***ADMINISTRATIVE DRAFT* INITIAL STUDY**

2880 Alum Rock Mixed-Use Project

FILE NO. CP20-025

Prepared for: City of San José

Prepared by: Circlepoint

August 2021

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1 Project Information

Project Title	2880 Alum Rock Avenue Mixed Use Project
Lead agency name and address	Bethelhem Telahun, Planner I, Environmental Review City of San José Department of Planning, Building, and Code Enforcement 200 E. Santa Clara Street San José, CA 95113
Project Location:	2880 Alum Rock Avenue, San José, CA
File Number:	CP20-025
Property Owner/Project Sponsor	Idaho Pacific West Communities, Inc. 430 E. State St, Suite 100 Eagle, ID 83616
Property APN	484-20-040
General Plan Designation:	Neighborhood Community Commercial
Zoning:	CN - Commercial Neighborhood
Description of project:	The project would involve demolition of an existing vacant 8,200 square-foot commercial restaurant and associated surface parking, the removal of on-site trees, and the construction of a six-story mixed-use building and a six-story podium-style residential building, with up to 7,500 square-feet of commercial space and 164 multi-family residential units (100 percent affordable) with associated podium garage parking, landscaping, and amenities, located on a 1.32-acre lot.
Surrounding land uses and setting:	Residential properties are located north of the project site across Alum Rock Avenue. The adjacent property to the east is a commercial paint supply store. The project site is bordered to the south by single-story residential units and bounded to the west by restaurants along the frontage of Alum Rock Avenue.
Other public agencies whose approval is required (e.g., permits, financial approval, or participation agreements):	Tree Removal Permit – City of San José Building Permit – City of San José Grading Permit – City of San José Conditional Use Permit - City of San José NPDES General Permit - City of San José

1.1 Project Location and Setting

The project site, 2880 Alum Rock Avenue, is in the northeastern portion of the City of San José (City), Santa Clara County, California (**Figure 1** and **Figure 2**). According to the Envision San José 2040 General Plan (General Plan), the project site land use designation is Neighborhood/Community Commercial (**Figure 3**) and zoning is Commercial Neighborhood (**Figure 4**).

The 1.32-acre parcel (APN 484-20-040) is relatively flat, developed with an existing vacant 8,200 square-foot commercial restaurant, and contains no formal landscaping. Alum Rock Avenue provides access to the project site. Other nearby roadways include South Capitol Avenue to the west of the project site, South White Road to the east, and Rose Avenue to the south. The urbanized project site is surrounded by residential properties to the north of the project site across Alum Rock Avenue, a commercial paint store to the east, single-story residential units to the south, and restaurants to the west. The project site is within 0.5 mile from the Alum Rock BART station.

Areas surrounding the project site comprise a variety of zoning designations, with areas to the north zoned Single-Family Residential (Up to Eight Dwelling Units per Acre), areas to the east and south zoned as Planned Development (Multiple Residence), and areas to west zoned for Planned Development. Land uses north and west of the project site are designated as Residential Neighborhoods. Land uses to the east and south feature a mix of Neighborhood/Community Commercial and Mixed Use Neighborhoods. The project is considered a mixed-use project and would require a conditional use permit to be allowed within the Commercial Neighborhood Zoning District. See **Figure 3** and **Figure 4** for land use designations and zoning for the project site and surrounding area.

1.2 Project Description

The project would involve the construction of a six-story mixed-use building (proposed Building A) and a six-story podium-style residential building (proposed Building B) on a 1.32-acre site (**Figure 5, Figure 6a**, and **Figure 6b**). The project would include a total of 164 residential units consisting of 92 studio units, 58 one-bedroom units, and 14 two-bedroom units. The project would be a 100 percent affordable housing project. The project would also provide a leasing office, mail room, and other residential amenities on the second floor.[1] In addition to the residential component, the project would include approximately 7,500 square-feet of commercial space on the first and second floors of proposed Building A.[2] Parking would be provided at one half space per unit in addition to electric vehicle (EV) ready parking spaces. A total of 102 parking stalls would be provided for the residential and commercial uses with 42 stalls available in enclosed parking garages below proposed buildings A and B and 60 stalls available in an open parking lot surrounding the proposed buildings. The parking garage below Building A would include 29 stalls with three of those stalls for motorcycle parking and there would be 13 parking stalls below Building B. Approximately 44 bicycle parking spaces would be included on-site and 10 bicycles would be provided for tenant-use.

[1] Resident amenities provided on the second floor would not involve patio/pool features, or any other noise generating space.

[2] The plans for the project show that the commercial use would be approximately 7,000 square-feet. However, 7,500 square-feet of commercial use was analyzed to allow the project flexibility if the square footage were to increase in the future.

The maximum structure height would be approximately 80 feet (**Figure 7a** and **Figure 7b**). Conceptual perspective views of the project are depicted in **Figure 8a** and **Figure 8b**. Site access would be provided via Alum Rock Avenue. Emergency access would also be provided from Alum Rock Avenue. Under existing conditions, the developed project site contains 53,769 square-feet of impervious surface areas and 3,659 square-feet of pervious areas. Project construction would reduce the total impervious surface area to 38,938 square-feet and increase the total pervious surface to 18,041 square-feet.

Stormwater would flow from downspouts under the sidewalk and discharge to the pervious pavement via through-curb drains. Downspouts would be spaced such that stormwater is evenly distributed throughout the pervious pavement. Domestic water service, fire water service and sanitary sewage lines would be provided to the apartments by two proposed connections to an existing 17.25-inch water line and an existing 6-inch sanitary sewer line.

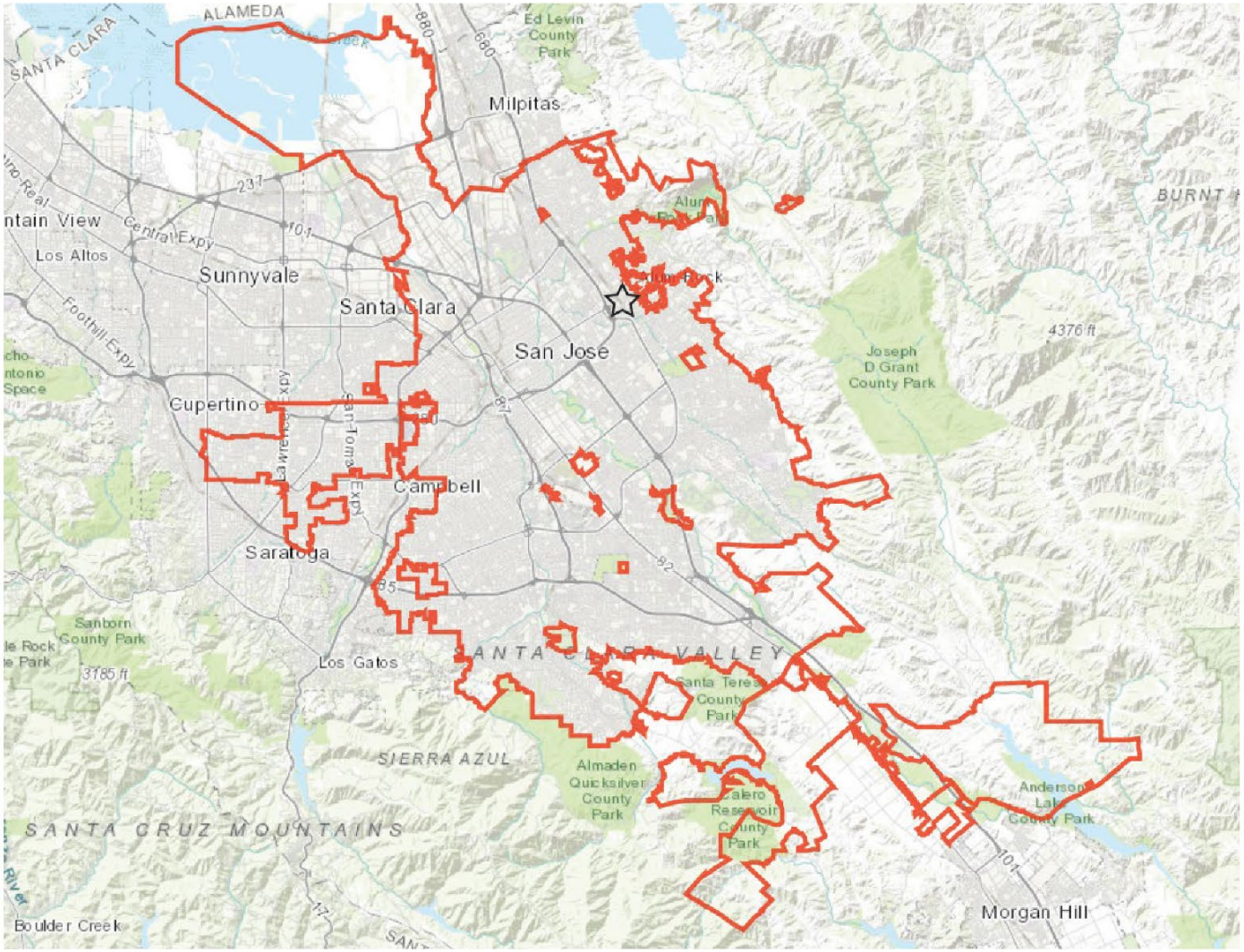
The project is located within the Commercial Neighborhood (CN) Zoning District which is intended to provide for neighborhood serving commercial uses without an emphasis on pedestrian orientation except within the context of a single development. The project is considered a mixed-use project and would require a conditional use permit to be allowed within the CN Zoning District.

Construction

Project construction is expected to commence in January 2022 and occur over approximately 14 months. The project would require the demolition of the existing restaurant (8,235 square-feet) and the onsite asphalt (approximately 7,330 cubic yards). The project would involve approximately 1,700 cubic yards of grading; approximately 1,300 cubic yards would be exported from the site and 400 cubic yards would be used as fill. Typical construction equipment would include dozers, graders, tractors, cranes, forklifts, and generators. The project would also adhere to the City's conditions of approval for construction equipment, which would require the usage of cleaner diesel equipment to reduce diesel exhaust emissions. The construction equipment would need to be rated Tier 4 or equivalent, and an air quality specialist would need to ensure that the equivalent equipment has a similar emissions reduction to equipment equipped with Tier 4 engines. No pile driving equipment would be required. Construction would occur during the construction hours allowed by the San José Municipal Code (SJMC) Section 20.100.450, which establishes the hours of construction within 500 feet of residential units.

Sustainability Features

The project would include green building features, namely the achievement of, at minimum, a Silver level certification by the United States Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) v4 program. There would be a total of 12 electric vehicle (EV) parking stalls on the site, three designated for the commercial users and nine for the residential users. Furthermore, the project's roof will be 15 percent solar ready for future installation.



