of the site. The adjacent property to the north at 1765 Oakland Road is shown on the State Water Board's GeoTracker database as a closed Leaking Underground Storage Tank (LUST) site.[45] The site was previously impacted by contaminated soil, which was excavated and removed from the site. The case was listed as closed in 1994. There is one site within 1,000 feet that is listed on the DTSC Envirostor database, consisting of a previous scrap metal recycler at 1060 Brokaw Road. The site has undergone cleanup actions under DTSC oversight and is not considered hazardous to the project site.

### Other Hazards

Airports

The Norman Y. Mineta San José International Airport is located approximately 2.0 miles southwest of the site. As previously mentioned, Federal Aviation Regulations, Part 77, "Objects Affecting Navigable Airspace" (referred to as FAR Part 77) requires that the FAA be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above ground. For the project site, any structure exceeding 120 feet in height above grade would require submittal to the FAA for airspace safety review.[46]

[44] The RWQCB ESLs provide conservative screening levels for chemicals found at sites with contaminated soil and groundwater. They are intended to help expedite the identification and evaluation of potential environmental concerns at contaminated sites. The ESLs are updated triennially; the most currently ESLs were released in January 2019. Source: California Water Boards. "Environmental Screening Levels." Accessed July 17, 2020. https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/esl.html

[45] State Water Resources Control Board. "GeoTracker." Accessed July 16, 2020. https://geotracker.waterboards.ca.gov/search?CMD=search&case_number=&business_name=&main_street_name=&city=&zip=&county=&SITE_TYPE=LUFT&oilfield=&STATUS=&BRANCH=&MASTER_BASE=&Search=Search

[46] Jacobs Consultancy. *Notice Requirement Criteria for Filing FAA Form 7460-1*. N.d.

Wildfire Hazards

The project site is not located within a Very High Wildfire Hazard Zone, or a High Wildfire Hazard Zone Local Responsibility Area, as delineated in maps prepared by CalFire. [47]

### 4.9.2 Impact Discussion

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

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

[47] California Department of Forestry and Fire Protection. *Fire Hazard Severity Zones Maps*. Accessed June 24, 2020. http://www.fire.ca.gov/fire_prevention/fhsz_maps_santaclara

The proposed project would develop 39,100 square feet of industrial office and warehouse uses on an approximately 2.1-acre site. The proposed land use would likely include the on-site storage and use of cleaning supplies and maintenance chemicals in small quantities. The small quantities of cleaning supplies and maintenance chemicals used on-site would not pose a risk to adjacent land uses. While the exact industrial office uses on-site are yet to be determined, dependent on market factors and allowable uses under the Zoning Code, it is possible that routine transport, use or disposal of hazardous materials would occur during project operation. Any chemical storage and/or use of hazardous materials would occur in compliance with existing regulations to ensure public health and safety and would be verified at the time occupancy permits are issued. For these reasons, the proposed project would not create a significant hazard to the public or environment from the use, transport, or storage of hazardous materials. **(Less than Significant Impact)**

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

As described in Section 4.9.1.2 Existing Conditions, the project was previously used for agricultural purposes. Soil sampling was undertaken at the site, which determined that no residual agricultural chemicals or other contaminants are present at levels that exceed RWQCB ESLs, with the exception of arsenic. Arsenic levels in on-site soils that exceed the RWQCB ESLs represent a health risk to construction workers and/or nearby residents during construction activities that would be considered a significant impact. Therefore, the project applicant will need to contact the Santa Clara County Department of Environmental Health and enter the Site Cleanup Program for the arsenic found in the on-site soils.

**Impact HAZ-1:** Project construction could expose construction workers and/or nearby residents to contaminated soil during construction.

**Mitigation Measures:** The following mitigation measure would reduce and/or avoid impacts to construction workers and/or nearby residents to a less than significant level.

**MM HAZ-1:** Prior to the issuance of a grading permit, the applicant shall contact the Santa Clara County Department of Environmental Health and enter the Site Cleanup Program for the arsenic found on-site in soils detailed in the Soil Quality Investigation completed by Geologica from June 2020. The applicant shall complete any further investigations or document development such as a Site Management Plan (SMP), Removal Action Workplan (RAW) under SCCDEH oversight. Evidence of the meeting such as an email or letter shall be provided to the Environmental Planner of the City's Planning Department and the City's Environmental Compliance Officer. Evidence of regulatory oversight and any documents developed with the County shall be submitted to the City of San Jose's Supervising Planner of the Department of Planning, Building, and Code Enforcement and the Environmental Services Department's Environmental Compliance Officer.

The project site is vacant and no hazardous building materials (i.e., asbestos-containing materials or lead-based paints) would be removed from the site during implementation of the project. Therefore, with implementation of Mitigation Measure MM HAZ-1, the project would not create a significant hazard to the public or the environment through the potential release of hazardous materials. **(Less than Significant Impact with Mitigation Incorporated)**

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

The nearest school to the project site (Orchard Elementary) is located approximately 0.2-mile north of the project site. As described previously, operation of the project would not involve the use, transport, or disposal of hazardous or acutely hazardous materials. While some chemicals or hazardous materials may be stored or used on-site in conjunction with the proposed industrial office uses, all storage or use of these materials would occur in compliance with existing regulations to ensure public health and safety. Thus, the proposed project would not emit hazardous emissions or handle hazardous materials that could affect the nearby school. **(Less than Significant Impact)**

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

The site is not listed on the Cortese List[48] or any other list of hazardous materials sites and would therefore not create a significant hazard to the public or the environment. **(No Impact)**

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

The Norman Y. Mineta San José International Airport is located approximately 2.0 miles southwest of the project site. The project site is not located within the AIA for the airport.[49] As described in Section 4.9.1.2 Existing Conditions, any development of 120 feet in height or greater at the site would require notification to the FAA for airspace safety review. The project proposes two three-story buildings which would reach maximum heights of 50 feet. Thus, airspace safety review is not required for the project. The project site is located outside of noise contours for the airport and would not be exposed to excessive noise levels due to airport activities.[50] For these reasons, the proposed project would not result in a safety hazard or excessive noise for people residing or working at the project site. **(Less than Significant Impact)**

[48] California Environmental Protection Agency. "Cortese List Data Resources." Accessed July 16, 2020. https://calepa.ca.gov/sitecleanup/corteselist/

[49] Santa Clara County. *Comprehensive Land Use Plan for Norman Y. Mineta San José International Airport.* Adopted May 2011. Amended November 2016. Figure 8.

[50] Norman Y. Mineta San José International Airport. "2037 CNEL Contours – Airport Master Plan." https://www.flysanjose.com/sites/default/files/noise/2037_CNEL.pdf. April 28, 2020.

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

The project proposes to develop an urban infill site without modifying the existing roadway network. The project would include an emergency vehicle access lane along the site's southern boundary and the final site design would be reviewed for consistency with applicable San José Fire Department standards. The project would not impair or interfere with the implementation of an adopted City of San José or County of Santa Clara emergency response plan or emergency evacuation plan. **(Less than Significant Impact)**

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

The project site is located in an urbanized area of San José. There are no areas susceptible to wildfire in the project vicinity. Therefore, the project would not expose people or structures to substantial wildfire risks. **(No Impact)**

## 4.10 HYDROLOGY AND WATER QUALITY

### 4.10.1 Environmental Setting

#### 4.10.1.1 *Regulatory Framework*

**Overview**

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

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

Statewide Construction General Permit

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

**Regional and Local**

San Francisco Bay Basin Plan

The San Francisco Bay RWQCB regulates water quality in accordance with the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan). The Basin Plan lists the beneficial uses that the San Francisco Bay RWQCB has identified for local aquifers, streams, marshes, rivers, and the San Francisco Bay, as well as the water quality objectives and criteria that must be met to protect these uses. The San Francisco Bay RWQCB implements the Basin Plan by issuing and enforcing waste discharge requirements, including permits for nonpoint sources such as the urban runoff

discharged by a City's stormwater drainage system. The Basin Plan also describes watershed management programs and water quality attainment strategies.

Municipal Regional Permit Provision C.3

The San Francisco Bay RWQCB re-issued the Municipal Regional Stormwater NPDES Permit (MRP) in 2015 to regulate stormwater discharges from municipalities and local agencies (co-permittees) in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, and the cities of Fairfield, Suisun City, and Vallejo.[51] Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 10,000 square feet or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. LID-based treatment controls are intended to maintain or restore the site's natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g. rainwater harvesting for non-potable uses). The MRP also requires that stormwater treatment measures are properly installed, operated, and maintained.

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

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

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

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

The project site is located in an area designated as being within a catchment or subwatershed that is greater than or equal to 65 percent impervious, therefore the HMP requirements of Policy No. 8-14 are not applicable.[52]

[51] MRP Number CAS612008
[52] City of San José. *Classification of Subwatersheds and Catchment Areas for Determining Applicability of HMP Requirements.* July 2011. https://www.sanjoseca.gov/home/showdocument?id=27925.

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes the following policies that are specific to hydrology and water quality and applicable to the proposed project:

**Envision San José 2040 General Plan Relevant Hydrology and Water Quality Policies**

| Policy | Description |
|---|---|
| EC-5.1 | The City shall require evaluation of flood hazards prior to approval of development projects within a Federal Emergency Management Agency (FEMA) designated floodplain. Review new development and substantial improvements to existing structures to ensure it is designed to provide protection from flooding with a one percent annual chance of occurrence, commonly referred to as the "100-year" flood or whatever designated benchmark FEMA may adopt in the future. New development should also provide protection for less frequent flood events when required by the State. |
| EC-5.3 | Preserve designated floodway areas for non-urban uses. |
| 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. |
| ER-8.1 | Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies. |
| ER-8.3 | Ensure that private development in San José includes adequate measures to treat stormwater runoff. |
| ER-8.4 | Assess the potential for surface water and groundwater contamination and require appropriate preventative measures when new development is proposed in areas where storm runoff will be directed into creeks upstream from groundwater recharge facilities. |
| ER-8.5 | Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite. |
| ER-9.5 | Protect groundwater recharge areas, particularly creeks and riparian corridors. |
| ER-9.6 | Require the proper construction and monitoring of facilities that store hazardous materials in order to prevent contamination of the surface water, groundwater and underlying aquifers. In furtherance of this policy, design standards for such facilities should consider high groundwater tables and/or the potential for freshwater or tidal flooding. |
| MS-3.5 | Minimize area dedicated to surface parking to reduce rainwater that comes into contact with pollutants. |
| MS-20.3 | Protect groundwater as a water supply source through flood protection measures and the use of stormwater infiltration practices that protect groundwater quality. In the event percolation facilities are modified for infrastructure projects, replacement percolation capacity will be provided. |
| IN-3.4 | Maintain and implement the City's Sanitary Sewer Level of Service Policy and Sewer Capacity Impact Analysis (SCIA) Guidelines to:<br>• Prevent sanitary sewer overflows (SSOs) due to inadequate capacity so as to ensure that the City complies with all applicable requirements of the Federal Clean Water Act and State Water Board's General Waste Discharge Requirements for Sanitary Sewer Systems and National Pollutant Discharge Elimination System permit. SSOs may pollute surface or ground waters, threaten public health, adversely affect aquatic life, and impair the recreational use and aesthetic enjoyment of surface waters. |

**Envision San José 2040 General Plan Relevant Hydrology and Water Quality Policies**

| Policy | Description |
|---|---|
| | • Maintain reasonable excess capacity in order to protect sewers from increased rate of hydrogen sulfide corrosion and minimize odor and potential maintenance problems.<br>• Ensure adequate funding and timely completion of the most critically needed sewer capacity projects.<br>Promote clear guidance, consistency and predictability to developers regarding the necessary sewer improvements to support development within the City. |
| IN-3.7 | Design new projects to minimize potential damage due to storm waters and flooding to the site and other properties. |
| IN-3.9 | Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards. |

### 4.10.1.2 *Existing Conditions*

#### Hydrology and Drainage

The project site is located in the Coyote Creek Watershed. At 322 square miles, it is the largest watershed in Santa Clara County, and includes 16 major creeks. Coyote Creek is the main waterway within the watershed and is the longest creek in the County, extending from the urbanized Santa Clara Valley floor up into the natural areas of the Mount Hamilton Range.[53] Coyote Creek is located approximately ¼-mile west of the project site.

The project site is relatively flat and is predominantly pervious. Impervious areas are limited to remnant cement pads scattered throughout the site. Overall, the project site is approximately 94 percent pervious (85,680 square feet) and six percent impervious (5,481 square feet).

#### Water Quality

The water quality of streams, creeks, ponds, and other surface water bodies can be greatly affected by pollution carried in contaminated surface runoff. Pollutants from dispersed or areawide sources, known as non-point source pollutants, are washed from streets, construction sites, parking lots, and other exposed surfaces into storm drains. Urban stormwater runoff often contains contaminants such as oil and grease, plant and animal debris, pesticides, litter, and heavy metals. In sufficient concentration, these pollutants have been found to adversely affect the aquatic habitats to which they drain. Coyote Creek is currently listed as impaired on the 303(d) list due to toxicity.[54,55]

[53] Valley Water. *Learning Center – Watersheds of Santa Clara Valley*. https://www.valleywater.org/learning-center/watersheds-of-santa-clara-valley. Accessed June 1, 2020.
[54] The Clean Water Act (CWA), Section 303, establishes water quality standards and Total Maximum Daily Load (TMDL) programs. The 303(d) list is a list of impaired water bodies.
[55] Environmental Protection Agency. "2016 Waterbody Report for Coyote Creek (Santa Clara Co.). https://ofmpub.epa.gov/waters10/attains_waterbody.control?p_au_id=CAR2053002119990218112824&p_cycle=2016&p_state=CA&p_report_type=. Accessed September 16, 2020.

### Groundwater

The project site is located within the Santa Clara groundwater subbasin.[56] Valley Water (formerly Santa Clara Valley Water District) and local water suppliers monitor groundwater quality for a variety of parameters, including calcium, sodium, iron, nitrate, chloride, organic solvents, and gasoline additives (such as methyl-tert-butyl ether or MTBE) and look for concentrations above Maximum Contaminant Levels (MCLs) established by the EPA and State of California for drinking water.

Groundwater on-site was initially encountered at the depth of 15 feet below ground level and rose to a static level of 11 feet at the end of the drilling operation.[57] It should be noted that the groundwater levels fluctuate as a result of seasonal changes and hydrogeological variations such as groundwater pumping and/or recharging. The highest expected groundwater level is less than 10 feet below ground elevation (California Geological Survey Seismic Hazard Zone Report 058).