Regional Location Map Figure **1**

Source: Circlepoint; Google Earth, 2020

Legend

Project Site

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Project Site Figure 2

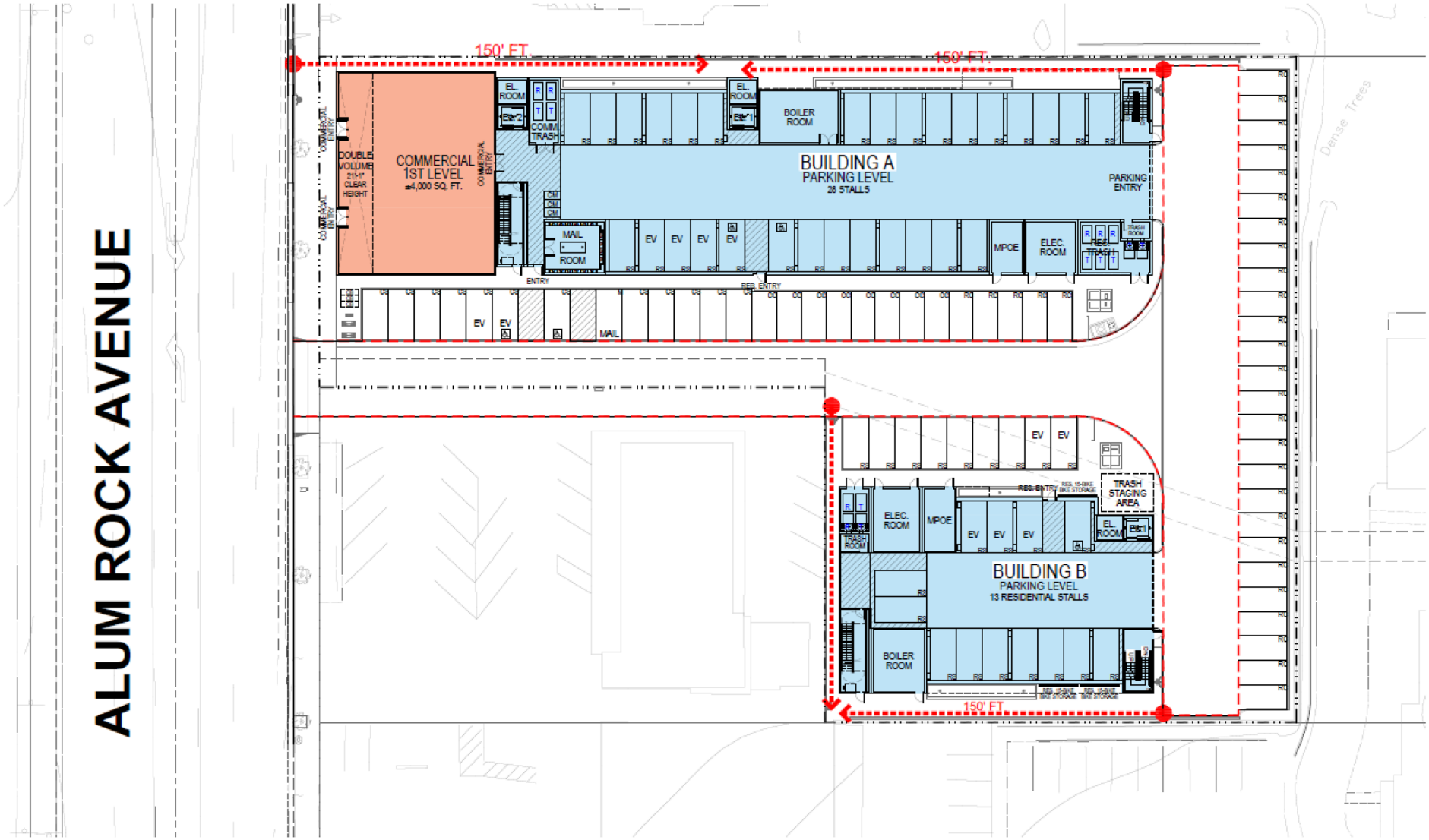
Source: Google Earth, 2021

Land Use Map Figure 3

Source: San Jose General Plan 2040, 2021.

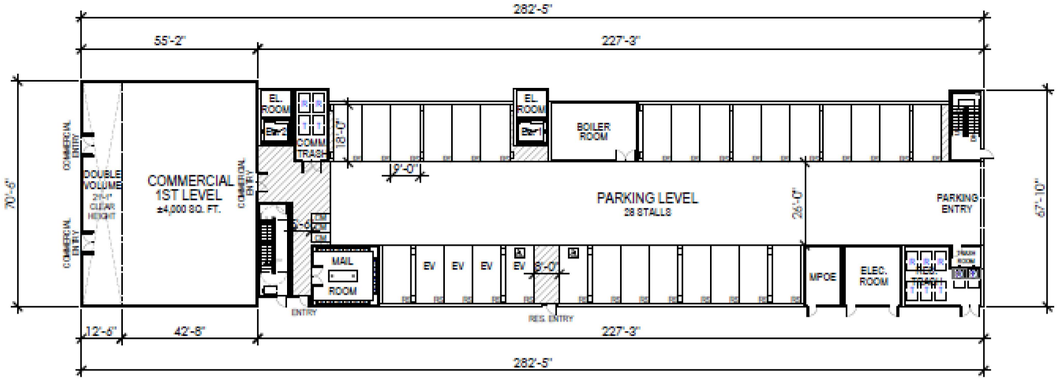
Zoning Map Figure 4

Source: San Jose General Plan 2040, 2021.

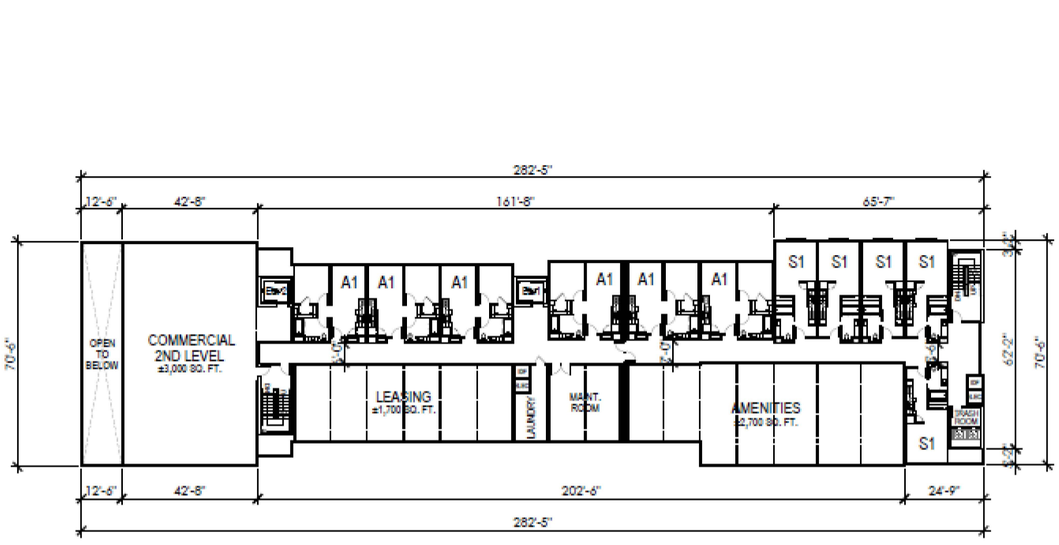


Conceptual Site Plan Figure **5**

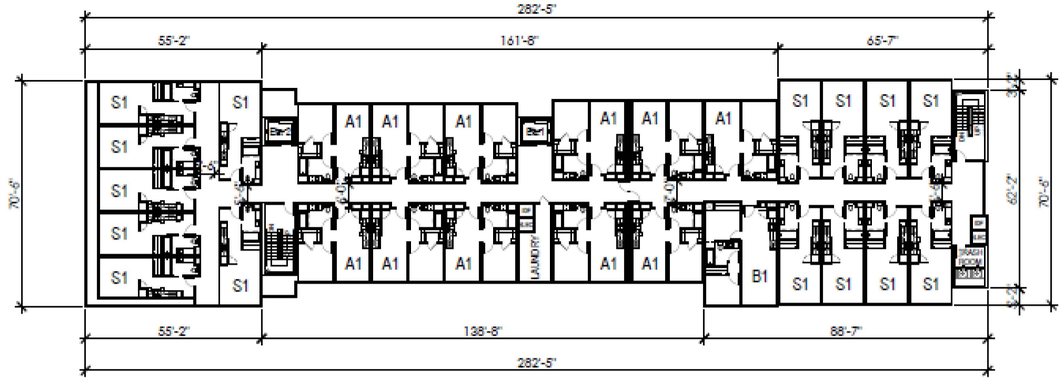
Source: Circlepoint, 2021.



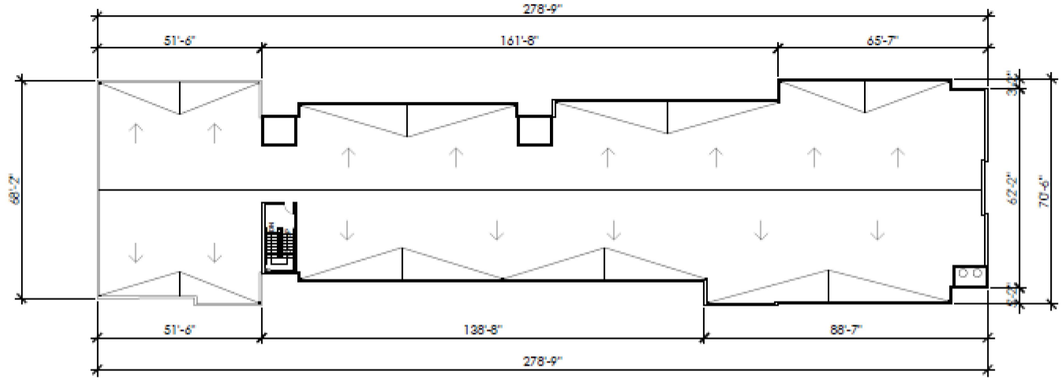
GROUND FLOOR PLAN 1



SECOND LEVEL FLOOR PLAN 2



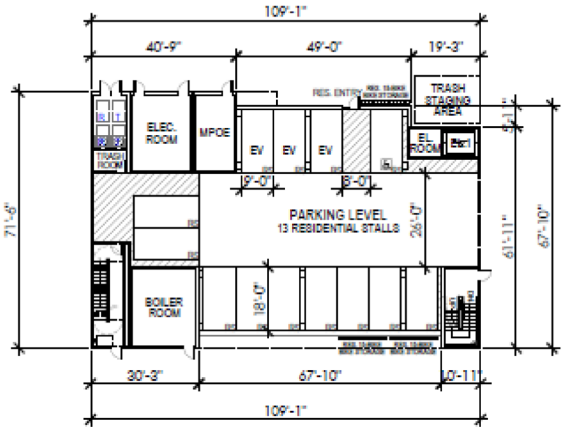
THIRD-SIXTH LEVEL FLOOR PLAN 3



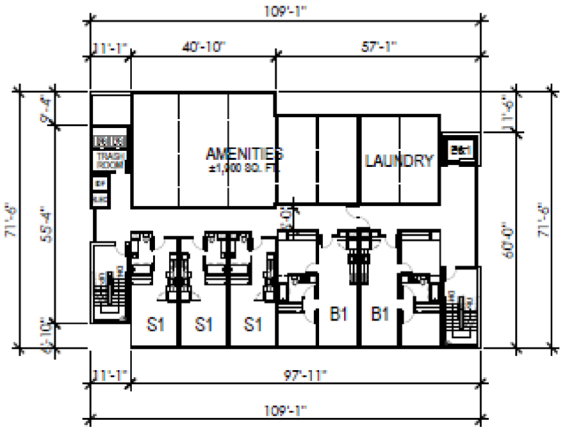
ROOF PLAN 4

Conceptual Floor Plan - Building A Figure **6a**

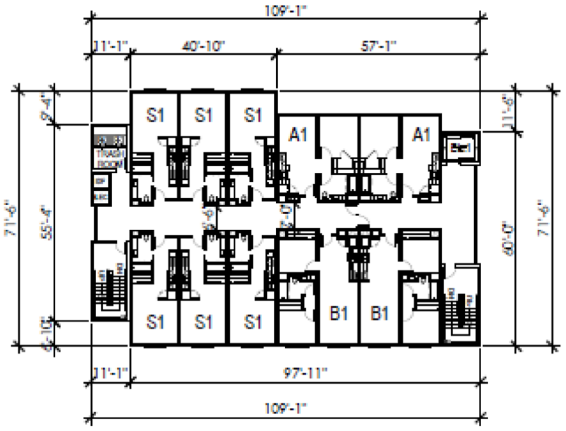
Source: Circlepoint, 2021.



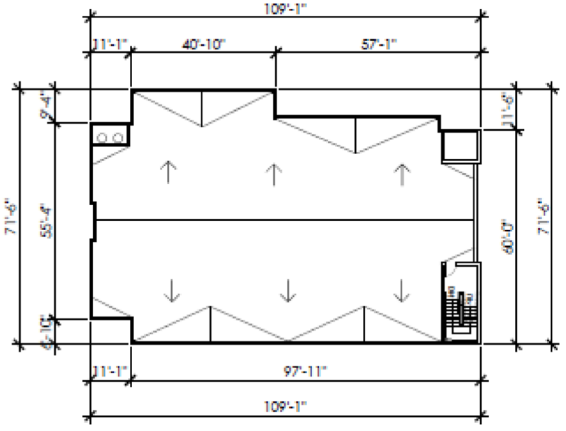
GROUND FLOOR PLAN 1



SECOND LEVEL FLOOR PLAN 2



THIRD-SIXTH LEVEL FLOOR PLAN 3



ROOF PLAN 4

Conceptual Floor Plan - Building B Figure **6b**

Source: Circlepoint, 2021.

SOUTH ELEVATION 1

WEST ELEVATION 2

NORTH ELEVATION 3

EAST ELEVATION 4

Exterior Elevations - Building A Figure **7a**

Source: Circlepoint, 2021.

SOUTH ELEVATION 1

WEST ELEVATION 2

NORTH ELEVATION 3

EAST ELEVATION 4

Exterior Elevations - Building B Figure **7b**

Source: Circlepoint, 2021.

View along Alum Rock Avenue

Conceptual Perspective Views Figure **8a**

Source: Circlepoint, 2021

View of Building from the Rear of Project

Conceptual Perspective Views Figure **8b**

Source: Circlepoint, 2021

2 Evaluation of Environmental Impacts

This Initial Study evaluates impacts based on the California Environmental Quality Act (CEQA) Guidelines Appendix G Environmental Checklist:

- "No Impact" indicates that there is no impact.
- "Less than Significant Impact" indicates that, while there is some impact, the impact does not exceed identified thresholds.
- "Less than Significant with Mitigation Incorporated" indicates that a potentially significant and/or significant impact has been identified in the course of this analysis and mitigation measures have been provided to reduce a potentially significant impact and/or significant impact to a less-than-significant level.
- "Significant Impact" indicates that not all impacts have been reduced to less-than-significant and an Environmental Impact Report (EIR) will be required. As noted previously, mitigation measures developed for this project reduce any significant impacts to a less-than-significant level and an EIR will not be required.
- Section XVIII, Mandatory Findings, discusses cumulative impacts. Cumulative impacts are two or more individual effects, which when combined, are considerable or which compound or increase other environmental impacts. Cumulative impacts can result from individually minor but collectively significant projects taking place over time. If a significant cumulative impact is identified, the project's contribution to the significant cumulative impact is considered.

The environmental factors checked below would be potentially affected by the project, involving at least one impact that is a potentially significant or significant impact as indicated by the checklist on the following pages. Mitigation measures have been provided for each significant impact, reducing all to a less-than-significant level. Prior to issuance of a grading permit, the applicant shall submit a letter to the Supervising Planner of the Department of Planning, Building and Code Enforcement that all mitigation measures have been complied with.

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

2.1 Aesthetics

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
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) Substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☒	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☒	☐

Environmental Setting

The City is in a gently sloping valley bounded by mountain ranges and the San Francisco Bay. The Diablo Mountain Range extends east of the City in a series of ridges, small valleys, and canyons. Lick Observatory is visible atop Mount Hamilton in the Diablo Mountain Range. The lower foothills of the Diablo Range support sparse development, but are predominantly characterized by grassland, woodland, and shrub vegetation. Southwest of the City, the Santa Cruz Mountains rise to approximately 3,400 feet in elevation. Mount Umunhum is a visually prominent peak in the Santa Cruz Mountains. Other topographic landmarks within the City include Communications Hill, the Silver Creek Hills, and the Santa Teresa Hills. Major waterways within the City that still support riparian vegetation include the Guadalupe River, Coyote Creek, Los Gatos Creek, Penitencia Creek, and Silver Creek, which flows adjacent to the project site.

The project site contains an existing vacant 8,200 square-foot commercial restaurant, and is surrounded by commercial, retail, and residential uses. The project site is relatively flat and is in a residential area of Alum Rock Avenue. Views of the project site consist of nearby roadways and structures. Nearby urban development obstructs long-range views from the project site to the west however the Diablo Mountain Range to the east is visible.

Scenic Corridors

The General Plan identifies three types of scenic corridors: Gateways, Urban Corridors, and Rural Scenic Corridors.

- Gateways represent the entrance to a City or unique neighborhood. Gateways are locations that announce to a visitor that they are entering the City or a unique neighborhood. The closest Gateway to the project site is the US Route 101 / Alum Rock Avenue Interchange; the northern terminus of this Gateway is located approximately 1.5 miles southwest of the project site at the intersection of King Road / Alum Rock Avenue.
- Urban Corridors designated in the General Plan are all State and Interstate Highways within the City's Sphere of Influence. The closest Urban Corridors to the project site are US Route 101 and Interstate 680 (I-680).
- Rural Scenic Corridors are generally located in rural and open space areas of significant scenic value. The closest Rural Scenic Corridor - Penitencia Creek Road - is located approximately 1.9 miles north of the project site.

Grand Boulevards

Alum Rock Avenue/Santa Clara Street/The Alameda is one of the seven Grand Boulevards identified in the General Plan. Grand Boulevards play an important role in shaping the City's image for its residents, workers, and visitors and have the potential to act as major urban design elements at a citywide scale and are chosen by their importance and location as major transportation routes, and because of the land uses they support. Developments along Grand Boulevards require extra attention and improvement, including special measures within the public right-of-way, such as enhanced landscaping, additional attractive lighting, wider and comfortable sidewalks, and identification banners.

Light and Glare

Sources of daytime glare can either be a direct source of light or an object that reflects light from another source, such as windows. Existing sources of daytime glare on the project site include light reflected from building or car windows. External nighttime lighting from buildings near the project site contribute low levels of nighttime glare. Other sources of light include lighting elements typical for commercial buildings and residential neighborhoods, such as storefront lights, porch lights, streetlights, and vehicle headlights.

Regulatory Setting

State Scenic Highway Program

The State Scenic Highway Program was created by the California State Legislature in 1963 and is under the jurisdiction of 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. The State laws governing the Scenic Highway Program are found in the Streets and Highways Code, Section 260 through 263. Within Santa Clara

County, the segment of Interstate 280 travelling north from its intersection with Highway 17 is the closest Eligible State Scenic Highway, which is located several miles from the project site.[3]

City of San José General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating visual and aesthetic impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the visual and aesthetic policies listed in the General Plan, including the following:

Policy CD-1.1: Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.

Policy CD-1.8: Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity through the City.

Policy CD-1.11: To create a more pleasing pedestrian-oriented environment, for new building frontages, include design elements with a human scale, varied and articulated facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Provide windows or entries along sidewalks and pathways; avoid black walls that do not enhance the pedestrian experience. Encourage inviting, transparent facades for ground-floor commercial spaces that attract customers by revealing active uses and merchandise displays.

Policy CD-3.9: Minimize driveway entrances to enhance pedestrian safety and decrease the area of paved surfaces. Encourage shared vehicular access points that serve multiple uses and/or parcels, including shared access for commercial and residential uses. Avoid driveways that break up continuous commercial building frontages. Position vehicular access to minimize negative impacts to aesthetics and to pedestrian and bicycle safety.

Policy CD-5.5: Include design elements during the development review process that address security, aesthetics, and safety. Safety issues include, but are not limited to, minimum clearances around buildings, fire protection measures such as peak load water requirements, construction techniques, and minimum standards for vehicular and pedestrian facilities and other standards set forth in local, state, and federal regulations.

Policy CD-10.2 Require that new public and private development adjacent to Gateways, freeways (including U.S.101, I-880, I-680, I-280, SR17, SR85, SR237, and SR87), and Grand Boulevards consist of high-quality architecture, use high-quality materials, and contribute to a positive image of San José

[3] Santa Clara County. 2011. *California Scenic Highway Mapping System*. Available https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways. Accessed March 2021.

Policy CD-10.3: Require that development visible from freeways, including U.S. Route 101 (U.S. 101), I-880, I-680, I-280, State Route (SR) 17, SR 85, SR 237, and SR 87 be designed to preserve and enhance attractive natural and man-made vistas.

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

In addition to applicable General Plan policies, the project would be required to comply with the following City policies and guidelines:

- San José Residential Design Guidelines
- San José Commercial Design Guidelines
- San José Zoning Code, Chapter 20.75 Pedestrian Oriented Zoning Districts, Sections 20.75.110, 20.75.130, 20.75.140, 20.75.160, and 20.75.180

Outdoor Lighting Policy (City Council Policy 4-3)

The City's Outdoor Lighting Policy promotes shielded outdoor lighting on private development to reduce light pollution, thereby allowing the continued enjoyment of the night sky and operation of the Lick Observatory.

Impact Discussion

a) Have a substantial adverse effect on a scenic vista?

and

b) Substantially damage scenic resources, including but not limited to: trees, rock outcroppings, and historic buildings within a State scenic highway?

Less than Significant. There are no State scenic highways in proximity to the project site. The closest eligible State scenic highway is Route 280, located 2.3 miles west of the project site. The project site is relatively flat and located in an urbanized area. Views from the project site consist of nearby roadways and structures, and long-range views of the Diablo Mountain Range are available through surrounding urban development. Given this urban context, project implementation would not substantially alter trees, rock outcroppings, or historic buildings within a State scenic highway. According to the General Plan, the project site is not located within a Gateway, Urban Corridor, or Rural Scenic Corridor. The project is located on Alum Rock Avenue Grand Boulevards. The project would be designed consistent with existing infrastructure and would comply with relevant Grand Boulevard design requirements, including presenting high-quality architecture, using high-quality materials, and contributing to a positive image of the City supporting a cohesive and architecturally distinctive urban development. Given the above, this impact would be less than significant.

c) Substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage

point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

***Less than Significant*.** The project site is developed with an existing vacant 8,200 square-foot commercial restaurant and is located within an urbanized portion of the City. Project construction would be visible from the surrounding roadways and structures. Grading and other construction-related activities would result in short-term aesthetic changes but would not permanently alter the project site's visual character.

Figure 5 through **Figure 8** include conceptual aerial views and profiles that depict the proposed structure's scale and architectural style. Although implementation of the project would create a new multi-story structure, the proposed development would be visually coherent with surrounding urban land uses. The project would comply with all urban design concepts applicable to projects located on a Grand Boulevard**.** Therefore, this impact would be less than significant.

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

Less than Significant. The project would add new sources of light and glare into an urban area with multiple existing sources of light and glare, such as windows, signs, vehicle headlights, and streetlights. The project would adhere to the Private Outdoor Lighting Policy 4.3 and the SJMC, which prevents light pollution that contributes to glare by promoting shielded outdoor lighting and directing new light sources away from existing residential units. For these reasons, the project would not substantially increase light and glare levels at the project site. This impact would be less than significant.

2.2 Agriculture and Forest Resources

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) to non-agricultural use?	☐	☐	☐	☒
b) Conflict with existing zoning for agricultural use, or with 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))?	☐	☐	☐	☒

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

Environmental Setting

The project site is developed with an existing vacant 8,200 square-foot commercial restaurant, and is located within the City's Urban Growth Boundary[4], surrounded by commercial and residential uses. The project site's General Plan land use designation is Neighborhood/Community Commercial. The project site is zoned CN. The land use designation and CN zoning designation do not support agricultural uses.[5]

Regulatory Setting

The California Land Conservation Act

The California Land Conservation Act of 1965, also referred to as the Williamson Act, enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or related open space use. In return, landowners receive property tax assessments which are much lower than normal because they are based upon farming and open space uses as opposed to full market value. The project site is not under a Williamson Act contract.[6]

Farmland Mapping and Monitoring Program

The California Resources Agency's Farmland Mapping and Monitoring Program (FMMP) provides maps and data regarding California's agricultural land resources. According to the FMMP Santa Clara

[4] The General Plan defines the UGB or 'Greenline' as the ultimate perimeter of urbanization in San José. Land outside of the UGB should be designated as Open Hillside, Agriculture or Open Space, Parklands and Habitat in the bay lands within Alviso, and used to form a greenbelt along the City's eastern and southern boundaries. The General Plan does not support the urbanization of land outside of San José's UGB as the land is mean to remain rural in character. [5] City of San José. 2018. *City of San José Municipal Code*. Available https://library.municode.com/ca/san_José/codes/code_of_ordinances?nodeId=TIT20ZO_CH20.75PEORZODI. Accessed March 2021.

[5] City of San José. 2018. *City of San José Municipal Code*. Available https://library.municode.com/ca/san_José/codes/code_of_ordinances?nodeId=TIT20ZO_CH20.75PEORZODI. Accessed March 2021.

[6] California Department of Conservation. *Santa Clara County Williamson Act 2015/2016 Map*. Available https://www.conservation.ca.gov/dlrp/lca. Accessed March 2021.