### Flooding and Other Inundation Hazards

The project site is not located in a 100-year floodplain, according to FEMA Flood Insurance Rate Maps for Santa Clara County.[58] The project site is designated as a Flood Zone D, which is defined as an area of undetermined flood hazard where no flood hazard analysis has been conducted. Flood Zone D is not a Special Flood Hazard Area; therefore, no requirements are placed on new development in this area by the City of San José or the County of Santa Clara as it relates to flood insurance and/or flood protection.

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

## 4.10.2 Impact Discussion

| | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|---|---|---|---|---|
| Would the project: | | | | |
| a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality? | ☐ | ☐ | ☒ | ☐ |
| b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin? | ☐ | ☐ | ☒ | ☐ |

[56] Santa Clara Valley Water District. *2016 Groundwater Management Plan*. November 2016.
[57] Silicon Valley Soil Engineering. *Geotechnical Investigation for Proposed Industrial Office Building*. May 9, 2019.
[58] Federal Emergency Management Agency. "FEMA Flood Map Service Center". Accessed May 27, 2020. https://msc.fema.gov/portal/search?AddressQuery=14001%20Parkmoor%20Avenue%2C%20San%20Jose%2C%20California#searchresultsanchor

| | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|---|---|---|---|---|
| Would the project: | | | | |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would: | ☐ | ☐ | ☒ | ☐ |
| – result in substantial erosion or siltation on- or off-site; | ☐ | ☐ | ☒ | ☐ |
| – substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; | ☐ | ☐ | ☒ | ☐ |
| – create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or | ☐ | ☐ | ☒ | ☐ |
| – impede or redirect flood flows? | ☐ | ☐ | ☒ | ☐ |
| d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation? | ☐ | ☐ | ☐ | ☒ |
| e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan? | ☐ | ☐ | ☒ | ☐ |

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

**Construction-Related Water Quality Impacts**

Construction activities, such as grading and excavation, have the potential to result in temporary impacts to surface water quality in local waterways. When disturbance to the soil occurs, sediments may be dislodged and discharged to the storm drainage system, carried by surface runoff flows across the site. The proposed project would result in the disturbance of approximately 2.1 acres of soil, which is greater than the one-acre threshold required for conformance with the Construction General Permit.

In addition to the Construction General Permit (which requires the preparation and implementation of a SWPPP), the project is required to comply with the City's Grading Ordinance, which requires the use of erosion and sediment controls to protect water quality during construction. The purpose of the City's Grading Ordinance is to ensure that private property is graded so that it would drain properly, not impact adjacent properties and not create erosion problems. Improper grading can result in localized flooding, landslides, and differential settlement. These problems not only affect the graded property but can also impact adjacent properties. To ensure that grading operations do not impact the

local creeks and storm drainage systems during the winter months, any grading occurring between October 1 and April 30 requires an approved erosion control plan. The following standard permit conditions will be included in the proposed Site Development Permit for the project and will reduce potential erosion and sedimentation impacts to local surface waters.

**Standard Permit Conditions:** Best management practices to prevent stormwater pollution and minimize potential sedimentation shall be implemented during project construction, including but not limited to the following:

- Install burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Suspend earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- Water all exposed or disturbed soil surfaces at least twice daily to control dust, as necessary.
- Water or cover stockpiles of soil or other materials that can be blown by the wind.
- Cover all trucks hauling soil, sand, and other loose materials and maintain at least two feet of freeboard on all trucks.
- Sweep all paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites daily (with water sweepers).
- Replant vegetation in disturbed areas as quickly as possible.
- Fill with rock all unpaved entrances to the site to remove mud from truck tires prior to entering City streets. Install a tire wash system if requested by the City.
- Comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

Construction of the proposed project, in compliance with existing regulation and with implementation of the above standard permit conditions, would not result in significant construction-related water quality impacts by implementing measures to minimize and avoid water quality impacts during construction activities. **(Less than Significant Impact)**

### Post-Construction Water Quality Impacts

Development of the project site as proposed would result in the creation of more than 10,000 square feet of impervious surface area. The project, therefore, would be subject to Provision C.3 of the MRP and the City's Post-Construction Urban Runoff Management Policy (Policy 6-29). These regulations require the incorporation of site design measures, source controls, and runoff treatment controls into the design of new or redevelopment projects in order to minimize pollutant loads and reduce velocities of off-site stormwater discharges to local receiving waters. To comply with these regulations, the project includes bioretention basins and flow-through planters which are appropriately sized to treat expected levels of runoff from the building roofs and hardscape. The stormwater treatment areas are located adjacent to the proposed buildings, throughout the parking lots, and along the site perimeter.

The General Plan FEIR concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on water quality.[59] The project would comply with existing regulations and, therefore, result in a less than significant post-construction water quality impact. **(Less than Significant Impact)**

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

The project site is located within the Santa Clara groundwater subbasin. Development on the site would rely on existing sources of water and the City's existing water delivery system. The proposed project would increase the demand for water in the City (refer to Section 4.19 Utilities and Service Systems); however, this increase would be marginal in relation to projected build out of the City under the General Plan and would not result in the overdraft of any groundwater basins.
The project site is not located on or adjacent to one of the Valley Water's major groundwater recharge systems.[60] Therefore, development on the site would not interfere with groundwater recharge activities or substantially deplete groundwater levels.

The highest expected groundwater levels on-site would be approximately 10 feet below ground surface (bgs). Project construction would not require substantial excavation, primarily limited to minor trenching to establish utility connections. Based on the preliminary utility plan prepared for the project, the maximum depth of utility line trenching is expected to be approximately 6.5 feet;, which would not be likely to intercept groundwater. Nonetheless, groundwater levels may fluctuate seasonally, and it is possible that groundwater could be encountered during project construction. If groundwater is encountered during excavation, any necessary construction dewatering would follow local and regional requirements for safe transport and disposal of dewatered groundwater. Per the San José Municipal Code (Section 15.14.545), water discharged to the sanitary sewer from construction dewatering requires a permit by the City of San José Environmental Service Department Watershed Protection Division. The maximum duration of a short-term permit to discharge to the sanitary sewer is one year. Discharge to the storm drain system requires approval from the RWQCB and the City's Environmental Services Division. If construction dewatering occurs, it would be temporary in nature and would not substantially reduce groundwater supplies or affect groundwater quality in the area.

For the reasons described above, the project would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge. **(Less than Significant Impact)**

[59] City of San Jose. *EIR for the Envision San José 2040 General Plan*. *(SCH# 2009072096)* June 2011. Page 552.
[60] Valley Water. *2016 Groundwater Management Plan*. Figure 1-3. 2016.

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

There are no waterways on the project site and the project would not result in the alteration of the course of a stream or river. The project would, however, increase the stormwater runoff generated on-site. Upon project implementation, the site would be 87 percent impervious (79,367 square feet) and 13 percent pervious (11,794 square feet). This amounts to an 81 percent increase in impervious surfaces and an 81 percent decrease in pervious surfaces in relation to the overall site area.

While the impervious surface areas and associated stormwater runoff from the site would increase, runoff volume and rates would be reduced through post-construction treatment control measures in compliance with the MRP. The project is located on relatively flat terrain, thus a significant increase in erosion or siltation due to runoff from the site is not expected. The proposed project would not substantially alter the drainage pattern of the site and surrounding areas. Runoff from the site would be treated in bioretention basins and flow-through planters prior to release into the City's drainage system, thereby ensuring the project does not result in a substantial additional source of polluted runoff.

The project would convey runoff to an existing 24-inch storm drain main in Oakland Road. Through regular inspection and maintenance activities, the City identifies critical storm sewer system improvements to address localized ponding and flooding. Prior to permit issuance, the City's Public Works Department would review the proposed development for adequate connections and capacity to the City's storm drain system. For these reasons, the proposed project would not result in a significant drainage impact. **(Less than Significant Impact)**

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

As discussed above in Section 4.10.1.2, the project site is not subject to the 100-year flood, tsunamis, or seiches. In addition, the proposed project is anticipated to use only small quantities of cleaning chemicals and other chemicals necessary for the industrial office uses proposed. All chemicals on-site would be subject to local regulations for public health and safety and would be properly stored. For these reasons, the project would not risk release of substantial pollutants due to inundation. **(No Impact)**

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

Valley Water prepared a Groundwater Management Plan (GMP) for the Santa Clara subbasin in 2016, describing its comprehensive groundwater management framework including objectives and

strategies, programs and activities to support those objectives, and outcome measures to gauge performance. The GMP is the guiding document for how Valley Water will ensure groundwater basins within its jurisdiction are managed sustainably. The Santa Clara subbasin has not been identified as a groundwater basin in a state of overdraft. The project site is not located within, or adjacent to, a Valley Water groundwater recharge pond or facility.[61] Implementation of the proposed project, therefore, would not interfere with any actions set forth by the Valley Water in its GMP in regard to groundwater recharge, transport of groundwater, and/or groundwater quality.

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

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

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

## 4.11 LAND USE AND PLANNING

### 4.11.1 Environmental Setting

#### 4.11.1.1 *Regulatory Framework*

**Regional and Local**

Airport Plans and Regulations

The Norman Y. Mineta San José International Airport is owned and operated by the City of San José. It is regulated by various federal, state, and local laws, including the Code of Federal Aviation Regulations. FAR Part 77 regulate obstructions to navigable airspace, as described in Section 4.9 Hazards and Hazardous Materials.

Santa Clara County Habitat Plan

As discussed in Section 4.4 Biological Resources, the Habitat Plan is a county-wide conservation plan intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth within Santa Clara County.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to land use and are applicable to the project.

**Envision San José 2040 General Plan Relevant Land Use Policies**

| Policy | Description |
|---|---|
| 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. |
| CD-1.12 | Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged. |
| CD-1.23 | 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. |
| CD-2.3 | Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Main Streets, and other locations where appropriate.<br>1. Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian scale lighting, pedestrian oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways.<br>2. Strongly discourage drive-up services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas. Uses that serve the vehicle, such as car washes and |

**Envision San José 2040 General Plan Relevant Land Use Policies**

| Policy | Description |
|---|---|
| | service stations, may be considered appropriate in these areas when they do not disrupt pedestrian flow, are not concentrated in one area, do not break up the building mass of the streetscape, are consistent with other policies in this Plan, and are compatible with the planned uses of the area.<br>3. Provide pedestrian connections as outlined in the Community Design Connections Goal and Policies.<br>4. Locate retail and other active uses at the street level.<br>5. Create easily identifiable and accessible building entrances located on street frontages or paseos.<br>6. Accommodate the physical needs of elderly populations and persons with disabilities.<br>7. Integrate existing or proposed transit stops into project designs. |
| CD-4.9 | For development subject to design review, the design of new or remodeled structures will be 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). |
| CD-5.8 | Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety. |
| TR-8.7 | Encourage private property owners to share their underutilized parking supplies with the general public and/or other adjacent private developments. |
| TR-14.2 | Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation. |
| TR-14.3 | For development in the Airport Influence Area overlays, ensure that land uses and development are consistent with the height, safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid-Hillview airports, or find, by a two-thirds vote of the governing body, that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4 of the State Aeronautics Act, Public Utilities Code Section 21670 et seq. |
| TR-14.4 | Require avigation and "no build" easement dedications, setting forth maximum elevation limits as well as for acceptable of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports. |

San José Zoning Ordinance

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

- Guiding, controlling, and regulating future growth and development in the City in a sound and orderly manner, and promoting the achievement of the goals and purposes of the General Plan;
- Protecting the character and economic and social stability of agricultural, residential, commercial, industrial, and other areas in the City;
- Providing light, air, and privacy to property;
- Preserving and providing open space and preventing overcrowding of the land;
- Appropriately regulating the concentration of population;
- Providing access to property and preventing undue interference with and hazards to traffic on public rights-of-way; and

- Preventing unwarranted deterioration of the environment and promoting a balanced ecology.

North San José Area Development Policy

The NSJADP provides for the development of up to 32,000 new residential dwelling units allowing for approximately 56,640 new residents within North San José, and up to 26.7 million square feet of new industrial/office/R&D building space beyond existing entitlements, allowing for 83,000 new employees. Any industrial land within the NSJADP area may be developed up to a maximum FAR of 0.35, which would utilize up to 6.7 million square feet of the Policy's industrial capacity. Development on sites located within 2,000 feet of a light rail station may develop up to a maximum FAR of 0.40 provided that the sites incorporate site design measures to facilitate pedestrian access to nearby transit facilities. The NSJADP reserves 16 million square feet of industrial development capacity for the Industrial Core Area of the NSJADP, which would result in an overall average 1.2 FAR.

#### 4.11.1.2 *Existing Conditions*

The project site is located in the City's North San José Planning Area. Growth in this area of the City is guided by the North San José Area Development Policy and Design Guidelines, in addition to the Envision San José 2040 General Plan. The project site is vacant and undeveloped. Existing land uses in the project area consist of a mix of commercial retail, industrial, and single and multi-family residential development.

The site has a General Plan land use designation of IP Industrial Park and is zoned IP Industrial Park. The IP designation supports a wide variety of industrial uses such as research and development, manufacturing, assembly, testing, and offices. Development under this designation allows a FAR of up to 10.0, with a maximum height of 15 stories. The IP zoning district is intended to allow a range of industrial uses, up to maximum heights of 50 feet.

### 4.11.2 Impact Discussion

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

**a) Would the project physically divide an established community?**

The project site is located in an area of north San José developed with commercial, industrial, and residential uses. The project site does not contain any existing residences, although there are residential land uses to the north and east of the site. The proposed project would construct two three-story buildings and an at-grade parking lot with accessory enclosed structures. The proposed project

would not construct dividing infrastructure such as highways, freeways, or major arterial roads with the potential to disrupt connections from nearby residential uses to other land uses in the site vicinity. For these reasons, the proposed project would not divide an established community. **(Less than Significant Impact)**

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

Development of the proposed project would be subject to design review by the City to ensure that the project meets the Industrial Design Guidelines, North San José Area Design Guidelines, and all applicable zoning code standards in accordance with the IP zoning. By meeting the requirements of the existing zoning, including setbacks, building heights, and landscape buffers, land use conflicts with surrounding uses would be minimized. Consistency with applicable General Plan policies adopted to reduce environmental effects are discussed in the relevant resource sections throughout this Initial Study.

The project would develop approximately 39,100 square feet of industrial office and warehouse uses and would not exceed the development capacity allocated for industrial uses in the NSJADP. The project would be required to pay relevant impact fees to fund measures needed to meet future traffic conditions resulting from development in the North San José area, in accordance with the North San José Traffic Impact Fee Plan. As described in previous sections of this Initial Study, the proposed project would not conflict with any land use plans adopted to avoid or mitigate environmental effects, such as the 2017 CAP (see Section 4.3 Air Quality), the SCVHP (see Section 4.4 Biological Resources), and the City's GHGRS (see Section 4.8 Greenhouse Gas Emissions). The project site is located outside of the Airport Influence Area of the Norman Y. Mineta San José International Airport and would not require an additional level of review by the ALUC for consistency with policies in the adopted CLUP. The proposed project, therefore, would not result in a significant impact due to conflict with any land use plan, policy, or regulation adopted to avoid or mitigate an environmental effect. **(Less than Significant Impact)**

## 4.12 MINERAL RESOURCES

### 4.12.1 Environmental Setting

#### 4.12.1.1 *Regulatory Framework*

**State**

Surface Mining and Reclamation Act

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

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

#### 4.12.1.2 *Existing Conditions*

The Santa Clara Valley was formed when sediments derived from the Santa Cruz Mountains and the Mount Hamilton-Diablo Range were exposed by continuous tectonic uplift and regression of the inland sea that had previously inundated the area. As a result of this process, the topography of the City is relatively flat and there are no significant mineral resources. The project site is not located in an area containing known mineral resources.

The State Mining and Geology Board under the Surface Mining and Reclamation Act of 1975 (SMARA) has designated an area of Communications Hill in Central San José, bounded by the Union Pacific Railroad, Curtner Avenue, State Route 87, and Hillsdale Avenue, as a regional source of construction aggregate materials. Other than the Communications Hills area, San José does not have mineral deposits subject to SMARA.

### 4.12.2 Impact Discussion

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

| | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|---|---|---|---|---|
| Would the project: | | | | |
| b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan? | ☐ | ☐ | ☐ | ☒ |

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

The project site is not located within an area of San José containing known mineral resources. Therefore, the proposed project would not result in the loss of availability of known mineral resources. **(No Impact)**

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

The project site is not located within a mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan. The site is located approximately eight miles from the only City-designated mineral resource recovery site (Communications Hill). As a result, the proposed project would not result in the loss of availability of a locally important mineral recovery site. **(No Impact)**

## 4.13 NOISE

The following discussion is based, in part, on a Noise and Vibration Assessment prepared for the project by *Illingworth & Rodkin, Inc.* A copy of the report dated December 11, 2020, is included as Appendix E of this Initial Study.

### 4.13.1 Environmental Setting

#### 4.13.1.1 *Background Information*

**Noise**

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

Since excessive noise levels can adversely affect human activities and human health, federal, state, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. Noise guidelines are generally expressed using one of several noise averaging methods, including $L_{eq}$, DNL, or CNEL.[62] These descriptors are used to measure a location's overall noise exposure, given that there are times when noise levels are higher (e.g., when a jet is taking off from an airport or when a leaf blower is operating) and times when noise levels are lower (e.g., during lulls in traffic flows on freeways or in the middle of the night). $L_{max}$ is the maximum A-weighted noise level during a measurement period.

**Vibration**

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

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

#### 4.13.1.2 *Regulatory Framework*

**State**

California Green Building Standards Code

For commercial uses, CALGreen (Section 5.507.4.1 and 5.507.4.2) requires that wall and roof-ceiling assemblies exposed to the adjacent roadways have a composite STC rating of at least 50 or a composite OITC rating of no less than 40, with exterior windows of a minimum STC of 40 or OITC of 30 when the commercial property falls within the 65 dBA $L_{dn}$ or greater noise contour for a freeway or expressway, railroad, or industrial or stationary noise source. The state requires interior noise levels to be maintained at 50 dBA $L_{eq(1\text{-}hr)}$ or less during hours of operation at a proposed commercial use.

State Building Code

The State Building Code, Title 24, Part 2 of the State of California Code of Regulations establishes uniform minimum noise insulation performance standards to protect persons within new buildings which house people, including hotels, motels, dormitories, apartment houses and dwellings other than single-family dwellings. Title 24 mandates that interior noise levels attributable to exterior sources shall not exceed 45 dBA DNL or CNEL[63] in any habitable room.

**Local**

Santa Clara County Airport Land Use Commission Comprehensive Land Use Plan

The Comprehensive Land Use Plan (CLUP) adopted by the Santa Clara County Airport Land Use Commission (SCCALUP) contains standards for projects within the vicinity of the San José International Airport. Industrial land use projects are considered to be "Generally Acceptable" in noise environments of 70 dBA CNEL or less. This designation assumes that any buildings involved are of normal conventional construction, without any special noise insulation requirements and some outdoor activities might be adversely affected.

Envision San José 2040 General Plan

The General Plan includes the following noise policies applicable to the proposed project. The City's noise and land use compatibility guidelines are shown in Table 4.13-1, below. The General Plan establishes an acceptable exterior noise level of 70 dBA DNL or less for office land uses.

[63] DNL (or $L_{dn}$) stands for Day-Night Level and is a 24-hour average of noise levels, with 10 dB penalties applied to noise occurring between 10:00 PM and 7:00 AM. CNEL stands for Community Noise Equivalent Level; it is similar to the DNL except that there is an additional five (5) dB penalty applied to noise which occurs between 7:00 PM and 10:00 PM. Title 24 states that the determination of whether to apply DNL or CNEL should be consistent with the metric used in the noise element of the local general plan.

**Table 4.13-1: Land Use Compatibility Guidelines for Community Noise in San José**

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

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

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

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

**Unacceptable:**
New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies. Development would only be considered when technically feasible mitigation is identified that is also compatible with relevant design guidelines.

## Envision San José 2040 General Plan Relevant Noise Policies

| Policies | Description |
|---|---|
| EC-1.1 | Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include:<br><br><u>Interior Noise Levels</u><br>• 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.<br><br><u>Exterior Noise Levels</u> |

## Envision San José 2040 General Plan Relevant Noise Policies

| Policies | Description |
|---|---|
| | • The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (refer to Table EC-1 in the General Plan) Residential uses are considered "normally acceptable" with exterior noise exposures of up to 60 dBA DNL and "conditionally compatible" where the exterior noise exposure is between 60 and 75 dBA DNL such that the specified land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features are included in the design. |
| 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:<br><br>• Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable"; or<br>• Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level. |
| EC-1.3 | Mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to uses through noise standards in the City's Municipal Code. |
| 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. |
| 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:<br><br>• 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.<br><br>For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. |
| EC-2.3 | Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or 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 25 feet of any buildings, and within 100 feet of a historical building, or building in poor condition. On a project-specific basis, this distance of 100 feet may be reduced to 50 feet 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. |

<u>San José Municipal Code – Construction Standards</u>

The City's Zoning Ordinance (Title 20 of the San José Municipal Code) establishes allowable hours of construction within 500 feet of a residential unit between 7:00 a.m. to 7:00 p.m. on Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval. It does not establish quantitative noise limits for demolition or construction activities occurring in the City.

The Zoning Ordinance limits noise levels to 55 dBA $L_{eq}$ at any residential property line and 60 dBA $L_{eq}$ at commercial property lines, unless otherwise expressly allowed in a Development Permit or other planning approval. The Zoning Ordinance also limits noise emitted by stand-by/backup and emergency generators to 55 decibels at the property line of residential properties. The testing of generators is limited to 7:00 AM to 7:00 PM, Monday through Friday.

#### 4.13.1.3 *Existing Conditions*

Due to Shelter-in-Place restrictions implemented by Santa Clara County and the State of California[64] *Illingworth & Rodkin* was unable to conduct on-site noise measurements at the time of writing their study. In order to establish the environmental baseline for the project, *Illingworth & Rodkin* reviewed the noise data contained in the General Plan. Ambient noise in the project vicinity is primarily the result of vehicular traffic along Oakland Road, as well as occasional train passbys on the adjacent rail line. The General Plan noise contour information shows that noise levels along Oakland Road typically range from 65 to 75 dBA DNL. Noise levels along Oakland Road are projected to increase to 74 dBA DNL by 2035.

### 4.13.2 Impact Discussion

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

[64] Cal. Exec. Order No. N-33-20, (Mar. 19, 2020).

The CEQA Guidelines state that a project would have a significant impact if noise levels conflict with adopted environmental standards or plans, or if noise levels generated by the project will substantially increase existing noise levels at noise-sensitive receivers on a permanent or temporary basis; however, CEQA does not define what noise level increase would be substantial. A three dBA noise level increase is considered the minimum increase that is perceptible to the human ear. Typically, project generated noise level increases of three dBA DNL or greater are considered significant where resulting exterior noise levels will exceed the normally acceptable noise level standard. Where noise levels will remain at or below the normally acceptable noise level standard with the project, a noise level increase of five dBA DNL or greater is considered significant.

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

### Construction Noise

Construction activities generate considerable amounts of noise, especially during earth-moving activities when heavy equipment is used. Phases of the project would include demolition, site preparation, grading/excavation, trenching/foundations, construction of the building shell, interior finishing/architectural coatings, and paving. The hauling of exported soil and imported materials would generate truck trips on local roadways as well.

The nearest noise-sensitive residential land uses would be located approximately 200 feet north of the acoustic center of the construction site (single-family residence), and approximately 300 feet east of the acoustic center of the construction site, opposite Oakland Road (apartment complex). Construction noise levels at 200 feet would range from 65 to 77 dBA $L_{eq}$ with all pertinent equipment present at the site and from 59 to 71 dBA $L_{eq}$ with the minimum required equipment present at the site. At 300 feet, construction noise levels would range from 61 to 73 dBA Leq with all pertinent equipment present at the site and from 55 to 64 dBA Leq with the minimum required equipment present at the site.
Project construction is anticipated to occur in two phases, with Building A being constructed in the first phase, and Building B in the second phase. The total construction period for both phases is expected to last approximately 24 months. Per General Plan Policy EC-1.7, temporary noise increases due to project construction would be considered significant as the construction activity 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. 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. Policy EC-1.7 requires that projects follow best management practices that would further reduce the level of noise produced during project construction. These best management practices, described in the Standard Permit Condition and mitigation measure below, would be included in the project.

**Standard Permit Condition:** The applicant shall develop a construction noise control plan to be implemented during all phases of construction activity to reduce the noise exposure of neighboring properties, including, but not limited to, the following available controls:

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

**Impact NOI-1:** Temporary noise increases due to project construction would be considered significant as the construction activity 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.

**Mitigation Measures:** Consistent with the 2040 General Plan Policy EC-1.7 and the Municipal Code, the proposed project would implement noise control measures during all phases of construction on-site, as outlined in MM NOI-1.1, below.

**MM NOI-1.1:** Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistic plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any grading or demolition permits.

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

- Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence (San José Municipal Code Section 20.100.450).
- Construct temporary noise barriers, where feasible, to screen mobile and stationary construction equipment. The temporary noise barrier fences provide noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receiver and if the barrier is constructed in a manner that eliminates any cracks or gaps.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines shall be strictly prohibited.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise

source and noise-sensitive receptors nearest the project site during all project construction.

- A temporary noise control blanket barrier shall be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling.
- If impact pile driving is proposed, foundation pile holes shall be pre-drilled 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.

Implementation of the above controls would reduce construction noise levels emanating from the site, minimizing disruption and annoyance. These controls, in combination with the limitations on hours set forth in the Municipal Code, would reduce the impact to a less-than-significant level. **(Less than Significant Impact with Mitigation Incorporated)**

**Operational Noise**

Traffic

Vehicle traffic generated by the project would be the most substantial source of noise from the project's operation. A significant impact would result if traffic generated by the project would substantially increase noise levels at sensitive receptors in the vicinity. A substantial increase would occur if: a) the noise level increase is five dBA DNL or greater, with a future noise level of less than 60 dBA DNL, or b) the noise level increase is three dBA DNL or greater, with a future noise level of

60 dBA DNL or greater. The existing noise environment in the surrounding area would exceed 60 dBA DNL; therefore, a significant impact would occur if project-generated traffic would permanently increase noise levels by 3 dBA DNL. For reference, a three dBA DNL noise increase would be expected if the project would double existing traffic volumes along a roadway.

An estimate of vehicle trips anticipated to be generated by the project was provided by *Hexagon Transportation Consultants, Inc.* (see Section 4.17 Transportation). Using this trip generation data, which indicates the project trips would be a small fraction of current roadway volumes *Illingworth & Rodkin* estimated that the traffic generated by the project would result in a noise increase of zero to one dBA DNL along roadways serving the project site. Therefore, the project would result in a noise increase of less than three dBA DNL and thus would not cause a significant impact due to increase traffic noise.

Mechanical Equipment

Various mechanical equipment for heating, ventilation, and cooling purposes, exhaust fans, and other similar equipment would be located on the roofs of Buildings A and B. The Building A roof plan shows four main roof-top units (three outdoor VRF heat recovery systems plus one dedicated outdoor air system) and exhaust fans. The outdoor VRF heat recovery systems and exhaust fans will be surrounded by a six-foot-tall parapet wall. The dedicated outdoor air system will be surrounded by a five-foot, six-inch tall roof screen. Manufacturer's noise data indicate that the outdoor VRF heat recovery systems produce a sound power level of 85 dBA, and the dedicated outdoor air system produces a sound power level of 90 dBA. The exhaust fans would not measurably contribute to the noise produced by the main rooftop units. Noise levels generated by the operation of this mechanical equipment could reach 48 to 50 dBA $L_{eq}$ at the nearest commercial or industrial property line when accounting for the acoustical shielding provided by the parapet wall and the building itself. The DNL, assuming operation of the rooftop mechanical equipment between the hours 6:00 AM and 6:00 PM would reach 47 dBA at the nearest property line.

The third floor of Building A includes an approximately 1,140-square foot open air deck, which contains a BBQ area and sink, and is directly accessible from the interior office spaces. The deck is shielded by the building on two sides, and has a 42-inch high guardrail surrounding the other two sides. The deck would only be used during regular work hours by employees, and would not be expected to generate substantial amounts of noise.

In addition to the adjacent property, sensitive receptors in the vicinity include the apartment complex located across Oakland Road, approximately 150 east of the project site.

Parking Lot

Parking would be provided in the primary lot between Buildings A and B, in a secondary lot west and south of Building A, and in a secured lot northwest of Building A. Parking lot hours of operation would generally be between 6:00 AM and 6:00 PM.

The center of the primary lot between Buildings A and B would be located about 70 feet from the nearest industrial land use to the north. Noise associated with the use of the parking lot would include vehicular circulation, loud engines, car alarms, door slams, and human voices. The maximum sound

($L_{max}$) of a passing car at 15 mph typically ranges from 48 to 58 dBA at a distance of 70 feet. The noise generated during an engine start is similar. Door slams create lower noise levels. The hourly average noise level resulting from all of these noise-generating activities in a busy parking lot typically ranges from 43 to 53 dBA $L_{eq}$ at a distance of 70 feet from the center of the parking area. The primary parking lot would typically be used between the hours of 6:00 AM and 6:00 PM, yielding a DNL noise level of approximately 47 dBA.