County Important Farmlands 2016 Map, the project site is designated as "Urban and Built-up Land".[7]

California Public Resource Code/California Government Code

- Public Resources Code Section 12220(g) identifies forest land as land that can support a 10 percent native tree cover of any species under natural conditions, and that allows for management of one or more forest resources, including timber, aesthetics, fish and wildlife, biodiversity, water quality, recreation, and other public benefits.
- Public Resources Code Section 4526 identifies timberland as land available for and capable of commercial tree growing.
- Government Code Section 51104(g) identifies timberland production zones as areas zoned and devoted to growing and harvesting timer.

General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating agricultural impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the agricultural policies listed in the General Plan, including the following:

Policy LU-12.3: Protect and preserve the remaining farmlands within San José's sphere of influence that are not planned for urbanization in the timeframe of the *Envision General Plan* through the following means:

- Limit residential uses in agricultural areas to those which are incidental to agriculture.
- Restrict and discourage subdivision of agricultural lands. Encourage contractual protection for agricultural lands, such as Williamson Act contracts, agricultural conservation easements, and transfers of development rights.
- Prohibit land uses within or adjacent to agricultural lands that would compromise the viability of these lands for agricultural uses.
- Strictly maintain the Urban Growth Boundary in accordance with other goals and policies in this Plan.

Policy LU-12.4: Preserve agricultural lands and prime soils in non-urban areas in order to retain the aquifer recharge capacity of these lands.

Policy LU-12.7: Encourage incorporation of edible landscaping in appropriate locations on new and existing residential, commercial, and public development projects.

[7] California Department of Conservation. *Santa Clara County Important Farmland Map 2016 Map*. Available https://maps.conservation.ca.gov/DLRP/CIFF/. Accessed March 2021.

Impact Discussion

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) to non-agricultural use?

No Impact. There is no Prime Farmland, Unique Farmland, or Farmland of Statewide Importance on the project site, which is identified as "urban/built-up land" on the Santa Clara County Important Farmlands map. No impact would occur.

b) Conflict with existing zoning for agricultural use, or with a Williamson Act contract?

No Impact. The project site is zoned CN, which does not allow agricultural operations. According to the Department of Conservation, there are no Williamson Act Contracts on or near the project site. No impact would occur.

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))?

and

d) Result in the loss of forest land or conversion of forest land to non-forest use?

No Impact. The urbanized project site does not contain any forest land as defined in Public Resources Code section 12220(g), timberland as defined by the Public Resources Code section 4526, or property zoned for Timberland Production as defined by Government Code section 51104(g). Therefore, the project would not conflict with existing zoning for forest land or timberland. No impact would occur.

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?

No Impact. No farming operations or forest lands existing on or near the project site, so the project would not result in the loss of farmland or conversion of forest land. No impact would occur.

2.3 Air Quality

	Significant Impact	Less than Significant with Mitigation	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	☐	☐	☒	☐

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
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?	☐	☐	☒	☐

Environmental Setting

Rincon Consultants prepared an Air Quality Study in March 2021 (**Appendix A**) to analyze the project's potential air quality impacts.

The project site is located in the San Francisco Bay Area Air Basin (SFBAAB), which is under the jurisdiction of the Bay Area Air Quality Management District (BAAQMD). As the local air quality management agency, the BAAQMD is required to monitor air pollutant levels to ensure that state and federal air quality standards are met and, if they are not met, to develop strategies to meet the standards.

Air pollutant emissions in the SFBAAB are generated primarily by stationary and mobile sources. Stationary sources can be divided into two major subcategories: point and area sources. Point sources occur at a specific location and are often identified by an exhaust vent or stack. Examples include boilers or combustion equipment that produce electricity or generate heat. Area sources are distributed widely and include those such as residential and commercial water heaters, painting operations, lawn mowers, agricultural fields, landfills, and some consumer products. Mobile sources refer to emissions from motor vehicles, including tailpipe and evaporative emissions, and are classified as either on-road or off-road. On-road sources may be operated legally on roadways and highways. Off-road sources include aircraft, ships, trains, and self-propelled construction equipment. Air pollutants can also be generated by the natural environment such as when high winds suspend fine dust particles.

Air Pollutants of Primary Concern

The federal and State governments established ambient air quality standards for the protection of public health. The United State Environmental Protection Agency (U.S. EPA) is the federal agency designated to administer air quality regulation, while the California Air Resources Board (CARB) is the State equivalent. County-level Air Quality Management Districts (AQMDs) provide local management of air quality. CARB has established air quality standards and is responsible for the control of mobile emission sources, while the local AQMDs are responsible for enforcing standards and regulating stationary sources. CARB has established 15 air basins statewide, including SFBAAB.

The U.S. EPA has set primary national ambient air quality standards for ozone (O_3), carbon monoxide (CO), nitrogen dioxide (NO_2), sulfur dioxide (SO_2), particulate matter (PM) with a diameter of up to

10 microns (PM_{10}) and up to 2.5 microns ($PM_{2.5}$), and lead (Pb). Primary standards are those levels of air quality deemed necessary, with an adequate margin of safety, to protect public health. In addition, California has established health-based ambient air quality standards for these and other pollutants, some of which are more stringent than the federal standards. **Table 1** lists the current federal and State standards for regulated pollutants.

BAAQMD is the designated air quality control agency in the SFBAAB. The SFBAAB is in nonattainment for the federal standards for O_3 and $PM_{2.5}$ and in nonattainment for the State standard for O_3, $PM_{2.5}$, and PM_{10}. Characteristics of O_3 and suspended particulate matter are described below.

Table 1 Federal and State Ambient Air Quality Standards

Pollutant	Averaging Time	Federal Primary Standards	California Standards
Ozone	1-Hour	---	0.09 ppm
	8-Hour	0.070 ppm	0.070 ppm
Carbon Monoxide	8-Hour	9.0 ppm	9.0 ppm
	1-Hour	35.0 ppm	20.0 ppm
Nitrogen Dioxide	Annual	0.053 ppm	0.030 ppm
	1-Hour	0.100 ppm	0.18 ppm
Sulfur Dioxide	Annual	---	---
	24-Hour	---	0.04 ppm
	1-Hour	0.075 ppm	0.25 ppm
PM_{10}	Annual	---	20 µg/m3
	24-Hour	150 µg/m3	50 µg/m3
PM_{25}	Annual	12 µg/m3	12 µg/m3
	24-Hour	35 µg/m3	---
Lead	30-Day Average	---	1.5 µg/m3
	3-Month Average	0.15 µg/m3	---

Source: Rincon Consultants, 2020
ppm = parts per million; µg/m3 = micrograms per cubic meter

Ozone

Ozone is produced by a photochemical reaction (triggered by sunlight) between nitrogen oxides (NO_X) and reactive organic gases (ROG). NO_X is formed during the combustion of fuels, while reactive organic gases are formed during combustion and evaporation of organic solvents. Because ozone requires sunlight to form, it mostly occurs in substantial concentrations between the months of April and October. Ozone is a pungent, colorless, toxic gas with direct health effects on humans including respiratory and eye irritation and possible changes in lung functions. Groups most sensitive to ozone include children, the elderly, people with respiratory disorders, and people who exercise strenuously outdoors.

Suspended Particles

Atmospheric particulate matter is comprised of finely divided solids and liquids such as dust, soot, aerosols, fumes, and mists. The particulates that are of particular concern are PM_{10} (which measures no more than 10 microns in diameter) and $PM_{2.5}$ (a fine particulate measuring no more than 2.5

microns in diameter). Major man-made sources of PM_{10} are agricultural operations, industrial processes, fossil fuel combustion, construction, demolition operations, and entrainment of road dust into the atmosphere. Natural sources include windblown dust, wildfire smoke, and sea spray salt. The finer, $PM_{2.5}$ particulates are generally associated with combustion processes as well as being formed in the atmosphere as a secondary pollutant through chemical reactions. $PM_{2.5}$ is more likely to penetrate deeply into the lungs and poses a serious health threat to all groups, but particularly to the elderly, children, and those with respiratory problems. More than half of the small and fine particulate matter that is inhaled into the lungs remains there, which can cause permanent lung damage. These materials can damage health by interfering with the body's mechanisms for clearing the respiratory tract or by acting as carriers of an absorbed toxic substance.

Toxic Air Contaminants

Toxic air contaminants (TACs) are a diverse group of air pollutants that may cause or contribute to an increase in deaths or serious illness or that may pose a present or potential hazard to human health. TACs include both organic and inorganic chemical substances that may be emitted from a variety of common sources, including gasoline stations, motor vehicles, dry cleaners, industrial operations, painting operations, and research and teaching facilities. One of the main sources of TACs in California is diesel engines that emit exhaust containing solid material known as diesel particulate matter. TACs are different than the criteria pollutants previously discussed because ambient air quality standards have not been established for TACs. TACs occurring at extremely low levels may still cause health effects, and it is typically difficult to identify levels of exposure that do not produce adverse health effects. TAC impacts are described by carcinogenic risk and by chronic (i.e., of long duration) and acute (i.e., severe but of short duration) adverse effects on human health.

Air Quality Management Plan

The BAAQMD is responsible for assuring that the federal and State ambient air quality standards are attained and maintained in the San Francisco Bay Area. The BAAQMD adopted the 2017 Clean Air Plan (CAP) on April 19, 2017 as an update to the 2010 CAP. The 2017 CAP defines an integrated, multi-pollutant control strategy that includes all feasible measures to reduce emissions of ozone precursors (including transport of ozone and its precursors to neighboring air basins), PM, and TACs. The control strategy will protect the climate by reducing greenhouse gas (GHG) emissions and developing a long-range vision of how the San Francisco Bay Area could look and function in a year 2050 post-carbon economy.

Sensitive Receptors

Ambient air quality standards have been established to represent the levels of air quality considered sufficient, with an adequate margin of safety, to protect public health and welfare. They are designed to protect people most susceptible to respiratory distress, such as children under 14; persons over 65; persons engaged in strenuous work or exercise; and people with cardiovascular and chronic respiratory diseases. Most sensitive receptor locations are therefore residences, schools, and hospitals. The sensitive receptors nearest to the project site are adjacent multi-family

residences south of the project site. James Lick High School is approximately 500 feet northeast of the project site. The project would also place new sensitive receptors on the project site (future residents of the proposed multi-family buildings).

Regulatory Setting

Regulatory Agencies

CARB has adopted and implemented several regulations for stationary and mobile sources to reduce emissions of diesel particulate matter (DPM). Several of these regulatory programs affect medium and heavy-duty diesel trucks that represent the bulk of DPM emissions from California highways. These regulations include the solid waste collection vehicle (SWCV) rule, in-use public and utility fleets, and the heavy-duty diesel truck and bus regulations. In 2008, CARB approved a new regulation to reduce emissions of DPM and nitrogen oxides from existing on-road heavy-duty diesel fueled vehicles. The regulation requires affected vehicles to meet specific performance requirements between 2014 and 2023, with all affected diesel vehicles required to have 2010 model-year engines or equivalent by 2023. These requirements are phased in over the compliance period and depend on the model year of the vehicle.

The BAAQMD is the regional agency tasked with managing air quality in the region. At the State level, the CARB (a part of Cal/EPA) oversees regional air district activities and regulates air quality at the State level. The BAAQMD has published CEQA Air Quality Guidelines that are used in this assessment to evaluate air quality impacts of projects. The detailed community risk modeling methodology used in this assessment is contained in **Appendix A**.

Regional and Local Criteria Concerns

Major criteria pollutants, listed in "criteria" documents by the EPA and CARB include ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, and suspended particulate matter. These pollutants can have health effect such as respiratory impairment and heart/lung disease symptoms. The project is in the northern portion of Santa Clara County, which is in the San Francisco Bay Area Air Basin. Based on the California standards, the Bay Area meets all ambient air quality standards with the exception of ground-level ozone, respirable particulate matter and fine particulate matter; which are described further below.

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

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

respiratory and cardiovascular diseases, reduce lung function, increase mortality (e.g., lung cancer), and result in reduced growth in children.

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 2**. The commercial use would not be considered a sensitive receptor, so health risk standards would not apply to the proposed use.