Parking noise occurring in the secondary lot west and south of Building A would occur further from industrial land uses in the project vicinity, or would be partially shielded by the intervening building, resulting in lower noise levels.

Parking in the secured lot northwest of Building A would generate noise levels of about 46 to 56 dBA Leq at a distance of 50 feet from the center of the parking area. The DNL noise level from parking in the secured lot is conservatively estimated to reach 50 dBA at the nearest industrial and residential property lines to the east.

The combined noise levels produced by mechanical equipment and parking lot activities would be approximately 50 dBA DNL, which would not measurably increase existing noise levels in the area, resulting in a less-than-significant impact. Therefore, the project would not result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. **(Less than Significant Impact)**

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

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 0.2 in/sec PPV shall be used to minimize damage at buildings of normal conventional construction. The vibration limits contained in this policy are conservative and designed to provide the ultimate level of protection for existing buildings in San José. A review of the City of San José Historic Resource Inventory[65] indicates that there are no properties of historical significance in the project vicinity. Therefore, this analysis assumes that the 0.2 in/sec PPV threshold would apply to all buildings in the immediate site vicinity.

Cosmetic damage (also known as threshold damage) is defined as hairline cracking in plaster, the opening of old cracks, the loosening of paint or the dislodging of loose objects. Minor damage is defined as hairline cracking in masonry or the loosening of plaster. Major structural damage is defined as wide cracking or the shifting of foundation or bearing walls.

Construction activities associated with the project would include demolition, site preparation, foundation work, and new building framing and finishing. Foundation construction techniques

[65] City of San José. Historic Resources Inventory. Accessed October 10, 2020. https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/historic-preservation/historic-resources-inventory

involving impact or vibratory pile driving, which can cause excessive vibration, are not anticipated as part of the project. Heavy vibration-generating construction equipment, such as vibratory rollers or the dropping of heavy equipment (e.g., clam shovel drops), would have the potential to produce vibration levels of 0.2 in/sec PPV or more at buildings of normal conventional construction located within 30 feet of the project site. Project-generated vibration levels would be capable of cosmetically damaging the buildings located just east of the secured parking area if vibratory rollers are used, or heavy equipment is dropped, within 30 feet of these buildings. Vibration levels may still be perceptible at other surrounding areas where vibration would not be expected to cause structural damage.

**Impact NOI-2:** Project construction would generate vibrations in exceedance of the 0.2 in/sec PPV threshold which could cause cosmetic damage to nearby buildings.

**Mitigation Measures:** The following mitigation measures would reduce and/or avoid impacts to adjacent buildings to a less than significant level.

**MM NOI-2:** The following measures shall be implemented where vibration levels due to construction activities would exceed 0.2 in/sec PPV at nearby buildings:

- 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.
- 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 (within 30 feet) 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.

The phases of construction with the highest potential of producing vibration would be intermittent and short in duration. With implementation of MM NOI-1.1, cosmetic damage to nearby buildings and perceptible vibration produced by project construction would be kept to a minimum. Therefore, the project would not result in generation of excessive groundborne vibration or groundborne noise levels. **(Less than Significant Impact with Mitigation Incorporated)**

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

The Norman Y. Mineta San José International Airport is located approximately 1.9 miles southwest of the project site. The project site is located outside of noise contours for the airport and future exterior noise levels due to aircraft would not exceed 60 dBA CNEL/DNL. [66] Industrial land use projects are considered to be "Generally Acceptable" in noise environments of 70 dBA CNEL or less. Similarly, Similarly, Reid-Hillview Airport and Moffett Federal Airfield are located approximately 5 and 7 miles from the project site, respectively. Noise levels produced by these airports would be insignificant at the project site. Therefore, the project would not expose people in the project area to excessive noise levels due to airport noise. **(Less than Significant Impact)**

[66] Norman Y. Mineta San José International Airport. "2037 CNEL Contours – Airport Master Plan." https://www.flysanjose.com/sites/default/files/noise/2037_CNEL.pdf. April 28, 2020.

## 4.14 POPULATION AND HOUSING

### 4.14.1 Environmental Setting

#### 4.14.1.1 *Regulatory Framework*

**State**

Housing-Element Law

State requirements mandating that housing be included as an element of each jurisdiction's general plan is known as housing-element law. The Regional Housing Need Allocation (RHNA) is the state-mandated process to identify the total number of housing units (by affordability level) that each jurisdiction must accommodate in its housing element. California housing-element law requires cities to: 1) zone adequate lands to accommodate its RHNA; 2) produce an inventory of sites that can accommodate its share of the RHNA; 3) identify governmental and non-governmental constraints to residential development; 4) develop strategies and a work plan to mitigate or eliminate those constraints; and 5) adopt a housing element and update it on a regular basis.[67] The City of San José Housing Element and related land use policies were last updated in 2015.

**Regional and Local**

Plan Bay Area 2040

Plan Bay Area 2040 is a long-range transportation, land-use, and housing plan intended support a growing economy, provide more housing and transportation choices, and reduce transportation-related pollution and GHG emissions in the Bay Area. Plan Bay Area 2040 promotes compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).[68]

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

#### 4.14.1.2 *Existing Conditions*

The population of San José was estimated to be approximately 1,049,187 in January 2020 with an average of 3.19 persons per household.[69] The City had approximately 336,507 housing units as of January 1, 2020. The ABAG estimates that there will be an approximate City population of 1,377,145 and 448,310 households by the year 2040.[70]

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[67] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements" Accessed May 1, 2020. http://hcd.ca.gov/community-development/housing-element/index.shtml.
[68] Association of Bay Area Governments and Metropolitan Transportation Commission. "Project Mapper." http://projectmapper.planbayarea.org/. Accessed May 1, 2020.
[69] California Department of Finance. "E-5 Population and Housing estimates for Cities, Counties, and the State, 2011-2020." May 2020.
[70] Association of Bay Area Governments. *Projections 2040.* November 2018.

The jobs/housing balance refers to the ratio of employed residents to jobs in a given community or area. When the ratio reaches 1.0, a balance is struck between the supply of local housing and jobs. The jobs/housing resident ratio is determined by dividing the number of local jobs by the number of employed residents that can be housed in local housing.

The City currently has a higher number of employed residents than jobs, with a jobs/housing ratio of approximately 0.8. However, upon full build out of the General Plan, this trend is projected to reverse. The General Plan assumptions, as amended in the first Four-Year Review in 2016, envision a Jobs/Employee Resident ratio of 1.1/1 or 382,200 new jobs by 2040. To meet the current and projected housing needs in the City, the Envision San José 2040 General Plan identifies areas for mixed-use and residential development to accommodate 120,000 new dwelling units by 2040.

The project site is undeveloped and vacant; no residences are present on-site.

### 4.14.2 Impact Discussion

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

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

A project can induce substantial population growth in a variety of ways, including the following:

- Proposing new housing beyond projected or planned development levels;
- Generating demand for housing as a result of new business;
- Extending roads or other infrastructure to previously undeveloped areas; or
- Removing obstacles to population growth (i.e., expanding capacity of a wastewater treatment plant beyond that necessary to serve planned growth).

The project proposes the construction of two buildings containing approximately 39,100 square feet of industrial office and warehouse space. Based on an estimated rate of one office worker per 300

square feet of office use, the proposed project would create approximately 123 new jobs.[71] The project does not propose any dwelling units. The increase in citywide job capacity due to the project would not exceed the level projected and planned for in the General Plan because the proposed project is consistent with the General Plan land use designation of the site. The project is an infill development which would utilize existing roads, transit, utilities, and public services to accommodate future employees. No new road extensions or other infrastructure would be constructed, nor would any obstacles to unplanned population growth by removed. For these reasons, the proposed project would not induce substantial unplanned population growth. **(Less than Significant Impact)**

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

The proposed project would develop approximately 39,100 square feet of industrial office and warehouse space on a vacant, undeveloped parcel. The project site does not contain any residences. Therefore, the proposed project would not result in the displacement of any existing housing or people and would not necessitate the construction of replacement housing elsewhere. **(Less than Significant Impact)**

[71] Strategic Economics. *San* José *Market Overview and Employment Lands Analysis*. January 20, 2016.

## 4.15 PUBLIC SERVICES

### 4.15.1 Environmental Setting

#### 4.15.1.1 *Regulatory Framework*

**State**

Government Code Section 65995 through 65998

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

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

**Regional and Local**

Countywide Trails Master Plan

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

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The following policies are specific to public services and are applicable to the proposed project.

**Envision San José 2040 General Plan Relevant Public Service Policies**

| Policies | Description |
|---|---|
| FS-5.7 | Encourage school districts and residential developers to engage in early discussions regarding the nature and scope of proposed projects and possible fiscal impacts and mitigation measures early in the project planning stage, preferably immediately preceding or following land acquisition. |
| ES-2.2 | Construct and maintain architecturally attractive, durable, resource-efficient, and environmentally healthful library facilities to minimize operating costs, foster learning, and |

**Envision San José 2040 General Plan Relevant Public Service Policies**

| Policies | Description |
|---|---|
| | express in built form the significant civic functions and spaces that libraries provide for the San José community. Library design should anticipate and build in flexibility to accommodate evolving community needs and evolving methods for providing the community with access to information sources. Provide at least 0.59 SF of space per capita in library facilities. |
| ES-3.1 | Provide rapid and timely Level of Service (LOS) response time to all emergencies:<br>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.<br>2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents. |
| ES-3.9 | Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces. |
| ES-3.11 | Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects. |
| PR-1.1 | Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents. |
| PR-1.2 | Provide 7.5 acres per 1,000 population of citywide /regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies. |
| PR-1.3 | Provide 500 SF per 1,000 population of community center space. |
| PR-1.12 | Regularly update and utilize San José's Parkland Dedication Ordinance/Parkland Impact Ordinance (PDO/PIO) to implement quality facilities. |

### 4.15.1.2 *Existing Conditions*

**Fire Protection Services**

Fire protection services in San José are provided by the San José Fire Department (SJFD). The SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the City. The SJFD protects 206 square miles and approximately 1.2 million residents in both City and county areas. There are 33 fire stations that service the residents of San José. The SJFD has established the goal of responding to Priority 1 incidents (emergencies) within eight minutes, 80 percent of the time, and Priority 2 incidents (non-emergencies) within 13 minutes, 80 percent of the time. For 2018-2019, the SJFD responded to 74 percent of Priority 1 incidents within eight minutes and 92 percent of Priority 2 incidents within 13 minutes.[72]

[72] City of San José. *Annual Report on City Services 2018-2019*. December 2019. http://www.sanJoséculture.org/DocumentCenter/View/81795

The closest fire stations to the project site are Station No. 23, located at 1771 Via Cinco De Mayo, and Station No. 29, located at 199 Innovation Drive. Station No. 23 is located approximately 1.5 miles northeast of the site. Station No. 29 is located approximately 2.2 miles northwest of the site.

### Police Protection Services

Police protection services for the project site are provided by the San José Police Department (SJPD), which is headquartered at 201 West Mission Street, approximately 2.5 miles southwest of the project site. SJPD is divided into four geographic divisions: Central, Western, Foothill, and Southern. The project site is directly served by the SJPD Central Division. The SJPD has established the goal of responding to Priority 1 calls (present or imminent danger to life or major damage to/loss of property) within six minutes, and responding to Priority 2 calls (involving injury or property damage, or the potential for either to occur) within 11 minutes. In 2018-2019, the citywide average response time for Priority 1 calls was 7.1 minutes, and the average response time for Priority 2 calls was 19.9 minutes.[73]

### Schools

The City of San José includes 22 public school districts that serve students in San José through 222 public schools. The project area is located in the Orchard School District (K-8) and East Side Union High School District (ESUHSD). Students within the project area attend Orchard School and Independence High School.[74,75] The nearest school to the project site is Orchard Elementary, located approximately 0.2-mile north of the project site.

### Parks

The City of San José currently operates 197 neighborhood parks, 51 community centers, nine regional parks, and 61 miles of trails.[76] The City's Department of Parks, Recreation, and Neighborhood Services is responsible for development, operation, and maintenance of all City park facilities. The nearest public parks to the site are Gran Paradiso Park, located approximately 0.5-mile east of the site, and Townsend Park, located approximately 0.8-mile southeast of the site.

### Libraries

The San José Public Library System consist of one main library and 19 branch libraries. The Dr. Martin Luther King Jr. Main Library is located on the corner of San Fernando and Fourth Street in downtown San José. The nearest branch library to the project site is the Joyce Ellington Library at 491 East Empire Street, located approximately 2.5 miles south of the project site.

[73] Ibid.
[74] Orchard School District. "Interdistrict Transfers." Accessed May 1, 2020. http://www.orchardsd.org/Parents/Interdistrict-Transfers/index.html
[75] East Side Union High School District. "District Boundary Map." Accessed June 24, 2020. http://www.esuhsd.org/Community/School-Boundaries/
[76] City of San José Department of Parks, Recreation, and Neighborhood Services. "Fast Facts." Accessed May 7, 2020.