Table 2 BAAQMD Air Quality Significant Thresholds

Pollutant/Precursor	Construction Emissions (average lbs/day)[1]	Operational Emissions
ROG	54	54
NOX	54	54
PM_{10}	82	82
$PM_{2.5}$	54	54

Source: BAAQMD 2017b

Notes: lbs/day = pounds per day; NO_X = oxides of nitrogen; $PM_{2.5}$ = fine particulate matter with an aerodynamic resistance diameter of 2.5 micrometers or less; PM_{10} = respirable particulate matter with an aerodynamic resistance diameter of 10 micrometers or less; ROG = reactive organic gases

[1]Note the thresholds for PM_{10} and $PM_{2.5}$ apply to construction exhaust emissions only.

General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating air quality impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the air quality policies listed in the General Plan, including the following:

Policy MS-10.1: Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to State and federal standards. Identify and implement air emissions reduction measures.

Policy MS-10.2: Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.

Policy MS-11.1: Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants to avoid significant risks to health and safety.

Policy MS-11.4: Encourage the installation of appropriate air filtration at existing schools, residences, and other sensitive receptor uses adversely affected by pollution sources.

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

Policy 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.

Policy MS-12.2: Require new residential development projects and projects categorized as sensitive receptors to be located an adequate distance from facilities that are existing and potential sources of odor. An adequate separation distance will be determined based upon the type, size, and operations of the facility.

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

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

Policy MS-13.4: Prevent silt loading on roadways that generates particulate matter air pollution by prohibiting unpaved or unprotected access to public roadways from construction sites.

In addition to the policies of the General Plan, all future development allowed by the proposed land use designations would be subject to the City's Grading Ordinance, which mandates that all earth moving activities shall include requirements to control fugitive dust, including regular watering of the ground surface, cleaning nearby streets, damp sweeping, and planting any areas left vacant for extensive periods of time.

Private Sector Green Building Policy (City Council Policy 6-32)

This policy establishes baseline green building standards for new private sector construction and provides a framework for the implementation of these standards. This policy fosters practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water, and other resources in the City. The green building standards required by this policy are intended to advance greenhouse gas reduction and other sustainability strategies outlined in the City's Green Vision.

Impact Discussion

a) Conflict with or obstruct implementation of the applicable air quality plan?

***Less than Significant*.** The California Clean Air Act requires that air districts create a CAP that describes how the jurisdiction will meet air quality standards. The most recently adopted air quality plan is the BAAQMD 2017 CAP. The CAP builds upon and enhances the BAAQMD's efforts to reduce emissions of fine particulate matter and TACs. The 2017 CAP does not include control measures that apply directly to individual development projects. Instead, the control strategy includes control measures related to stationary sources, transportation, energy, buildings, agriculture, natural and working lands, waste management, water, and super-GHG pollutants.

Under BAAQMD's methodology, a determination of consistency with the 2017 CAP should demonstrate that a project:

- Supports the primary goals of the air quality plan
- Includes applicable control measures from the air quality plan
- Does not disrupt or hinder implementation of any air quality plan control measures

A project that would not support 2017 CAP goals would not be consistent with the 2017 CAP. On an individual project basis, consistency with BAAQMD quantitative thresholds is interpreted as demonstrating support for CAP goals. As shown in the response to **Section 2.3, Air Quality, Impact (b)**, the project would not result in exceedances of BAAQMD thresholds for criteria air pollutants and thus would not conflict with 2017 CAP goals to attain air quality standards. The 2017 CAP includes goals and measures to increase the use of electric vehicles, promote the use of on-site renewable energy, and encourage energy efficiency. The project includes features that are consistent with these goals and measures, including meeting California Green Building Standards, all-electric development, LEED Silver level certification, providing 12 electric vehicle (EV) parking stalls, and providing 167 spaces of bicycle parking. Therefore, the project would not conflict with or obstruct the implementation of an applicable air quality plan and the project would have a less than significant impact.

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?

Construction

***Less than Significant*.** Project construction would involve demolition, site preparation, grading, building construction, paving, and architectural coating activities that have the potential to generate air pollutant emissions. **Table 3** summarizes the estimated maximum daily emissions of ROG, NO_X, CO, PM_{10} exhaust, $PM_{2.5}$ exhaust, and sulfur oxide (SO_x) during project construction. As shown in **Table 3**, project construction emissions for all criteria pollutants would be below the BAAQMD average daily thresholds of significance.

Table 3 Construction Emissions

	Estimated Emissions (lbs/day)					
	ROG	NO_X	CO	PM_{10} (exhaust)	$PM_{2.5}$ (exhaust)	SO_X
Maximum Daily Emissions	24	22	19	1	1	<1
BAAQMD Thresholds (average daily emissions)	54	54	N/A	82	54	N/A
Threshold Exceeded?	No	No	N/A	No	No	N/A

Source: Rincon Consultants, 2020
N/A = not applicable; no BAAQMD threshold for CO or SO_X

The BAAQMD does not have quantitative thresholds for fugitive dust emissions during construction. Instead, the BAAQMD recommends Best Management Practices (BMPs) be implemented to reduce fugitive dust emissions. The City requires projects to implement BMPs consistent with the BAAQMD Basic Construction Mitigation Measures. These measures would be part of standard City conditions of approval for project construction. With the implementation of the Standard Permit Conditions, air quality impacts during construction would be less than significant.

Standard Permit Conditions:

Consistent with the BAAQMD CEQA Air Quality Guidelines and the General Plan Policy MS-13.1, the project shall implement the following measures during all phases of construction on the project site, to reduce dust fall-out emissions:

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics

control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.

- Maintain and property tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

Operation

Less than Significant. Long-term emissions associated with project operation are shown in **Table 6**. As shown in **Table 4** , emissions would not exceed BAAQMD daily thresholds for any criteria pollutant. The table divides the daily emissions into three general sources: area, energy, and mobile source emissions. Area source emissions include consumer products, landscape maintenance, and architectural coating. Energy use emissions are emitted on-site during the combustion of natural gas for space and water heating and off-site during the generation of electricity from fossil fuels in power plants. Mobile source emissions are the emissions generated from vehicles travelling to and from the project. Since project emissions would not exceed BAAQMD thresholds for construction or operation, the project would not violate an air quality standard or result in a cumulatively considerable net increase in criteria pollutants and impacts would be less than significant.

Table 4 Operational Average Daily Emissions

Sources	Average Daily Emissions (lbs/day)					
	ROG	NO_X	CO	PM_{10}	$PM_{2.5}$	SO_X
Area	5	<1	14	<1	<1	<1
Energy	0	0	0	0	0	0
Mobile	1	5	12	4	1	<1
Total Project Emissions	6	5	26	4	1	<1
BAAQMD Thresholds	54	54	N/A	82	54	N/A
Threshold Exceeded?	No	No	N/A	No	No	N/A

Source: Rincon Consultants, 2020
N/A = not applicable; no BAAQMD threshold for CO or SO_X

c) Expose sensitive receptors to substantial pollutant concentrations?

Carbon Monoxide Hotspots

Less than Significant. A carbon monoxide hotspot is a localized concentration of carbon monoxide that is above a carbon monoxide ambient air quality standard. Localized carbon monoxide hotspots can occur at intersections with heavy peak hour traffic. Specifically, hotspots can be created at intersections where traffic levels are sufficiently high such that the local carbon monoxide concentration exceeds the federal one-hour standard of 35.0 parts per million (ppm) or the federal and state 8-hour standard of 9.0 ppm.

BAAQMD recommends comparing project's attributes with the following screening criteria as a first step to evaluating whether the project would result in the generation of carbon monoxide concentrations that would substantially contribute to an exceedance of the Thresholds of Significance. The project would result in a less than significant impact to localized carbon monoxide concentrations if:

1. The project is consistent with an applicable congestion management program for designated roads or highways, regional transportation plan, and local congestion management agency plans
2. The project would not increase traffic volumes at affected intersections to more than 44,000 vehicles per hour
3. The project traffic would not increase traffic volumes at the affected intersections to more than 24,000 vehicles per hour where vertical and/or horizontal mixing is substantially limited (e.g., tunnel, parking garage).

The project would include 164 residential units and 7,500 square-feet of commercial development. Based on the estimated project-specific traffic generation rates, there would be approximately 849 net new vehicle trips to the site per day (**Appendix I**). The project trip generation is far below the screening thresholds listed above. Furthermore, the project would not result in substantial vehicle queuing. Thus, the concentration of CO emissions would be low and would rapidly disperse, and this impact would be less than significant.

Toxic Air Contaminants

Construction

Construction-related activities would result in temporary project-generated emissions of DPM exhaust emissions from off-road, heavy-duty diesel equipment for site preparation, grading, building construction, and other construction activities. DPM was identified as a TAC by CARB in 1998.

According to the Office of Environmental Health Hazard Assessment, health risk assessments, which determine the exposure of sensitive receptors to toxic emissions, should be based on a 70-year exposure period; however, such assessments should be limited to the period/duration of activities associated with the project. Construction of the project would occur over approximately 18 months, which represents approximately 2 percent of the total 70-year exposure period used for health risk calculation. This analysis qualitatively discusses potential health risks associated with construction-related emissions of TACs, focusing on construction activities most likely to generate substantial TAC emissions and the duration of such activities relative to established, longer-term health risk exposure periods.

The maximum PM_{10} and $PM_{2.5}$ emissions would occur during demolition and site preparation activities. These activities would last for approximately one month. PM emissions would decrease for the remaining construction period because construction activities such as building construction and architectural coating would require less construction equipment. While the maximum DPM emissions associated with site preparation and grading activities would only occur for a portion of the overall construction period, these activities represent the maximum exposure condition for the total construction period. The duration of site preparation and grading activities would represent

less than 1 percent of the total exposure period for a 70-year health risk calculation.[8] Therefore, DPM generated by project construction would not create conditions where the probability is greater than 10 in 1 million of contracting cancer for the Maximally Exposed Individual or to generate ground-level concentrations of non-carcinogenic TACs that exceed a Hazard Index greater than one for the Maximally Exposed Individual. Furthermore, the project would use construction equipment rated Tier 4 or equivalent as further described in the Project Condition of Approval. The use of cleaner construction equipment would reduce DPM emissions and potential construction-related health risks below the BAAQMD risk thresholds. Therefore, this impact would be less than significant.

Project Condition of Approval. The project would adhere to the City's conditions of approval for construction equipment, which would require the usage of cleaner diesel equipment to reduce diesel exhaust emissions. The construction equipment would need to be rated Tier 4 or equivalent, and an air quality specialist would need to ensure that the equivalent equipment has a similar emissions reduction to equipment equipped with Tier 4 engines.

Operation

***Less than Significant*.** There are two permitted emission sources identified within 1,000 feet of the project's fence line using BAAQMD's Permitted Stationary Source Risk and Hazards mapping tool. The City of San José Fire Station Department Station #2 (Source 19716) is approximately 270 feet northeast of the project site's northern boundary at 2949 Alum Rock Avenue. This facility operates a diesel engine generator. The second stationary source is for an Orchard Supply Company store; however, this facility is no longer operating. Therefore, screening risks and hazard from the facility were not included in the analysis. The generators located at the City of San José Fire Station are associated with a cancer risk of 18.09 in one million and a $PM_{2.5}$ concentration of 0.02 µg/m3. There are no non-cancer hazards associated with this source. BAAQMD's distance adjustment multipliers were applied to the cancer risk and $PM_{2.5}$ concentration. The adjusted screening values are shown in **Table 5.**

Other sources within 1,000 feet of the project fence line include Alum Rock Avenue, a California State Highway (State Route [SR] 130), and Capitol Avenue, a major roadway with more than 10,000 average daily trips (ADT). Alum Rock Avenue (SR 130) runs immediately north of the project site (approximately 30 feet to the highway centerline) and has an average daily trip volume of 22,400 trips, based on a background volume. Capitol Avenue is located approximately 860 feet west of the project site and has an average daily trip volume of approximately 18,340 trips, based on background volumes at the intersection of Capitol Avenue and Alum Rock Avenue (**Appendix I**). For screening purposes BAAQMD uses AERMOD to model cancer risk and $PM_{2.5}$ concentrations associated with highways, major roadways, and railroads in the Bay Area, providing raster data indicating health risk associated with each of these sources. For this analysis cancer risk and $PM_{2.5}$ concentrations associated with the above-mentioned sources at nine discrete receptors located at each corner of the project's fence-line were reviewed. To provide a conservative analysis, only the greatest cancer risk and $PM_{2.5}$ concentrations are provided in the **Table 5**.