### 4.15.2 Impact Discussion

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

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

The proposed project would result in more people on-site compared to existing conditions, due to its capacity for employees in the provided industrial office space. This would incrementally increase the demand for fire protection and other emergency response services in the area. The proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies to avoid unsafe building conditions and promote public safety. It is anticipated that existing fire protection facilities would be capable of meeting the increased demand for services due to the project without construction or expansion of facilities. Therefore, the project would not result in a physical impact on the environment due to the construction of additional fire protection facilities. **(Less than Significant Impact)**

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

The proposed industrial office development would marginally increase the demand for police protection services in the project area. The project would be consistent with the planned build out of the North San José Planning Area, and the small increase in demand for police protection services would not prevent the SJPD from meeting their service goals or performance objectives. The project would not necessitate the construction of new or expanded police facilities; therefore, the project

would have a less than significant impact on the environment in order to maintain acceptable police protection services. **(Less than Significant Impact)**

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

The proposed project would construct two industrial office buildings and would not include any residential units. No new students would be generated by the proposed project, and new or expanded facilities would not need to be constructed to maintain acceptable provision of school services within the project area. Therefore, the proposed project would have a less than significant impact on the environment due to the construction of new or expanded school facilities. **(Less than Significant Impact)**

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

As mentioned above, the proposed development would place more people on-site during regular business hours than exist currently. Although there would be an increase in the daily employee population in the City and future employees may use local parks or trails, weekday employees are unlikely to place a major physical burden on these facilities. Therefore, the proposed project would not result in substantial adverse physical impacts on park facilities in the City. **(Less than Significant Impact)**

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

The proposed project would construct two industrial office buildings and would not include any residential uses. Although future employees may use library facilities within the City, the employees are unlikely to place a major physical burden on these library facilities. Therefore, implementation of the proposed project would not result in substantial adverse physical impacts to library facilities in the City. **(Less than Significant Impact)**

## 4.16 RECREATION

### 4.16.1 Environmental Setting

#### 4.16.1.1 *Regulatory Framework*

**State**

Government Code Section 66477

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

**Local**

Activate SJ Strategic Plan

The Activate SJ Strategic Plan serves is an outline of goals and policies of the Department of Parks, Recreation and Neighborhood Services. The Plan is intended to serve as a 20-year strategic plan aligned with the Envision San José 2040 General Plan, to be updated at five-year intervals. The plan identifies a mission for the department of connecting people through parks, recreation and neighborhood services for an active San José. In order to support this mission, the plan identifies five guiding principles, each associated with a key plan outcome. The principles and outcomes of the Activate SJ Strategic Plan are as follows:

- **Stewardship:** We will ensure 100% of our parks are in good or excellent condition by reaching a Park Condition Assessment score of 4.0 or higher.
- **Nature:** We will cultivate a park and recreation system that preserves nature, supports wildlife, and enhances community wellbeing.
- **Equity & Access:** We will achieve a 10-minute walk to a quality park for all San Joseans.
- **Identity:** We will complete Regional Master Plans to ensure our system reflects the culture and history of San José's unique and diverse neighborhoods.
- **Public Life:** We will develop self-sustaining, quality spaces and programs to strengthen community pride and unity.

Envision San José 2040 General Plan

The following General Plan policies are specific to recreational resources and are applicable to the proposed project:

**Envision San José 2040 General Plan Relevant Recreation Policies**

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

### 4.16.1.2 *Existing Conditions*

The City of San José currently operates 197 neighborhood parks, 51 community centers, nine regional parks, and 61 miles of trails.[77] The City's Department of Parks, Recreation, and Neighborhood Services is responsible for development, operation, and maintenance of all City park facilities. The nearest public parks to the project site are Gran Paradiso Park, located approximately 0.5-mile east of the site, and Townsend Park, located approximately 0.8-mile southeast of the site.

Based on General Plan level of service goals, the City has sufficient neighborhood/community and combined City and other Citywide/regional parkland. However, the City is deficient in school recreation and City-owned Citywide/regional parkland.[78] Following General Plan buildout, it is projected that the City will have a surplus of approximately 7,500 acres of combined city and other citywide/regional parkland, a deficit of approximately 8,000 acres of City-owned Citywide/regional parkland, a deficit of approximately 1,300 acres of recreational school grounds, and a deficit of approximately 400 acres of neighborhood/community serving parkland.

## 4.16.2 Impact Discussion

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

[77] City of San José Department of Parks, Recreation, and Neighborhood Services. "Fast Facts 2019-2020." Accessed May 7, 2020.
[78] City of San José. *Envision San José 2040 General Plan FEIR.* Page 616. September 2011.

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

The proposed industrial office and warehouse development would place more people (approximately 123 employees) on-site during regular business hours compared to existing conditions. It can be reasonably assumed that the employees would use nearby parks or recreational facilities during breaks or after hours, thereby increasing demand for such facilities. However, the increase in demand would be marginal and substantial physical deterioration of these facilities is not expected as a result. The proposed project would not increase the use of existing parks and other recreational facilities such that construction of new facilities or expansion of existing recreational facilities would be required. **(Less than Significant Impact)**

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

New recreational facilities are not included as a component of the project. No environmental impacts would result from the construction of additional recreational facilities to serve the proposed development. **(No Impact)**

## 4.17 TRANSPORTATION

The following discussion is based, in part, on a Transportation Impact Analysis (TIA) prepared for the project by *Hexagon Transportation Consultants, Inc.* (*Hexagon*). A copy of the report, dated April 15, 2021, is included in Appendix F of this Initial Study.

### 4.17.1 Environmental Setting

#### 4.17.1.1 *Regulatory Framework*

**State**

Regional Transportation Plan

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

Senate Bill 743

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

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

**Regional and Local**

Congestion Management Program

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

Transportation Analysis Policy (City Council Policy 5-1)

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

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

North San José Traffic Impact Fee Plan

The North San José Traffic Impact Fee establishes a mechanism to fund and implement the identified transportation improvements that will be needed to serve all of the anticipated development growth in North San José. Improvements to serve the projected growth were identified as part of the North San José Development Policy traffic study prepared in 2005 and amended in 2009. Development in North San José is required to contribute to improvements to the transportation system to serve increases in traffic volumes and transit use.[79] The project site is located within the North San José Development Policy area and will be subject to the fee.

US 101/Oakland/Mabury Transportation Development Policy

The City of San José has identified operational problems along the Oakland Road corridor at the US 101 interchange, which are due primarily to the capacity constraints of the interchange. As a result, the City has identified two key capital improvement projects: 1) modification of the US 101/Oakland Road interchange, and 2) construction of a new US 101/Mabury Road interchange. To fund these interchange improvements, the City has adopted a fee for any project that would add traffic to the US 101/Oakland/Mabury interchange.

City of San José Bike Plan

The City of San José Bike Plan 2020, adopted in 2009, contains policies for guiding the development and maintenance of bicycle and trail facilities within San José. The plan also includes the following goals for improving bicycle access and connectivity: 1) complete 500 miles of bikeways; 2) achieve a five percent bike mode share; 3) reduce bicycle collision rates by 50 percent; 4) add 5,000 bicycle

[79] City of San José. "North San José Area Development Policy – Policy Documents." Accessed June 24, 2020. https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/citywide-planning/area-plans/north-san-jos-area-development-policy/policy-documents

parking spaces; and 5) achieve Gold-Level Bicycle Friendly Community Status. The Bike Plan defines a 500-mile network of bikeways that focuses on connecting off-street bikeways with on-street bikeways. The City is in the process of preparing the San José Better Bike Plan 2025, an update to the Bike Plan 2020.[80]

Envision San José 2040 General Plan

The following General Plan policies are applicable to the transportation impacts of the proposed project.

**Envision San José 2040 General Plan Relevant Transportation Policies**

| Policies | Description |
|---|---|
| TR-1.1 | Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT). |
| TR-1.2 | Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects. |
| TR-1.4 | Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.<br>• 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.<br>• 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.<br>• 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. |
| TR-1.6 | Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards. |
| TR-2.8 | Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements. |
| TR-3.3 | As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute |

[80] City of San José. "San José Better Bike Plan 2025." Accessed June 24, 2020. https://www.bikesanjose.com/

| Policies | Description |
|---|---|
| | towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities. |
| 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. |
| 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. |
| TR-8.6 | Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive TDM program, or developments located near major transit hubs or within Villages and Corridors and other growth areas. |
| TR-8.9 | Consider adjacent on-street and City-owned off-street parking spaces in assessing need for additional parking required for a given land use or new development. |

#### 4.17.1.2 *Existing Conditions*

**Roadway Network**

Regional Access

Regional access to the project site is provided via I-880 and US 101, which are described below.

**I-880** is a six-lane north/south freeway in the vicinity of the site. It extends northeast to Oakland and south to I-280 in San José, at which point it transitions into SR 17 to Santa Cruz. Access to the project site is provided via a full interchange at Brokaw Road.

**US 101** is an eight-lane freeway (three mixed-flow lanes and one high-occupancy vehicle lane in each direction) in the vicinity of the site. US 101 extends northward through San Francisco and southward through Gilroy. Access to the project site is provided via full interchanges at I-880 and Oakland Road.

Local Access

Local access to the project site is provided via Oakland Road and Brokaw Road, which are described below.

**Oakland Road** is a north-south arterial that begins at Hedding Street in the south as a transition from N. 13th Street and continues to Montague Expressway where it becomes S. Main Street in the north. North of US 101, Oakland Road is primarily a six-lane roadway with a two-way center left-turn lane. South of US 101, Oakland Road is a four-lane arterial until its intersection with Hedding Street. Oakland Road has a posted speed limit of 40 mph and provides direct access to the project site. Oakland Road has buffered bike lanes and sidewalks on both sides of the street.

**Brokaw Road** is an east/west oriented six-lane arterial that provides access to the project site via Oakland Road. Brokaw Road provides access to I-880. The posted speed limit is 40 mph. Brokaw Road has standard bike lanes and sidewalks on both sides of the street.

## Bicycle and Pedestrian Facilities

Bicycle Facilities

Bicycle facilities in the project area include Class II bike lanes and Class III bike routes[81], as shown on Figure 4.17-1. The following roadways contain bicycle facilities in the project vicinity:

- Oakland Road – buffered bike lanes
- Brokaw Road – standard bike lanes
- McKay Drive – bike routes with Sharrows between Oakland Road and Ringwood Avenue and standard bike lanes east of Ringwood Avenue
- Ridder Park Drive – standard bike lanes between Brokaw Road and Fox Lane
- Ringwood Avenue – standard bike lanes north of Murphy Avenue and bike routes with Sharrows south of Murphy Avenue

Pedestrian Facilities

Pedestrian facilities in the project area consist of sidewalks along the public streets and crosswalks with pedestrian signal heads at intersections. Sidewalks are found along all previously described streets in the study area. The signalized intersections in the vicinity of the project site have crosswalks on all or most legs, combined with pedestrian push button actuators and pedestrian signal heads. ADA compliant ramps are provided at all the signalized intersections in the study area. The existing pedestrian facilities provide good connectivity between the site and the surrounding land uses and transit stops in the study area.

## Transit Facilities

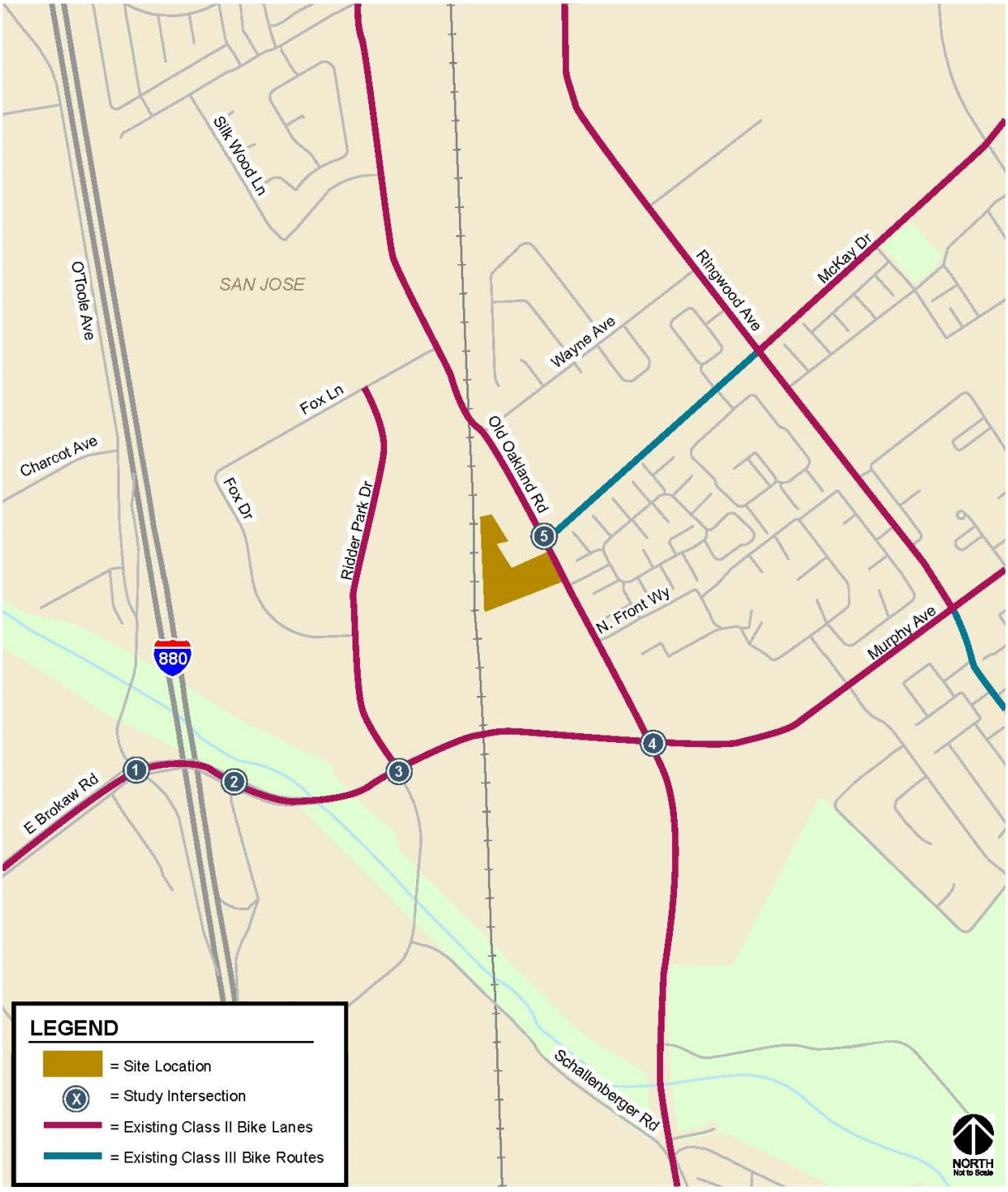
Existing transit service near the project site is provided by the VTA. Local bus Routes 60 and 66 operate along Brokaw Road and Oakland Road, respectively (Figure 4.17-2). The project site is served directly by Route 60. Route 60 provides service between the Winchester Transit Center and the Milpitas Transit Center. Route 66 provides service between Dixon Road in Milpitas and Kaiser San Jose Medical Center. Both local bus routes operate with 15-minute headways during the weekday AM and PM peak commute hours. Currently there are existing bus stops located 500 feet south of the site (southbound) and directly opposite of the site (northbound) on Oakland Road.

## Vehicle Miles Traveled

The City has prepared "heat" maps for all areas of the City which show estimated VMT for different land uses, based on proximity to transit, amenities, and other services. The project site is located in North San José. According to the City's VMT per industrial job heat maps, the site is located in an area of the City where industrial projects would exceed the adopted threshold for this land use.[82]

[81] Bike lanes are lanes on roadways designated for use by bicycles with special lane markings/striping, pavement legends, and signage. Bike routes are existing streets that accommodate bicycles but are not separate from the existing travel lanes. Bike routes are typically designated only with signage or with painted shared lane markings (Sharrows) on a road that indicate to motorists that bicyclists may use the full travel lane.
[82] City of San José. "VMT per Industrial Job." Accessed June 25, 2020. https://www.sanjoseca.gov/home/showdocument?id=28475

While this is a high VMT area of the City, VMT for industrial projects at the project site can be reduced to below the threshold with incorporation of project-specific measures. The existing regional average VMT is 14.37 per capita.




Source: Hexagon Transportation Consultants, Inc.

EXISTING BICYCLE FACILITIES | FIGURE 4.17-1


Source: Hexagon Transportation Consultants, Inc.

EXISTING TRANSIT FACILITIES | FIGURE 4.17-2

### 4.17.2 Impact Discussion

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

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

**Transit Facilities**

The project site is near VTA bus lines that would support multi-modal travel to and from the site. The project would not physically remove or inhibit access to any bus stops in the area, nor would the project conflict with any planned transit improvements throughout the North San José area. The project includes the installation of a new solar-powered bus shelter at the existing bus stop located 500 feet south of the project site on the west side of Oakland Road. The stop currently contains only a bus stop sign attached to a streetlight pole, and a bench. Implementation of the proposed project would therefore not conflict with any program, plan, ordinance or policy addressing transit facilities, but would improve existing facilities. **(Less than Significant Impact)**

**Roadways**

As described in Section 4.17.2.2 below, the proposed project would result in an increase in vehicle trips on the surrounding roadways. The project's effect on vehicle delay on nearby roadways would not be considered a significant transportation impact under CEQA, as VMT is the City's adopted standard for assessing transportation impacts. For a discussion of the project's VMT impacts, refer to checklist Impact Question b), below.

The project would not conflict with any planned or ongoing roadway improvements throughout the North San José area. The project site is within the North San José Development Policy (NSJADP) boundary. Therefore, the project would be required to pay the NSJADP fee to help fund necessary transportation improvements. Additionally, the project would be required to pay an impact fee under the US 101/Oakland/Mabury Transportation Development Policy. This fee would help fund improvements at the US 101/Oakland interchange as well as construction of a new US 101/Mabury

Road Interchange. Traffic Impact Fees will be collected at the time of building permit issuance. As described below in MM TR-1.2, the project would construct a raised median island along the northbound Oakland Road approach to the Oakland Road/McKay Drive intersection. No secondary environmental impacts would occur because of this improvement. Therefore, the proposed project would not conflict with any program, plan, ordinance or policy addressing roadways. **(Less than Significant Impact)**

**Bicycle Facilities**

The project site is adequately served by existing bicycle facilities, as described in Section 4.17.1.2 Existing Conditions. The project would not remove or inhibit access to any existing bicycle facilities, including the Class II bicycle lanes along Oakland Road. According to the San José Better Bike Plan 2025, the segment of Oakland Road from Club Drive to East Gish Road (which includes the project frontage) is planned for conversion to a protected (Class I) bicycle lane. The proposed project would not interfere with this planned improvement. The project would provide eight short-term (bike racks) and two long-term (bike lockers) bicycle parking spaces on-site in accordance with Municipal Code requirements for the proposed land uses. Therefore, the project would not conflict with any program, plan, ordinance or policy addressing bicycle facilities. **(Less than Significant Impact)**

**Pedestrian Facilities**

Existing pedestrian facilities in the project area provide connections to surrounding destinations, including residential neighborhoods to the north/east and amenities and services to the south. Signalized crosswalks are provided at the intersection of Oakland Road and Murphy Avenue. The project would not inhibit pedestrian flow through the area by reducing sidewalk width or eliminating sidewalks to accommodate vehicular travel.

The project would include new sidewalks throughout the site to provide adequate access to the office buildings. The new sidewalks would connect to the existing sidewalks along Oakland Road. The existing sidewalk to the south along the shopping center frontage is 12 feet wide. Hexagon recommended in their TIA that the project widen the project frontage from six feet to 12 feet to be consistent with the existing sidewalk to the south. However, the project is not required to do so by any local policy, and the decision whether to require 12-foot wide sidewalks will be made by the City in considering the requested Site Development Permit. Therefore, the project would not conflict with any program, plan, ordinance, or policy addressing pedestrian facilities. **(Less than Significant Impact)**

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

**VMT Analysis**

Any development that exceeds the City's VMT thresholds would be subject to the standard process for evaluating a project's VMT, as outlined in Policy 5-1. The project site is located in a high VMT area of the City according to the City's VMT per industrial job map.[83] VMT in this area is considered

[83] City of San José. "Vehicle Miles Traveled Metric – VMT per Industrial Job Map." Accessed June 17, 2020.

mitigable to below the City's significance threshold with the incorporation of appropriate trip reduction measures. Due to the project's location in a high VMT area of the City, a VMT analysis was conducted by Hexagon to quantify VMT and determine the level of trip reduction necessary to meet the City's threshold.

The City of San Jose's 2018 Transportation Analysis Handbook includes screening criteria for projects that are expected to result in a less-than-significant VMT impact based on the project description, characteristics and/or location. The screening criteria for small infill industrial and office projects are described below.

Screening Criteria for Small Infill Projects

- Industrial of 30,000 square feet of total gross floor area or less.
- Office of 10,000 square feet of total gross floor area or less.

The project is proposing to construct 21,900 square feet of R&D space and 2,200 square feet of warehouse space for a total of 24,100 square feet of industrial space. Since the industrial component of the project meets the screening criterion (totals less than 30,000 square feet), the industrial component of the project is expected to result in a less-than-significant VMT impact and no CEQA transportation analysis is required. Since the project is proposing to construct 15,000 square feet of office space (more than 10,000 square feet), the office component of the project does not meet the screening criterion for small infill office projects and a CEQA transportation analysis is required to address potential significant VMT impacts.

The project VMT estimated by the City's VMT Evaluation Tool is 15.18 per employee. The project VMT therefore exceeds the threshold of 12.22 VMT per employee. According to the Transportation Analysis Handbook, projects located in areas where the existing VMT exceeds the established threshold (such as the project area) are referred to as being in "high-VMT areas", and are required to include a set of VMT reduction measures that would reduce the project VMT to the extent possible.

Since the VMT generated by the office component of the project would exceed the threshold of significance for general employment uses in the area, the project would result in a significant transportation impact on VMT, and mitigation measures are required to reduce the VMT impact. Hexagon recommended the following multi-modal improvements and Transportation Demand Management (TDM) measures to mitigate the significant VMT impact:

- Pedestrian Network Improvements;
- Traffic Calming Measures;
- Increase Transit Accessibility;
- End of Trip Bicycle Facilities;
- Commute Trip Reduction Marketing and Education;
- Telecommuting and Alternative Work Schedule Program;
- Ride-Sharing Program.

Based on the City's VMT Evaluation Tool, implementing the recommended mitigation measures would lower the project VMT to 12.17 per employee (a reduction of approximately 20 percent), which would reduce the project impact to a less-than-significant level (below the threshold of 12.22 VMT per employee).

**Transportation Demand Management Plan**

The project would be required to develop and implement a Transportation Demand Management (TDM) Plan, which would provide strategies and measures to reduce vehicle trips generated by the project. The TDM Plan may include measures to allow and encourage employees to telecommute from home when possible, to shift work schedules such that travel occurs outside of the weekday peak congestion periods, and to allow employees to work an alternative workweek schedule. The project applicant will coordinate with City staff and submit the TDM Plan to the City for approval. The project applicant would also be responsible for ensuring that the TDM strategies are incorporated into the project.

**Impact TR-1:** The VMT generated by the project would exceed the threshold of significance for general employment in the area, thus, the project would result in a significant impact on VMT.

**Mitigation Measures:** The following mitigation measures would reduce the level of VMT generated by the project to 12.17 per employee.

**MM TR-1.1:** The project shall develop and implement a Transportation Demand Management (TDM) Plan, to the satisfaction of the Director of Planning, Building and Code Enforcement, which would provide strategies and measures to reduce vehicle trips generated by the project.

**MM TR-1.2:** The project shall install a raised median island on Oakland Road to prevent left turns into and out of the project driveway. This would improve pedestrian and bicycle safety along the project frontage by eliminating dangerous illegal left turns at the project driveway.

**MM TR-1.3:** The project shall implement a marketing campaign targeting all employees and visitors that encourages the use of transit, shared rides, and active modes of transportation. Marketing strategies may include new employee orientation on alternative commute options, event promotions, and publications. The project shall provide information and encouragement to use transit, shared ride modes, and active modes to reduce drive-alone trips and, thus, VMT. It is assumed that 100 percent of the employees would participate in the commute trip reduction education program.

**MM TR-1.4:** The project shall implement a ride-sharing program that is available for 100 percent of employees. The goal of a ride-sharing program is to match individuals interested in carpooling who have similar commute patterns. This TDM strategy encourages the use of carpooling, thereby reducing the number of single-occupant vehicle (SOV) trips and associated VMT. This TDM strategy encourages the use

of carpooling, which would reduce the number of drive-along commute trips and reduce VMT.

With the implementation of MM TR-1.1 through MM TR-1.4, the project would have a less than significant impact on VMT. **(Less than Significant Impact with Mitigation Incorporated)**

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

**Project Driveway**

The project would share an existing driveway with the adjacent shopping center to the south. The driveway is a right-turn only, two-way driveway that is 26 feet wide, meeting the City of San José Department of Transportation (DOT) Geometric Design Guidelines' width requirements for two-way driveways. The driveway is restricted to right-turn in/right-turn out movements due to the double yellow lines with raised pavement markings along Oakland Road. Although left turns in and out of this driveway are illegal, there is no effective physical barrier (i.e., raised median island) to prevent these left-turn movements from occurring. As a result, some left turns to and from this driveway currently occur and would continue to occur with the project.

Based on *Hexagon's* observations conducted on September 28, 2020, four vehicles turned left from the driveway during the AM peak hour (8:00 - 9:00 AM) and six vehicles turned left from the driveway during the PM peak hour (5:00 - 6:00 PM). One vehicle turned left into the driveway during the AM peak hour only. As discussed in MM TR-1.2, the project shall install a raised median island on Oakland Road to prevent left turns into and out of the project driveway. This will eliminate hazards to pedestrians, bicyclists, and other vehicles associated with illegal left turns.

Sight Distance at the Driveway

The project driveway would be free and clear of any obstructions to provide adequate sight distance, thereby ensuring that exiting vehicles can see pedestrians on the sidewalk and vehicles and bicycles traveling on Oakland Road. Any landscaping and signage would be located in such a way to ensure an unobstructed view for drivers exiting the site. The minimum acceptable sight distance is considered the Caltrans stopping sight distance. Sight distance requirements vary depending on roadway speeds. For driveways on Oakland Road, which has a posted speed limit of 40 mph, the Caltrans stopping sight distance is 360 feet (based on a design speed of 45 mph). Accordingly, a driver must be able to see 360 feet along Oakland Road in order to stop and avoid a collision.

The site plan shows the office building (Building B) that would front Oakland Road would be set back approximately 17.5 feet from the sidewalk at the south end of the building and 30 feet from the sidewalk at the north end of the building, providing adequate sight distance triangles for exiting vehicles. The project driveway would meet the Caltrans stopping sight distance standard. Therefore, the project would not substantially increase hazards due to a geometric design feature or incompatible uses. **(Less than Significant Impact)**

**d) Would the project result in inadequate emergency access?**

The City of San Jose Fire Department requires that all portions of the buildings be within 150 feet of a fire department access road and requires a minimum six feet of clearance from the property line along all sides of the buildings. According to the project site plan, all areas of the proposed buildings would be within 150 feet of a fire access road, and at least six feet of clearance would be provided around the perimeter of both buildings. The width of the project driveway would be adequate to accommodate emergency vehicles. Adequate vertical clearance also would be provided throughout the site for emergency vehicles. Therefore, the project would not result in inadequate emergency access. **(Less than Significant Impact)**

### 4.17.3 Non-CEQA Effects

While the evaluation of project CEQA impacts on the transportation system is focused on vehicle miles traveled (VMT), in accordance with the City of San José Transportation Policy (Council Policy 5-1), the following discussion is included for informational purposes because City Council Policy 5-1 requires preparation of a Local Transportation Analysis (LTA) to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access, and recommend needed transportation improvements.

#### Project Trip Generation

A trip generation analysis was completed by *Hexagon* to estimate the number of external vehicle trips generated by the proposed project. Trips were estimated using the Institute of Transportation Engineers (ITE) Trip Generation Manuel, 10th Edition trip rates for Research and Development Center (ITE Land Use Code 760), Warehousing (ITE Land Use Code 150), and General Office Building (ITE Land Use Code 710) located in a general urban/suburban setting. The trip generation rates were applied to 21,900 sf of research and development space, 2,200 sf of warehouse space, and 15,000 sf of office space.

In accordance with the City of San José's Transportation Analysis Handbook (April 2018, Section 4.8, "Intersection Operations Analysis"), the project is eligible for adjustments and reductions from the baseline trip generation. Based on the 2018 San José guidelines, the project qualifies for a location-based adjustment. According to the San José VMT Evaluation Tool, the project is located within a "Suburban Multifamily Homes" place type. Office and Industrial developments located within areas designated Suburban with Multifamily Homes have a vehicle mode share of 92 percent (according to Table 6 of the City's Transportation Analysis Handbook). Thus, an eight percent reduction was applied to the project trip generation estimates based on the location-based vehicle mode share outputs produced from the San José Travel Demand Model. The project trip generation estimates can be seen below in Table 4.17-1.

| Table 4.17-1: Project Trip Generation Estimates | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| **Land Use** | **Daily Trips** | **AM Peak Hour** | | | | **PM Peak Hour** | | | |
| | | **Peak Hour Rate** | **In** | **Out** | **Total** | **Peak Hour Rate** | **In** | **Out** | **Total** |
| Research and Development | 247 | 0.42 | 7 | 2 | 9 | 0.49 | 2 | 9 | 11 |
| Warehouse | 4 | 0.17 | 0 | 0 | 0 | 0.19 | 0 | 0 | 0 |
| Office | 146 | 1.16 | 15 | 2 | 17 | 1.15 | 3 | 14 | 17 |
| Location-Based Vehicle Mode Share (8 percent reduction) | -32 | | -2 | 0 | -2 | | 0 | -2 | -2 |
| **Net New Trips** | **365** | | **20** | **4** | **24** | | **5** | **21** | **26** |

Based on Table 4.17-1 above, the project would generate approximately 365 new daily trips with a total of 24 new trips during the AM Peak Hour and 26 new trips during the PM Peak Hour, with reductions applied.