[8] (1 months / [12 months x 70 years]) x 100 = 0.12 percent

As shown in **Table 5**, TAC emissions from Alum Rock Avenue would expose future residents to $PM_{2.5}$ concentrations in excess of 0.3 µg/m^3 and a cancer risk greater than 10 per million. All other sources would not exceed the cancer risk, $PM_{2.5}$, or non-cancer risk at the project site. Furthermore, the cumulative total from the TAC sources would not exceed the BAAQMD cumulative source thresholds for cancer risk, $PM_{2.5}$ concentration, nor chronic hazard index. Therefore, impacts to future residents from individual sources, specifically Alum Rock Avenue would be potentially significant.

Pursuant to the requirements of the 2019 California Energy Code (Title 24, Part 6), new high-rise residential construction, which is a building with four or more habitable floors, is required to install Minimum Efficiency Reporting Value (MERV) 13 or equivalent filters for heating and cooling ventilation systems. The risks and hazards reported in **Table 5** do not account for the 2019 Title 24 filtration requirements.

Table 6 shows the risks and hazards from the TAC sources adjusted to include MERV 13 filtration. In the adjusted risk and hazard calculations, it was assumed that residents would spend approximately 16.4 hours per day indoors and 2.1 hours per day outdoors (U.S. EPA 2011). MERV-13 filtration was assumed to have a 90 percent particulate filtration efficiency (Singer et al. 2016). As shown in **Table 6**, with MERV-13 filtration the cancer risk and $PM_{2.5}$ concentration from Alum Rock Avenue would be reduced below the BAAQMD single-source health risk thresholds. All other risks and hazards would be further reduced with implementation of MERV-13 filtration. The combined total of the adjusted risks and hazards would remain below the BAAQMD cumulative health risk threshold. Therefore, single-source and cumulative impacts from TAC sources upon the project would be less than significant.

Table 5 Individual and Cumulative Cancer Risk and Particulate Matter Concentrations

BAAQMD Source ID Number	Description	Distance to Project Site (feet)	Cancer Risk (per million)	$PM_{2.5}$ Concentration (µg/m3)	Increased Non-Cancer Risk (Chronic Hazard Index)
N/A	Alum Rock Avenue - Highway	30	12.2	0.38	N/A
N/A	Capitol Avenue - Major Roadways	860	3.3	0.10	N/A
19716	City of San José Fire Department - Generators	270	5.1	0.01	0
Combined Total			20.6	0.49	0
BAAQMD Individual Source Screening Threshold Individual Source Threshold Exceeded?			10 Yes	0.3 Yes	1 No
BAAQMD Cumulative Screening Threshold **Cumulative Threshold Exceeded?**			**100** **No**	**0.8** **No**	**10** **No**

Source: Rincon Consultants, Inc. 2020

[1] Source IDs presented here are those used in the Stationary Source Screening Analysis Tool.

N/A: not applicable; data was not provided in the BAAQMD risk screening values.

Table 6 Adjusted Individual and Cumulative Cancer Risk and Particulate Matter Concentrations

BAAQMD Source ID Number	Description	Distance to Project Site (feet)	Cancer Risk (per million)	$PM_{2.5}$ Concentration (µg/m3)	Increased Non-Cancer Risk (Chronic Hazard Index)
N/A	Alum Rock Avenue - Highway	30	1.9	0.06	N/A
N/A	Capitol Avenue - Major Roadways	860	0.5	0.02	N/A
19716	City of San José Fire Department - Generators	270	0.8	<0.01	0
Combined Total			3.2	<0.04	0
BAAQMD Individual Source Screening Threshold Individual Source Threshold Exceeded?			10 Yes	0.3 Yes	1 No
BAAQMD Cumulative Screening Threshold **Cumulative Threshold Exceeded?**			**100** **No**	**0.8** **No**	**10** **No**

Source: Rincon Consultants, Inc. 2020
[1] Source IDs presented here are those used in the Stationary Source Screening Analysis Tool.
N/A: not applicable; data was not provided in the BAAQMD risk screening values.

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

Less Than Significant. The project would generate oil and diesel fuel odors during construction from equipment use as well as odors related to asphalt paving. The odors would be limited to the construction period and would be temporary. With respect to operation, BAAQMD's CEQA Air Quality Guidelines identifies land uses associated with odor complaints to include, but not limited to, wastewater treatment plants, landfills, confined animal facilities, composting stations, food manufacturing plants, refineries, and chemical plants. Residential and general commercial uses are not identified on this list. Therefore, the project would not generate objectionable odors affecting a substantial number of people, and impacts would be less than significant.

2.4 Biological Resources

	Significant Impact	Less than Significant with Mitigation	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 candidate, sensitive, or special status species in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☒	☐	☐
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or	☐	☐	☐	☒

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				
c) Have a substantial adverse impact 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 an established resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	☒
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☒	☐	☐
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan?	☐	☐	☒	☐

Huffman Broadway Group prepared a survey of trees present at the project site in 2021 (**Appendix B**). In addition to identifying the location of trees on the property, the City requires that a qualified specialist provide information regarding the nature of the trees and the extent to which their removal requires tree replacement pursuant to City requirements. The City requires that the project demonstrate compliance with Municipal Code Section 13.32.080 that requires a tree removal permit under certain circumstances.

A search of the California Natural Diversity Database (CNDDB) for special status plant and wildlife species and sensitive natural communities was conducted for the San José East USGS 7.5 minute quadrangle, which can be found in **Appendix C**.[9]

Environmental Setting

The project site is a developed urban site previously used for commercial uses. The ground surface is primarily hardscape with sparse vegetation. There are six trees located at the project site, all of which are planted non-native trees (**Table 7**). Two London Plane trees (*Platanus acerfolia*) are found along the street frontage along Alum Rock Avenue. A Japanese maple (*Acer palmatum*)) and a Podocarpus (*Podocarpus macrophyllus*) are planted along the east side of the existing restaurant building. A Mexican fan palm (*Washingtonia robusta*) and a purple leaf plum (*Prunus cerasifera*)

[9] California Department of Fish and Wildlife. 2021. *Natural Heritage Division, California Natural Diversity Data Base for San José East Quadrangle Map, March 2021*.

were found along the borders of the paved parking lot to the rear of the building. Additionally, two Chinese wisteria vines (*Wisteria sinensis*) are planted south of the building within overhanging structures but are not considered trees. The remainder of the project site is made up of impervious surfaces with sparse vegetation occurring intermittently throughout.

Table 7 Project Site Trees

Species	Approximate Height (feet)	Circumference at 4.5 feet (inches)	Native/Non-Native
London plane tree (*Platanus acerfolia*)	35	45	Non-native
London plane tree (*Platanus acerfolia*)	40	49.5	Non-native
Japanese maple (*Acer palmatum*)	20	30.5	Non-native
Podocarpus (*Podocarpus macrophyllus*)	12	17	Non-native
Mexican fan palm (*Washingtonia robusta*)	12	58	Non-native
Purple leaf plum (*Prunus cerasifera*)	20	Multiple trunks: 14, 11.5, 11, 9	Non-native

Source: Huffman Broadway Group, 2021

Due to the relatively low amounts of vegetation on-site and the urban context, the possibility of wildlife habitat is unlikely. Generally, wildlife habitats in developed urban areas such as the project site are low in species diversity. Species that may use the project site would be predominantly urban adapted birds, such as rock doves, mourning doves, mockingbirds, house sparrows, and finches. Raptors (birds of prey) and other urban birds could use trees on the project site for nesting or as a roost. Raptors and other migratory birds are protected by the Federal Migratory Bird Treaty Act (MBTA) (16 U.S.C. Section 703, et seq.).

The project site occurs within the Santa Clara Valley Habitat Plan (Habitat Plan) area. The Habitat Plan designates Land cover associated with the project site is designated as Urban – Suburban.

Regulatory Setting

Federal

Federal Endangered Species Act

The U.S. Fish and Wildlife Service (USFWS) Endangered Species Act protects listed wildlife species from harm or "take" which is broadly defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt to engage in any such conduct. Take can also include habitat modification or degradation that directly results in death or injury to a listed wildlife species.

Federal Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA; 16 U.S.C., §703, Supp. I, 1989) prohibits killing, possessing, or trading of migratory birds except in accordance with regulations prescribed by the

Secretary of the Interior. Migratory birds protected under this law include all native birds and certain game birds (e.g., turkeys and pheasants). The MBTA encompasses whole birds, parts of birds, and bird nests and eggs. The MBTA protects active nests from destruction and all nests of species protected by the MBTA, whether active or not, cannot be possessed. An active nest under the MBTA, as described by the Department of the Interior in its April 15, 2003 Migratory Bird Permit Memorandum, is one having eggs or young. Nest starts, prior to egg laying, are not protected from destruction. All native bird species in the City are protected under the MBTA.

State

California Endangered Species Act

The California Endangered Species Act prohibits the take of any plant or animal listed or proposed for listing as rare (plants only), threatened, or endangered (California Fish and Game Code, Chapter 1.5, Sections 2050-2116). In accordance with the California Endangered Species Act, the California Department of Fish and Wildlife (CDFW) has jurisdiction over State-listed species. The CDFW regulates activities that may result in "take" of individuals listed under the Act (i.e., "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill"). Habitat degradation or modification is not expressly included in the definition of "take" under the Fish and Game Code. The CDFW, however, has interpreted "take" to include the "killing of a member of a species which is the proximate result of habitat modification."

California Native Plant Protection Act

The California Native Plant Protection Act preserves, protects, and enhances endangered and rare plants in California. It specifically prohibits the importation, take, possession, or sale of any native plant designated by the CDFW as rare or endangered, except under specific circumstances identified in the Act.

California Fish and Game Code

The California Fish and Game Code includes regulations governing the use of, or impacts to, many of the State's fish, wildlife, and sensitive habitats. The CDFW exerts jurisdiction over the bed and banks of rivers, lakes, and streams according to provisions of Sections 1601 - 1603 of the Fish and Game Code. The Fish and Game Code requires a Streambed Alteration Agreement for the fill or removal of material within the bed and banks of a watercourse or waterbody and for the removal of riparian vegetation. Provisions of these sections may apply to modifications of sensitive aquatic habitats and riparian habitats within the City.

Other regulations in the Fish and Game Code provide protection for native birds, including their nests and eggs (Sections 3503, 2513, and 3800). These regulations prohibit all forms of take, including disturbance that causes nest abandonment and/or loss of reproductive effort.

Local

General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating biological resources impacts, including impacts to riparian corridors, resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the biological resources policies listed in the General Plan, including the following:

Policy ER-2.1: Ensure that new public and private development adjacent to riparian corridors in San José are consistent with the provisions of the City's Riparian Corridor Policy Study and any adopted Santa Clara Valley Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP).

Policy ER-5.1: Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.

Policy ER-5.2: Require that development projects incorporate measures to avoid impacts to nesting migratory birds.

Policy MS-21.4: Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.

Policy MS-21.5: As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.

Policy MS-21.6: As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements city laws, policies, or guidelines.

Policy 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.

City of San José Tree Ordinance

The City Tree Removal Controls (SJMC, Sections 13.31.010 to 13.32.100) protects all trees that measure 56 inches or more in circumference measured 2 feet above ground. The ordinance protects both native and non-native tree species. A tree removal permit is required from the City for the removal of ordinance-sized trees. On private property, tree removal permits are issued by the Department of Planning, Building and Code Enforcement. Tree removal or modifications to all trees on public property (e.g., street trees within a parking strip or the area between the curb and sidewalk) are handled by the City Arborist (with the City's Department of Transportation). In addition, any tree found by the City Council to have special significance can be designated as a heritage tree, regardless of tree size or species.

Santa Clara Valley HCP/NCCP

The project site is located within the boundaries of the Santa Clara Valley HCP/NCCP and designated as Urban Development. The Santa Clara Valley HCP/NCCP was developed through a partnership between Santa Clara County; the cities of San José, Morgan Hill, and Gilroy; Santa Clara Valley Water District; Santa Clara Valley Transportation Authority (VTA); USFWS; and CDFW. The Santa Clara Valley HCP/NCCP is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County.

Impact Discussion

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as candidate, sensitive, or special status species in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

Less than Significant with Mitigation Incorporated. Special status species include those listed by federal or State governments as endangered, threatened, or rare or candidate species. Endangered or threatened species are protected by the federal Endangered Species Act of 1973 as amended, the California Native Plant Protection Act of 1977, and the California Endangered Species Act of 1970. In addition to the above described federal and State regulations for special status species, most birds in the United States are protected by the MBTA of 1918 and Sections 3503 and 3503.5 of the California Fish and Game Code, which make it illegal to destroy active nests, eggs, or young.

The CDFW maintains records for the distribution and known occurrences of special status species and sensitive habitats in the CNDDB. The CNDDB is organized into map areas based on 7.5-minute topographic quadrangle maps produced by the U.S. Geological Survey (USGS). All known occurrences of special status species are mapped onto quadrangle maps maintained by the CNDDB. The database gives further detailed information on each occurrence, including specific location of the individual, population, or habitat (if possible) and the presumed current state of the population or habitat.

The CNDDB search conducted for the project site showed that several special-status wildlife species, including California tiger salamander (*ambystoma californiese),* foothill yellow-legged frog (*rana boylii*), California red-legged frog (*rana draytonii*), tricolored blackbird (*agelaius tricolor*), Crotch bumble bee (*bombus crotchii*), and western bumblebee (*Bombus occidentalis*), have the potential to occur on the project site. Special-status plant species, including Contracosta goldfields (*lasthenia conjugens*), Metcalf Canyon jewelfoler (*streptanthus albbidus ssp. albbidus*), Santa Clara Valley dudleya (*dudleya abbramsii ssp. stchellii*), robust spineflower (*chorizanthe robusta var. robusta*), have the potential to occur on the project site. However, based on the urban nature of the project site, no special status species would be expected to occur at the project site. A majority of the vacant project site is disturbed and devoid of native plant species; therefore, it does not provide suitable habitat for special status plants. Likewise, the site lacks habitat suitable to support any of the special status animal species listed for the area by the CNDDB.

Although habitat at the site is not optimal to support nesting birds, construction activities could impact nests protected by either the MBTA or State Fish and Game Code. This represents a potentially significant impact, which would be reduced to a less-than-significant level through application of **Mitigation Measure BIO-1.**

Mitigation Measure BIO-1: The project would implement the following measures to avoid impacts to nesting migratory birds:

- Avoidance: Prior to the issuance of any demolition, grading, tree removal or building permits (whichever occurs first), 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), as amended.
- Nesting Bird Surveys: If demolition and construction activities cannot be scheduled to occur between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist 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 15th inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats within 250 feet of the construction areas for nests.
- Buffer Zones: If an active nest is found within 250 feet of the 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 for raptors and 100 feet for other birds), to ensure that raptor or migratory bird nests shall not be disturbed during project construction. The no-disturbance buffer shall remain in place until the biologist determines the nest is no longer active or the nesting

season ends. If construction ceases for two days or more then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be present.

- Reporting: Prior to any tree removal and construction activities or issuance of any demolition, grading or building permits (whichever occurs first), the ornithologist shall submit report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement or the Director's designee.

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

No Impact. The project site is entirely within a human-altered urban landscape that contains large amounts of paved surfaces and associated ruderal or landscaped areas. There are no sensitive plant communities (i.e., native grasslands, riparian areas, wetlands) within the project site. Given the lack of riparian habitat and sensitive plant communities within the vicinity of the project site, there would be no impact to these resources.

c) Have a substantial adverse impact on federally protected wetlands as defined by Section 404 of the Clean Water Act (including but not limited to: marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

No Impact. Based on a review of aerial imagery, project site photographs and information on biological resources within the project region, no vegetated wetlands or potentially jurisdictional features occur within or surrounding the project site. No impact would occur.

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

No Impact. The project site is entirely within a human-altered urban landscape that contains large amounts of paved surfaces and associated ruderal or landscaped areas. Due to the urban nature of the project site and lack of riparian and other suitable habitat for species, it is unlikely that the project site is part of a regional wildlife movement corridor. Land use in the vicinity is primarily residential and commercial. The project site has no connectivity to natural habitats and is therefore not expected to support wildlife movement. Therefore, no impacts to wildlife movement corridors would occur.

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

Less than Significant with Mitigation Incorporated. The project would not conflict with the following biological resource policies from the General Plan:

- Policy ER-5.1 and Policy ER-5.2: With implementation of **Mitigation Measure BIO-1**, the project would not result in the loss of active native birds' nests and nesting migratory birds.

- Policy MS-21.4, Policy MS-21.5, Policy MS-21.6, and Policy CD-1.24: As discussed below, the project would comply with applicable tree protection policies.

There are no City-designated Heritage Trees on the project site.[10] Of the six trees located on the project site, one London plane tree (*Platanus acerfolia*) found along Alum Rock Avenue would be retained. The five remaining trees located on the project site would be removed to accommodate project construction. The project would include the planting of 15 new trees on the project site, in compliance with General Plan Policy CD-1.24. 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. Replacement trees would be required for trees that are removed as part of the project per the established replacement ratio outlined in **Table 8**. Compliance with these regulations and implementation of the Standard Permit Conditions as outlined below would reduce this impact to a less-than-significant level.

Standard Permit Conditions:

The removed trees would be replaced according to tree replacement ratios required by the City, as provided in **Table 8** below, as amended.

Table 8 Tree Replacement Ratios

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

Source: City of San José. *Tree Removal Permits*. https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/tree-removal-permits. Accessed March, 2021.
Note: x:x = tree replacement to tree loss ratio
Note: Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family residential, Commercial and Industrial properties, a permit is required for removal of trees of any size. A 38-inch tree equals 12.1 inches in diameter. A 24-inch box tree = two 15-gallon trees. Single Family and Two-dwelling properties may be mitigated at a 1:1 ratio.

Since five trees onsite would be removed, three trees would be replaced at a 4:1 ratio, one tree would be replaced at a 2:1 ratio, and one tree would be replaced at a 1:1 ratio. As mentioned previously, there are no native trees on-site. The total number of replacement trees required to be planted would be 15 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, one or more of the following measures will be implemented, to the

[10] City of San José, Department of Transportation. *Heritage Tree Map.* https://www.sanjoseca.gov/your-government/departments/transportation/roads/landscaping/trees/heritage-trees. Accessed March 2021.

satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage:

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

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?

Less than Significant. The Habitat Plan is both an HCP intended to fulfill the requirements of the federal Endangered Species Act and a natural community conservation plan to fulfill the requirements of the California Natural Community Conservation Planning Act.[11] The Habitat Plan provides a framework for promoting the protection and recovery of natural resources while streamlining the permitting process for planned development. The project site and the surrounding area are designated as Urban – Suburban within the Habitat Plan.

Private development is subject to certain requirements of the Habitat Plan if it meets the following criteria:

1. The activity is subject to either ministerial or discretionary approval by the County or one of the cities.
2. The activity is described in Section 2.3.2 *Urban Development* or in Section 2.3.7 *Rural Development* in the Habitat Plan.[12]
3. In Figure 2-5 of the Habitat Plan, the activity is located in an area identified as "Private Development is Covered", or:
   The activity is equal to or greater than two acres and the project is located in an area identified as "Rural Development Equal to or Greater than two acres is covered", or;
   The activity is located in an area identified as "Rural Development is not Covered" but, based on land cover verification of the parcel (inside the Urban Service Area) or development area, the project is found to impact serpentine, wetland, stream, riparian, or pond land cover types; or the project is located in occupied or unoccupied nesting habitat for western burrowing owls.

[11] ICF International. 2012. *Final Santa Clara Valley Habitat Plan*. August. Prepared for: City of Gilroy, City of Morgan Hill, City of San José, County of Santa Clara, Santa Clara Valley Transportation Authority, and Santa Clara Valley Water District. Available http://scv-habitatagency.org/178/Final-Habitat-Plan.

[12] Covered activities in urban areas include residential, commercial, and other types of urban development within the Cities of Gilroy, Morgan Hill, and San José planning limits of urban growth in areas designated for urban or rural development, including areas that are currently in the unincorporated County (i.e., in "pockets" of unincorporated land inside the cities' urban growth boundaries).

The project would require discretionary approval by the City and is consistent with the *Urban Development* activity described in Section 2.3.2 of the Habitat Plan. However, according to Figure 2-5 of the Habitat Plan, the project site is located in an area identified as "Urban Development Equal to or Greater than 2 Acres is Covered." Because the 1.32-acre project site is below the 2-acre parcel size threshold, the project would not conflict with the Habitat Plan. Implementation of the Standard Permit Conditions as outlined below would further reduce this impact to a less-than-significant level.

Standard Permit Conditions:

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

2.5 Cultural Resources

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

Environmental Setting

A non-confidential California Historical Resources Information System (CHRIS) records search from the Northwest Information Center at Sonoma State University was received in February 2021 for the project site (**Appendix D**). This records search found that the project site contains no recorded archaeological resources and no recorded buildings or structures within or adjacent to the project site. The records search also concluded that the project site has low to moderate potential to contain unrecorded Native American archeological resources and moderate potential to contain historic-period archaeological resources. The project site is currently vacant and does not contain structures of historic significance.

CEQA also requires analysis of tribal cultural resources, which are sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a tribe that are listed, or determined to be eligible for listing, in the national, state, or local register of historical resources. Refer to **Section 2.18, Tribal Cultural Resources**, for a discussion of tribal cultural resources.

Historical Evaluation

JRP Historical Consulting, LLC (JRP) conducted a historical evaluation for the existing, vacated, building located at the project site (**Appendix E**). JRP also reviewed parcels within 200 feet of the subject property in order to characterize the surrounding architectural resources and identify any nearby historic properties. Findings of the inventory and evaluation of built resources are presented on a Department of Parks and Recreation (DPR) 523 form set and tables, available in **Appendix E**.

JRP professionally qualified staff conducted the field survey on February 12, 2021, and prepared a full property description on DPR 523 Primary and Building, Structure, Object records, including photographs and maps of the property. JRP also reviewed available sources online, including county property survey records and building permits, historic aerial photographs, historic maps, previously collected material on the City, and published histories.

The Summary of Evaluation Findings, as featured in **Appendix E**, note that there are two historical resources in the Alum Rock area beyond the 200-foot buffer,: "The Orange," (aka Mark's Hot Dogs) is a City Landmark Structure at 48 S. Capitol Avenue; and James Lick High School, at the corner of N. White Road and Alum Rock Avenue, is on the site of the first Norman Y. Mineta San José International Airport and as such is considered a San José structure of merit. Neither are located within 200 feet of the project site.

Regulatory Setting

Federal

The National Historic Preservation Act established the NRHP to recognize resources associated with local, state, and national history and heritage. Structures and features must be at least 50 years old to be considered for listing on the NRHP, barring exceptional circumstances. Criteria for listing on the NRHP (see 36 CFR Part 63), are significance in American history, architecture, archaeology, engineering, and culture as present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and that:

(1) are associated with events that have made a significant contribution to the broad patterns of our history;

(2) are associated with the lives of persons significant in our past;

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

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

State

California Public Resources Code

Archaeological resources and historical sites are protected by a wide variety of State policies and regulations under the California Public Resources Code. Key provisions of the Public Resources Code that provide protection to cultural resources are outlined below.

California Public Resources Code Sections 5097.9–5097.991 provides protection to Native American historical and cultural resources and sacred sites, and identifies the powers and duties of the Native American Heritage Commission (NAHC). It also requires notification of discoveries of Native American human remains and provides for treatment and disposition of human remains and associated grave goods.

California Public Resources Code Sections 5097.98 provides that in the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation until the coroner has determined that the remains are not subject to provisions of law concerning investigation of the circumstances, manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible. The coroner shall make his or her determination within two working days from the time the person responsible for the excavation, or his or her authorized representative, notifies the coroner of the discovery or recognition of the human remains. If the coroner determines that the remains are not subject to his or her authority and has reason to believe that they are those of a Native American, he or she shall contact, by telephone within 24 hours, the NAHC.