### Intersection Traffic Operations

*Hexagon* evaluated intersection LOS against the standards of the City of José. The results of the analysis show that the signalized study intersections are currently operating at acceptable levels of service during the AM and PM peak hours of traffic and would continue to operate acceptably under background and background plus project conditions. Table 4.17-2 below summarizes the results of the intersection analysis.

| Table 4.17-2: Intersection Level of Service Summary | | | | | | |
|---|---|---|---|---|---|---|
| **Signalized Intersection** | **Peak Hour** | **Background** | | **Background Plus Project** | | |
| | | **Avg. Delay (sec)** | **LOS** | **Avg. Delay (sec)** | **LOS** | **Incr. in Crit. Delay (sec)** |
| I-280 SB Ramps & Brokaw Rd* | AM | 38.7 | D | 38.7 | D | 0.0 |
| | PM | 43.0 | D | 43.1 | D | 0.2 |
| I-280 NB Ramps & Brokaw Rd* | AM | 23.2 | C | 23.2 | C | 0.0 |
| | PM | 31.8 | C | 31.8 | C | 0.1 |

| | | | | | | |
|---|---|---|---|---|---|---|
| Ridder Park Dr & Brokaw Rd | AM | 49.6 | D | 49.5 | D | 0.0 |
| | PM | 34.4 | C | 34.4 | C | 0.0 |
| Oakland Rd & Brokaw Rd* | AM | 45.1 | D | 45.3 | D | 0.2 |
| | PM | 51.6 | D | 51.6 | D | 0.2 |
| Oakland Rd & McKay Dr | AM | 28.4 | C | 28.4 | C | 0.0 |
| | PM | 27.4 | C | 27.4 | C | 0.0 |
| Notes:<br>*denotes a CMP intersection | | | | | | |

Background LOS was estimated by adding to existing traffic volumes the trips anticipated to be generated by nearby approved but not yet completed or occupied projects. Since the institution of shelter-in-place orders due to the COVID-19 pandemic, most businesses and schools are closed, and people are working at home to the extent possible. As a result, existing traffic volume is a fraction of what it was prior to the virus outbreak. In response to the current situation, the City of San José is requiring that all new traffic counts for study intersections be put on hold until further notice. Instead of conducting new 2020 counts, City staff have determined that an annual growth factor of one percent be applied to historical count data (i.e., counts that are more than one year old). Accordingly, a one percent annual growth factor was applied to the turning movement counts provided by City staff for this project.

## On-Site Circulation

The City's standard minimum width for two-way drive aisles is 26 feet where 90-degree parking is provided. This allows sufficient room for vehicles to back out of the parking stalls. According to the site plan, all the drive aisles are shown to be 26 feet wide and would provide access to 90-degree parking stalls throughout the site. The site plan shows one dead-end drive aisle at the northernmost point of the site within the secured parking area. An adequate turnaround is provided at this location.

### Truck Access and Circulation

The project site plan was reviewed for truck access using truck turning-movement templates for a SU-30 truck type (single unit trucks), which represents small to medium emergency and delivery vehicles and standard garbage trucks. Based on the site plan configuration adequate access would be provided for SU-30 type trucks

### General Loading Operations

According to the City of San José Zoning Code (Section 20.90.410), each building would require one off-street loading space. According to the City's zoning regulations, off-street loading spaces must be no less than 10 feet wide by 30 feet long and provide at least 15 feet of vertical clearance, exclusive of driveways for ingress and egress and maneuvering areas. No loading spaces are shown on the site plan. Therefore, the project would not meet the City's freight loading requirements as is. The project would need to provide one off-street loading zone for each building in order to meet the City José's Zoning Code requirements.

Garbage Collection

The site plan shows the trash bins would be located outside the building at the southwest corner of the site within a standard sized trash enclosure. Thus, adequate clearance would be provided for garbage trucks to empty the bins over the truck. Since garbage collection would occur on-site, traffic operations along Oakland Road would not be affected during garbage collection activities.

## Parking

Parking Stall Dimensions

The City's off-street parking design standard for 90-degree uniform parking stalls is 8.5 feet wide by 17 feet long. All the uniform parking stalls shown on the site plan measure 8.5 feet wide by 15 feet long with a two-foot overhang (total length of 17 feet), which meets the City's design standard. The accessible ADA stalls all measure nine feet wide by 18 feet long and include access aisles of five feet or more for van accessibility. These stall dimensions would meet ADA standards.

Vehicular Parking

According to the City of San José's off-street parking requirements (Chapter 20.90, Table 20-190 of the City's Zoning Code), and based on the project's size, the project would be required to provide a total of 107 vehicle parking spaces. The site plan shows a total of 128 vehicle parking spaces, consisting of 89 open spaces and 39 secured spaces, which would exceed the City's vehicle parking requirements by 21 parking spaces.

Motorcycle Parking

According to the City of San José's off-street parking requirements (Chapter 20.90, Table 20-250 of the City's Zoning Code), the project would be required to provide two motorcycle parking spaces. The site plan shows six motorcycle parking spaces located adjacent to Building A, which would exceed the City's motorcycle parking requirements.

Bicycle Parking

According to the City of San José's off-street parking requirements (Chapter 20.90, Table 20-190 of the City's Zoning Code), the project would be required to provide a total of ten bicycle parking spaces. The site plan shows eight short-term (bike racks) and two long-term spaces (bike lockers), for a total of ten bicycle parking spaces, which would meet the City's bicycle parking requirements.

## 4.18 TRIBAL CULTURAL RESOURCES

### 4.18.1 Environmental Setting

#### 4.18.1.1 *Regulatory Framework*

**State**

Assembly Bill 52

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

Under AB 52, TCRs are defined as follows:

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

The City of San José received written notice from the Ohlone Indian Tribe, Inc. representative on July 9, 2018, requesting notification of projects in accordance with Public Resources Code Section 21080.3.1 subd (b), and, a verbal request in a meeting with the Tribal representative on July 12, 2018, that such notification be sent only for projects in the City of San José that involve ground-disturbing activities, and that such requests may be sent by e-mail only for future projects that require a Negative Declaration, or Mitigated Negative Declaration, or Environmental Impact Report.

**Local**

Envision San José 2040 General Plan

The City of San José sets forth the following policies pertaining to tribal cultural resources in its General Plan.

**Envision San José 2040 General Plan Tribal Cultural Resources Policies**

| Policy | Description |
|---|---|
| ER-10.1 | For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design. |

| | |
|---|---|
| ER-10.2 | Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon their discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced. |
| ER-10.3 | Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources. |

#### 4.18.1.2 *Existing Conditions*

The project site is currently vacant. As described in Section 4.5 Cultural Resources, no tribal cultural resources are plotted within the project site. In this portion of San José, Native American sites have been identified within a half mile of the Guadalupe River and Coyote Creek, and within a quarter mile of their tributaries. The project site is located ¼-mile northeast of Coyote Creek. Nearby Native American sites consist of a shell midden and a multiple burial location capped by 30 inches of alluvium. As a result, the project site has a moderate potential for surficial archaeological sites and a moderate to high potential for buried sites.

### 4.18.2 Impact Discussion

| | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|---|---|---|---|---|
| Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: | | | | |
| a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)? | ☐ | ☐ | ☒ | ☐ |
| b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe. | ☐ | ☐ | ☒ | ☐ |

**a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?**

As discussed in Section 4.5 Cultural Resources, there are no tribal cultural resources on or adjacent to the project site.[84] Nonetheless, project construction activities (particularly grading, trenching, and/or excavating) could damage as-yet unrecorded subsurface resources, including tribal resources. Any tribal cultural resources discovered at the site could potentially be eligible for listing in local or statewide registers of historical resources. Accordingly, an appropriate process must be followed during site development to ensure any resources that are uncovered are properly accounted for and preserved for study. Consistent with General Plan Policies ER-10.2 and ER-10.3, mitigation measures would be implemented by the project to avoid any significant impacts to tribal cultural resources discovered during development of the site (refer to Section 4.5 Cultural Resources).

For these reasons, the project would not cause a substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k). **(Less than Significant Impact)**

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

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. In 2017, the City had sent a letter to tribal representatives in the area to welcome participation in consultation process for all ongoing, proposed, or future projects within the City's Sphere of Influence or specific areas of the City. As discussed above, the Ohlone Tribe submitted a request in July of 2018 for notification of projects requiring a Negative Declaration, a Mitigated Negative Declaration, or an Environmental Impact Report that would involve ground-disturbing activities within the City of San José. The City of San José sent notification of the project on January 19, 2021 and did not receive any request for consultation for this project from the Ohlone Tribe or any other tribal representative. As described above in Section 4.5 Cultural Resources, the mitigation measures included in the project would ensure tribal cultural resources are not significantly impacted if they were to be accidentally uncovered during construction or pre-construction subsurface exploration of the site. Therefore, the impact would be less than significant. **(Less than Significant Impact)**

[84] Holman & Associates, Inc. *Results of a Due Diligence Archaeological Literature Search for Two Acres of Land on Oakland Road, northwest of East Brokaw Road, San Jose, Santa Clara County*. May 7, 2019.

## 4.19 UTILITIES AND SERVICE SYSTEMS

### 4.19.1 Environmental Setting

#### 4.19.1.1 *Regulatory Framework*

**State**

State Water Code

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

California Green Building Standards Code Compliance for Construction, Waste Reduction, Disposal and Recycling

In January 2010, the State of California adopted the California Green Building Standards Code ("CALGreen"), establishing mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resources efficiency, and indoor environmental quality. These standards include the following mandatory set of measures, as well as more rigorous voluntary guidelines, for new construction projects to achieve specific green building performance levels:

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

Assembly Bill 939

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

Assembly Bill 1826 (2014)

AB 1826 sets forth the requirements of the statewide mandatory commercial organics recycling program for businesses and multi-family dwelling with five or more units that generate four or more (two or more by December 31, 2020) cubic yards of commercial solid waste per week. AB 1826 sets a statewide goal for 50 percent reduction in organic waste disposal by the year 2020.

Assembly Bill 341

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

Senate Bill 1383

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

**Local**

California Green Building Standards Code Compliance for Construction, Waste Reduction, Disposal and Recycling

The City of San José requires 75 percent diversion of nonhazardous construction and demolition debris for projects that quality under CALGreen, which is more stringent than the state requirement of 65 percent (San José Municipal Code Section 9.10.2480).

Construction and Demolition Diversion Deposit Program

The Construction and Demolition Diversion Deposit Program (CDDD) requires projects to divert at least 50% of total projected project waste to be refunded the deposit. Permit holders pay this fully refundable deposit upon application for the construction permit with the City if the project is a demolition, alteration, renovation, or a certain type of tenant improvement. The minimum project valuation for a deposit is $2,000 for an alteration-renovation residential project and $5000 for a non-residential project. There is no minimum valuation for a demolition project and no square footage limit for the deposit applicability. The deposit is fully refundable if C&D materials were reused, donated, or recycled at a City-certified processing facility. Reuse and donation require acceptable documentation, such as photos, estimated weight quantities, and receipts from donations centers stating materials and quantities.

Though not a requirement, the permit holder may want to consider conducting an inventory of the existing building(s), determining the material types and quantities to recover, and salvaging materials during deconstruction.

Envision San José 2040 General Plan

The Envision San José 2040 General Plan contains the following policies which are specific to utilities and service systems and applicable to the proposed project:

**Envision San José 2040 General Plan Relevant Utilities and Service System Policies**

| Policies | Description |
|---|---|
| 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. |
| 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. |
| MS-3.2 | Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit. |
| MS-3.3 | Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses. |
| MS-19.1 | Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a sustainable local water supply. |
| MS-19.3 | Expand the use of recycled water to benefit the community and the environment. |
| MS-19.4 | Require the use of recycled water wherever feasible and cost-effective to serve existing and new development. |
| IN-1.5 | Require new development to provide adequate facilities or pay its fair share of the cost for facilities needed to provide services to accommodate growth without adversely impacting current service levels. |
| IN-3.7 | Design new projects to minimize potential damage due to storm waters and flooding to the site and other properties. |
| IN-3.9 | Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards. |
| IN-3.10 | Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES). |
| 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. |

San José Zero Waste Strategic Plan/Climate Smart San José

The Climate Smart San José provides a comprehensive approach to achieving sustainability through new technology and innovation. The Zero Waste Strategic Plan outlines policies to help the City of San José foster a healthier community and achieve its Climate Smart San José goals, including 75 percent waste diversion by 2013 and zero waste by 2022. The Climate Smart San José also includes ambitious goals for economic growth, environmental sustainability, and enhanced quality of life for San José residents and businesses.

San José Sewer System Management Plan

The purpose of the Sewer System Management Plan (SSMP) is to provide guidance to the City in the operation, maintenance, and rehabilitation of the sewer assets of the City of San José. The SSMP includes construction standards and specifications for the installation and repair of the collection system and its associated infrastructure.

#### 4.19.1.2 *Existing Conditions*

**Water Services**

Water service is provided to the City of San José by three water retailers, San José Water Company, the City of San José Municipal Water System, and the Great Oaks Water Company. Water services to the project site are provided by the San José Water Company (SJWC).[85] The service area of SJWC is 139 square miles, including most of the cities of San José and Cupertino, entire cities of Campbell, Monte Sereno, Saratoga, the Town of Los Gatos, and parts of unincorporated Santa Clara County. Potable water provided to the service area is sourced from groundwater, imported treated water and local surface water. Approximately 55 percent of SJWC's water supply is purchased from the Valley Water, 37 percent is pumped from local groundwater aquifers, and eight percent comes from local surface water sources.

The project site is currently vacant and does not have any water demand.

**Sanitary Sewer/Wastewater Treatment**

Wastewater from the City is treated at the San José/Santa Clara Regional Wastewater Facility (RWF) which is administered and operated by the City Department of Environmental Services. The RWF provides primary, secondary, and tertiary treatment of wastewater and has the capacity to treat 167 million gallons of wastewater a day (mgd). The RWF treats an average of 110 mgd and serves 1.4 million residents.[86] The City of San José is allocated 108.6 mgd of existing capacity at the RWF. The City of San José generates approximately 69.8 mgd of dry weather average flow, leaving 38.8 of excess treatment capacity at the RWF for the City's wastewater treatment demands.[87]

[85] City of San José. "Utility Services Lookup". Accessed June 4, 2020. https://www.sanjoseca.gov/your-government/environment/recycling-garbage/residents/residential-services-lookup
[86] City of San José. "San José – Santa Clara Regional Wastewater Facility". Accessed June 4, 2020. https://www.sanjoseca.gov/your-government/environment/water-utilities/regional-wastewater-facility
[87] City of San José. *Envision San José 2040 General Plan FEIR.* September 2011. Page 648.

As mentioned above, the project site is currently vacant, and no wastewater is generated on-site. There are 15- and 30-inch sanitary sewer lines in Oakland Road which serve surrounding development and would be available to serve the site.

**Stormwater Drainage**

The City of San José owns and maintains the municipal stormwater drainage system which serves the project site. The site is predominantly pervious and generates minimal stormwater runoff. Runoff that does leave the site is captured in storm inlets in Oakland Road and conveyed to the City's drainage system via a 15-inch storm drain line. The storm drain line ultimately discharges to Coyote Creek.

**Solid Waste**

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California Integrated Waste Management Board (CIWMB) in 1996 and was reviewed in 2004 and 2007. Each jurisdiction in the county has a diversion requirement of 50 percent for 2000 and each year thereafter. According to the IWMP, the County has adequate disposal capacity beyond 2022. The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year.

The City of San José's Zero Waste Strategic Plan outlines policies to achieve its Climate Smart San José goals, including 75 percent diversion of waste from the landfill by 2013 and zero waste by 2022

The project site is currently vacant and does not generate any solid waste.

**Electric Power, Natural Gas, and Telecommunications**

The project site is vacant and does not generate demand for electric power, natural gas, or telecommunications services. Overhead power lines run along the Oakland Road frontage and make up part of a 31-foot wide communication easement which includes portions of the project site. In addition, a 10-foot wide natural gas easement is located along the eastern boundary of the site.

## 4.19.2 Impact Discussion

| | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|---|---|---|---|---|
| Would the project: | | | | |
| a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects? | ☐ | ☐ | ☒ | ☐ |
| b) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years? | ☐ | ☐ | ☒ | ☐ |

| | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|---|---|---|---|---|
| Would the project: | | | | |
| c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? | ☐ | ☐ | ☒ | ☐ |
| d) Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals? | ☐ | ☐ | ☒ | ☐ |
| e) Be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste? | ☐ | ☐ | ☒ | ☐ |

**a) Would the project require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?**

The proposed industrial office buildings would connect to existing utilities in Oakland Road. The project would not exceed wastewater treatment requirements or require the construction or expansion of wastewater treatment facilities, as described further under checklist question c. As described in Section 4.10 Hydrology and Water Quality, the proposed project would result in a substantial increase in impervious surface coverage over existing conditions, however, the project would implement construction and post-construction BMPs and runoff treatment controls to address the resulting changes in runoff volume and water quality. The project would not require the construction of new stormwater drainage facilities or expansion of existing facilities. The project would not generate a substantial demand for water, electricity, natural gas, or telecommunications such that new facilities would need to be constructed. In addition, the project would not interfere with the natural gas or communications easements described previously, as Building B would be located outside of the easement zones along the Oakland Road frontage. Thus, the project would not result in the relocation or construction of new utility facilities. **(Less than Significant Impact)**

**b) Would the project have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?**

Valley Water's baseline projection in the Integrated Water Resources Planning Study estimates Countywide water demand to grow from approximately 382,000 acre-feet per year (AFY) to approximately 475,000 AFY in 2040, an increase of approximately 24 percent. Over this same period, Countywide population is expected to grow by 54 percent, from 1.7 million people to 2.6 million. San José's population growth and associated water demand, as represented by the General Plan, are included in these projections. Although Valley Water forecasts that supplies will be

adequate to meet needs in wet and average years, there are expected to be dry-year shortages that grow over time from approximately 50,000 acre-feet in 2010 to 75,000 acre-feet by 2040.[88]

As previously stated, SJWC is the water retailer for the project site. Their most recent Urban Water Management Plan (adopted in July 2016 by their Board of Directors) determined that with utilization of conservation measures and recycled water, water supplies would be adequate to supply customers in its service area upon the City's projected General Plan buildout demand.[89] During future droughts, SJWC will enact their Water Shortage Contingency Plan to ensure customer demand is met.

The project is estimated to generate a water demand of approximately 24,772 gallons per day (gpd).[90] While water demand would be increased relative to the existing vacant site, the increased demand from the project would be incremental compared to the increased demand that is anticipated upon General Plan build out. The project site is consistent with General Plan growth projections used to analyze future water supply and demand in SJWC's 2015 UWMP. Therefore, there would be adequate water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years. **(Less than Significant Impact)**

**c) Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?**

In 2011, the 2040 General Plan FEIR identified an excess treatment capacity at the RWF of 38.8 million gallons per day from San José wastewater sources. The RWF has millions of gallons of daily wastewater treatment capacity remaining for the City of San José. The project is estimated to generate approximately 21,056 gallons of wastewater per day.[91] The wastewater demand of the project would be incremental in relation to the expected increases in wastewater treatment demand at the RWF. Therefore, the project would not result in a determination by the wastewater treatment provider that it does not have adequate capacity to serve the project's demand. **(Less than Significant Impact)**

[88] Valley Water. *Integrated Water Resources Planning Study 2003.* December 2005. Accessed June 6, 2020. https://www.valleywater.org/sites/default/files/IWRPStudy2003_Final.pdf
[89] City of San José. *Envision San José 2040 General Plan Four-Year Review Addendum*. Page 90.
[90] California Emissions Estimator Model. *Appendix D – Table 9.1 Water Use Rates.* September 2016.
[91] Based on the standard wastewater generation rate of 85 percent of total water usage.

**d) Would the project generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?**

The project is estimated to generate approximately 47.9 tons of solid waste per year.[92] The project would comply with policies in the Zero Waste Strategic Plan to reduce its generation of solid waste. According to the IWMP, the County has adequate disposal capacity beyond 2022. The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year. Therefore, the project would not generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure. **(Less than Significant Impact)**

**e) Would the project be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?**

The project would be required to conform to City plans and policies to reduce solid waste generation, including the City's Zero Waste Strategic Plan and 75 percent diversion goal. By ensuring that future development meets the standards set forth by City policies and plans, the proposed project would not prevent solid waste reduction goals from being reached or interfere with the provision of solid waste services. **(Less than Significant Impact)**

[92] California Emissions Estimator Model. *Appendix D – Table 10.1 Solid Waste Disposal Rates.* September 2016.

## 4.20 WILDFIRE

### 4.20.1 Environmental Setting

#### 4.20.1.1 *Existing Conditions*

The California Department of Forestry and Fire Protection (Cal Fire) is required by law to map areas of significant fire hazards based on fuels, terrain, weather, and other relevant factors. Referred to as Fire Hazard Severity Zones (FHSZ), these maps influence how people construct buildings and protect property to reduce risk associated with wildland fires. The project site is surrounded by urban development and is not located within a fire hazard severity zone[93].

### 4.20.2 Impact Discussion

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

**a)-d)**

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones; therefore, the project would not result in wildfire impacts. **(No Impact)**

[93] California Department of Forestry and Fire Protection (CAL FIRE). *Fire Hazard Severity Zone Viewer.* Accessed May 19, 2020. http://egis.fire.ca.gov/FHSZ/.

## 4.21 MANDATORY FINDINGS OF SIGNIFICANCE

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

**a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?**

As discussed in the individual sections, the proposed project would not degrade the quality of the environment with implementation of the identified standard permit conditions and mitigation measures.

As discussed in Section 4.3 Air Quality, construction activities on-site would include grading and site preparation, trenching, building construction, architectural coating, and paving. The project would be required to implement the identified standard permit conditions during all phases of construction to reduce dust and other particulate matter emissions.

As discussed in Section 4.4 Biological Resources, the project would not impact sensitive habitats or species. The project would implement mitigation measures MM BIO-1.1 – 1.4 and MM BIO – 2.1 to 2.3 to reduce impacts to nesting birds and roosting bats to less than significant levels. Additionally, the project would adhere to the required standard permit conditions for tree removal to ensure the

project would not significantly impact the community forest. All trees removed would be required to be replaced in accordance with all applicable laws, policies, and guidelines. The project is a covered activity under the SCVHP and would be required to pay applicable fees prior issuance of any grading permits.

As discussed in Section 4.5 Cultural Resources, the proposed project site is located in an area with high potential for buried prehistoric archaeological deposits or features and a low potential for historic archaeological resources. Excavation at the project site could result in the loss of culturally and scientifically valuable archaeological resources. Implementation of mitigation measures MM CUL-1.1 through -1.5 would ensure that impacts to archaeological resources and human remains are less than significant. Historic buildings, structures, or sites would not be impacted by the proposed project.

Implementation of the standard permit conditions listed in Section 4.7 Geology and Soils would reduce construction related erosion impacts and address seismic hazards in the project's design. Further, the project would implement standard permit conditions to ensure that paleontological resources are not significantly impacted if discovered during construction activities.

As discussed in Section 4.9 Hazards and Hazardous Materials, the project site has not been impacted by its historical agricultural use and there are no off-site sources of contamination that present a hazard to the site. Therefore, construction of the project would not expose construction workers and the public to hazardous materials.

As discussed in Section 4.10 Hydrology and Water Quality, the project would be required to implement standard permit conditions to reduce potential construction and post-construction water quality impacts. Implementation of these conditions, in accordance with regional and local regulations, would ensure the project would not degrade water quality or introduce polluted sources of runoff.

As discussed in Section 4.13 Noise and Vibration, vibration impacts from construction of the proposed project could potentially impact nearby buildings. Implementation of mitigation measure MM NOI-1 would reduce these impacts to less than significant. **(Less than Significant with Mitigation Incorporated)**

**b) Does the project have impacts that are individually limited, but cumulatively considerable?**

The proposed project would result in no impacts in the areas of agriculture and forestry resources, or mineral resources. The proposed development would result in temporary biological resources, water quality and noise and vibration impacts during construction. With implementation of standard permit conditions, BMPs, mitigation measures, and consistency with adopted City policies, construction impacts would be reduced to a less than significant level. Because the nature of the identified impacts are temporary and would be mitigated, the proposed project would not have a cumulatively considerable impact on biological resources, water quality, and noise.

Because criteria air pollutant and GHG emissions would contribute to regional and global emissions of such pollutants, the identified thresholds developed by BAAQMD and used by the City of San José were designed such that a project impact would also be a cumulatively considerable impact. As discussed in Sections 4.3 Air Quality and 4.8 Greenhouse Gas Emissions, the project would result in less than significant project (and, therefore, cumulative) criteria air pollutant and GHG impacts.

Similar to GHG emissions, a project's impact to energy resources would also be considered a cumulative impact. Buildout of the General Plan will result in increased energy use in the form of electricity, natural gas and other fuels. Implementation of energy efficiency requirements in building codes, including the recently adopted CALGreen requirements, local Green Building ordinances and program measures in local General Plans and various sustainability and conservation policies would avoid the wasteful and inefficient use of energy. Local programs of PG&E and Valley Water also are improving energy and water conservation in the South Bay and Northern California, which ultimately will reduce energy demand per capita. Through these measures, buildout of the General Plan and cumulative projects will not result in significant cumulative energy impacts associated with the built environment. Therefore, the proposed project's contribution of energy consumption would not represent a cumulatively considerable impact.

Envision San José 2040 General Plan EIR

Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects "that are individually limited, but cumulatively considerable." As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means "that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." In addition, under Section 15152(f) of the CEQA Guidelines, where a lead agency has determined that a cumulative effect has been adequately addressed in a prior EIR, the effect is not treated as significant for purposes of later environmental review and need not be discussed in detail.

The Envision San José 2040 General Plan EIR (GP EIR) identifies Significant Unavoidable Cumulative Impacts to population and housing and transportation associated with implementation of the General Plan. As discussed in Section 4.14 Population and Housing, the proposed project does not propose to construct any new dwelling units, but would result in the creation of approximately 123 new jobs. This increase in citywide job capacity would not exceed the anticipated General Plan level because the project is consistent with the General Plan land use designation of the site. In addition, the project does not propose to construct new road extensions or other infrastructure, and would not result in the displacement of any existing housing that would require the construction of replacement housing elsewhere. For these reasons, the project's population and housing impacts would be less than significant, and the project's contribution to a cumulative significant unavoidable impact would be minimal.

The GP EIR states that under cumulative conditions, which assumes build-out of all planned growth in the region, including the City's General Plan, regional roadways and highways would experience levels of service in excess of those standards identified by responsible agencies, for which no feasible mitigation exists because roadways cannot continue to be expanded without adversely impacting adjacent land uses, and other transportation modes. Despite the City's ongoing efforts to work with

adjacent jurisdictions including VTA and Caltrans to improve roadway operations and to expand capacity of alternate transportation modes, the cumulative transportation impacts are significant and unavoidable. Since the adoption of the General Plan, however, the City of San Jose has adopted a new Transportation Analysis Policy (Council Policy 5-1) that replaces its predecessor (Council Policy 5-3) and establishes the thresholds for transportation impacts under CEQA based on vehicle miles traveled (VMT) instead of intersection level of service (LOS). Since the effective date of Policy 5-1 in March 2018, all new projects have been required to analyze transportation impacts using the VMT metric and conform to Council Policy 5-1. Policy 5-1 aligns with the Envision San Jose 2040 General Plan which seeks to focus new development growth within Planned Growth Areas to internalize trips and reduce VMT.

As discussed in Section 4.17 Transportation, the VMT generated by the project would exceed the threshold of significance for general employment uses in the area, resulting in a significant transportation impact on VMT. The project would therefore implement Mitigation Measures MM 4.17-1 through 4.17-5 to reduce project VMT to less-than-significant levels. By conforming to Policy 5-1 and implementing the mitigation measures described in Section 4.17 Transportation, the project's contribution to a significant unavoidable cumulative transportation impact would be less than significant.

According to the GP EIR, buildout of the General Plan would result in less than significant impacts to cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, public services and facilities, and utilities. The proposed project's impacts to these resource areas, as well as Tribal Cultural Resources and Wildfire, were analyzed throughout Section 4.0 Environmental Setting, Checklist, and Impact Discussion, and found to be less than significant. Their contribution to cumulative impacts on these resources would also be less than significant. **(Less than Significant with Mitigation Incorporated)**

**c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?**

Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. While changes to the environment that could indirectly affect human beings would be represented by all of the designated CEQA issue areas, those that could directly affect human beings include hazardous materials and noise. Implementation of General Plan policies, mitigation measures, and standard conditions described in their respective sections would, however, reduce these impacts to a less than significant level. No other direct or indirect adverse effects on human beings have been identified. **(Less than Significant with Mitigation Incorporated)**

# SECTION 5.0 REFERENCES

The analysis in this Initial Study is based on the professional judgement and expertise of the environmental specialists preparing this document, based upon review of the site, surrounding conditions, site plans, and the following references: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# SECTION 6.0 LEAD AGENCY AND CONSULTANTS

## 6.1 LEAD AGENCY

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