California Environmental Quality Act

Historical Resources

The CEQA Guidelines define a significant resource as any resource listed in or determined to be eligible for listing in the California Register of Historical Resources (California Register) [see Public Resources Code, Section 21084.1 and CEQA Guidelines Section 15064.5 (a) and (b)]. The California Register includes resources listed in or formally determined eligible for listing in the NRHP, as well as some California State Landmarks and Points of Historical Interest. The criteria are nearly identical to those of the NRHP, which includes resources of local, state, and region or national levels of significance. The California Register defines historical resources as any object, building, structure, site, area, place, record, or manuscript that is historically or archaeologically significant; or is significant in the architectural, engineering, scientific, economic, agricultural educational, social, political, or cultural annals of California; and meets the following criteria:

1) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
2) Is associated with the lives of persons important in our past;
3) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or

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

Archeological Resources

CEQA requires lead agencies to consider whether projects will affect "unique archaeological resources" (Public Resources Code, Section 21083.2(g)) which are defined as an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:

- Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information.
- Has a special and particular quality such as being the oldest of its type or the best available example of its type.
- Is directly associated with a scientifically recognized important prehistoric or historic event or person.

Native American Burial Sites

California law protects Native American burial sites, skeletal remains, and associated grave goods regardless of their antiquity and provides for the sensitive treatment and disposition of those remains (Section 7050.5(b) of the California Health and Safety Code). CEQA Guidelines section 15064.5(e) requires that excavation activities be stopped whenever human remains are uncovered and that the county coroner or medical examiner be contacted to assess the remains. If the county coroner or medical examiner determines that the remains are those of Native Americans, the NAHC must be contacted within 24 hours. The property owner is required to consult with the appropriate Native Americans identified by the NAHC as a "most likely descendant" to develop an agreement for the treatment and disposition of the remains. These requirements are also contained in the County Codes for the County of Santa Clara (Sections B6-19 and B6-20).

Local

General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating impacts to cultural resources resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the cultural resource policies listed in the General Plan, including the following:

Policy ER-10.1: For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.

Policy ER-10.2: Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development

activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable State laws shall be enforced.

Policy ER-10.3: Ensure that city, state, and federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

Policy LU-13.15 Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.

City of San José Municipal Code – Historic Preservation Ordinance

The City's Historic Preservation Ordinance, contained in Chapter 13.48 of the SJMC, identifies, protects, and encourages the preservation of significant cultural resources. Section 13.48.020 of the SJMC defines structures of historical value based on the following criteria:

- Identification or association with persons, eras or events that have contributed to local, regional, State or national history, heritage or culture in a distinctive, significant or important way;
- Identification as, or association with, a distinctive, significant, or important work or vestige:
- Of an architectural style, design or method of construction;
- Of a master architect, builder, artist or craftsman;
- Of high artistic merit;
- The totality of which comprises a distinctive, significant, or important work or vestige whose component parts may lack the same attributes;
- That has yielded or is substantially likely to yield information of value about history, architecture, engineering, culture or aesthetics, or that provides for existing and future generations an example of the physical surroundings in which past generations lived or worked, or;
- That the construction materials or engineering methods used in the proposed landmark are unusual or significant of uniquely effective.

Impact Discussion

a) Cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5?

Summary of Evaluation Findings for 2880 Alum Rock Avenue

Less than Significant. The project site contains an existing, but vacant, commercial building that was analyzed for historical significance (**Appendix D**). This commercial building was developed in 1963, during the post war urbanization of the areas surrounding San José, but did not have an important role or association with that pattern or trend of development (NRHP Criterion A / CRHR Criterion 1 / San José considerations 1, 2, 4). The building does not have an association with the life of an individual who made demonstrably important contributions to history at the local, state, or national level (NRHP Criterion B / CRHR Criterion 2 / San José consideration 3). The building is not a

significant or likely source of important historical information about historic construction materials or technologies (NRHP Criterion D / CRHR Criterion 4).

Under NRHP Criterion C / CRHR Criterion 3 / San José considerations 5, 6, 7, 8, this property is not significant as an important example of a type, period, or method of construction. The former bank uses established steel frame and concrete construction and is not an important example of these materials or methods. The Post and Beam style is within the Modernist movement that placed a focus on form and materials rather than ornament and is most associated with residential architecture. The design of this former bank did not include any important stylistic adaptations to its commercial use, nor did the design lead to a historically important new style, therefore, it is not an important architectural example and does not meet these significance criteria. Refer to the DPR 523 form set featured in **Appendix E** for the full description, context, and evaluation of the property.

Given the above, the commercial building located on the project site does not meet the criteria for listing in the National Register, the California Register, nor as a San José City Landmark, and it is not an historical resource for the purposes of CEQA. This impact would be less than significant.

Architectural Character of Parcels within 200 feet of 2880 Alum Rock Avenue

Less than Significant. The commercial building at the project site is located on a prominent avenue established in the nineteenth century that was outside the developed downtown of San José until the mid-twentieth century. The roadway was surrounded by agricultural lands for much of this time, until the small orchards and packing plants were gradually replaced by residential subdivisions and commercial businesses encouraged by the construction of new post-war highways east of the city center.

Within 200 feet of the project parcel, there are 49 other legal parcels with buildings or structures on them, for a total of 50 parcels. Of these, eight are more than 45 years old. **Appendix E** lists the parcels, grouped by street name, and illustrates that most construction surrounding the project site dates to 1979 and after. The eight older properties are within the 1940s subdivision north of the project site, or are part of the 1960s commercial development that face onto Alum Rock Avenue either side of the project site. Most of the commercial properties on Alum Rock Avenue feature one or two buildings, one to two stories in height, that are roughly centered on the parcel, creating a substantial set back and large surrounding parking areas.

As part of the field survey of the project site, JRP conducted a windscreen survey of the buildings analyzed within 200 feet of the project site. All the buildings that are 45 years old or older are modest in scale and design and none appear to have architectural importance that would meet the significance criteria of the National Register, California Register, or San José City Landmarks programs. The more modern buildings are similar types of construction and none feature remarkable designs. As such, there are no historical resources located within 200 feet of the project site. This impact would be less than significant.

b) Cause a substantial adverse change in the significance of an archaeological resource, pursuant to Section 15064.5?

Less than Significant. There are no known archeological resources within the project site. However, the CHRIS search concluded that the project site has a low to moderate potential to contain unrecorded archeological resources. Redevelopment of the project site could result in the exposure or destruction of unknown archaeological resources. Implementation of the Standard Permit Conditions outlined below would reduce this impact to a less-than-significant level.

Standard Permit Conditions:

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

c) Disturb any human remains, including those interred outside of formal cemeteries?

Less than Significant. As previously discussed, the project site does not contain known cultural resources. Although unlikely, it is possible that unmarked burials may be unearthed during project construction. This represents a potentially significant impact, reduced to a less-than-significant level with implementation of the Standard Permit Conditions outlined below.

Standard Permit Conditions:

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

the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

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

2.6 Energy

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

Environmental Setting

Energy consumption is considered under CEQA because of the environmental impacts associated with its production and usage. Such impacts can include the depletion of nonrenewable resources (e.g., oil, natural gas, coal, etc.) and emissions of pollutants during both the production and consumption phases of energy use.

There is no existing energy use associated with project site, as the commercial building located on the project site is vacant. Given the nature of land uses proposed as part of the project, this discussion will focus on the three most relevant sources of energy: electricity, natural gas, and gasoline for vehicle trips.

Electricity

In 2018, California used 285,488 gigawatt-hours (GWh) of electricity, of which 31 percent were from renewable resources.[13] California also consumed approximately 12,638 million U.S. therms (MMthm) of natural gas in 2018.

[13] California Energy Commission (CEC). *Total System Electric Generation*. Available https://www.energy.ca.gov/almanac/electricity_data/total_system_power.html. Accessed March 2021.

In February 2019, the City launched San José Clean Energy (SJCE), a community choice aggregate program providing carbon-free electricity to municipal customers, residents and businesses in the City. Electricity provided to customers by SJCE is transferred and delivered using existing Pacific Gas and Electric (PG&E) infrastructure. Electricity service at the project site would be provided by SJCE.2 Electricity supplies, including those delivered to the City by PG&E, are regulated by the California Energy Commission (CEC). **Table 9** shows the electricity consumption by sector and total for PG&E.

Natural Gas

Natural gas for the project site would be provided by PG&E. In 2018, PG&E provided approximately 27.9 percent of the total electricity and approximately 37.9 percent of the total natural gas usage in California. **Table 10** shows PG&E's total natural gas consumption for its service area as well as consumption by sector.

Table 9 Electricity Consumption in the PG&E Service Area in 2018

Agriculture and Water Pump	Commercial Building	Commercial Other	Industry	Mining and Construction	Residential	Streetlight	Total Usage
5735.1	29,650.0	4,195.1	10,344.7	1,567.3	27,964.8	318.6	79,775.7

Source: Rincon Consultants, Inc. 2020
Notes: All usage expressed in GWh

Table 10 Natural Gas Consumption in PG&E Service Area in 2018

Agriculture and Water Pump	Commercial Building	Commercial Other	Industry	Mining and Construction	Residential	Total Usage
37.2	899.1	59.0	1,776.0	190.2	1832.8	4,794.4

Source: Rincon Consultants, Inc. 2020
Notes: All usage expressed in MMthm

Petroleum

In 2018, approximately 28 percent of the state's energy consumption was used for transportation activities. Californians presently consume over 19 billion gallons of motor vehicle fuels per year. Though California's population and economy are expected to grow, gasoline demand is projected to decline from roughly 15.8 billion gallons in 2017 to between 12.3 billion and 12.7 billion gallons in 2030, a 20 to 22 percent reduction. This forecast decline is due to both increasing use of electric vehicles and improved fuel economy for new gasoline vehicles.[14]

Regulatory Setting

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

[14] California Energy Commission (CE) 2020. *California Energy Almanac*. Available https://www.energy.ca.gov/almanac/. Accessed March 2021.

State of California

Renewable Portfolio Standard Program

In 2002, with the adoption of Senate Bill (SB) 1078, California established its Renewable Portfolio Standard (RPS) program, with the goal of increasing the percentage of renewable energy in the State's electricity mix by at least one to 20 percent per year by 2017. The adoption of SB 107 subsequently accelerated that goal to 2010 for electrical corporations, and under Executive Order S-14-08 the target for all retail electricity sellers increases to 33 percent by 2020. The RPS was developed to provide a flexible, market-driven policy to ensure that the public benefits of wind, solar, biomass, and geothermal energy continue to be realized as electricity markets become more competitive. The policy aims to ensure a minimum amount of renewable energy is included in the portfolio of electricity resources serving a state or county, putting the energy industry on a path toward increasing sustainability.

Building Energy Efficiency Standards (Title 24)

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6, of the California Code of Regulations, were established in 1978 in response to a legislative mandate to reduce California's energy consumption. The standards are updated periodically to allow consideration and possible incorporation of new energy efficiency technologies and methods. The current version of the standards was adopted on April 23, 2008 and took effect August 1, 2009. Compliance with these standards is mandatory at the time new building permits are issued by City and County governments.

In January 2010, the state of California adopted the California Green Building Standards Code, Title 24, Part 11 that establishes mandatory green building standards for new construction (new buildings and expansions) in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality. These standards include a mandatory set of minimum guidelines, as well as more rigorous voluntary measures, for new construction projects to achieve specific green building performance levels. Local communities may institute more stringent versions of the code if they choose. The code went into effect as part of a local jurisdiction's building code on January 1, 2011.

Local

General Plan

The Environmental Leadership Chapter of the General Plan sets forth goals and policies for topics related to the City's continuing commitment to Environmental Leadership and is organized into four categories: Measure Sustainability, Environmental Resources, Environmental Considerations/Hazards, and Infrastructure.

Sustainable City Strategy

The Sustainable City Strategy is a statement of the City's commitment to becoming an environmentally and economically sustainable city. Programs promoted under this strategy include recycling, waste disposal, water conservation, transportation demand management, and energy

efficiency. The Sustainable City Strategy is intended to support these efforts by ensuring that development is designed and built in a manner consistent with the efficient use of resources and environmental protection.

As part of the Sustainable City Strategy, the City has adopted a 2030 Greenhouse Gas Reduction Strategy (GHGRS)that is currently being updated to follow the requirements of SB 32. The 2030 GHGRS outlines the actions the City will undertake to achieve its proportional share of State GHG emission reductions for the interim target year 2030. Part of this strategy is to reduce energy use and expand the use of renewable energy.

Similar to Land Use and Local Impacts Measures, Energy, and Climate Control Measures (ECM) are a new category of measures in the Bay Area 2010 CAP designed to reduce ambient concentrations of criteria pollutants and reduce emissions of CO_2. ECMs would promote energy conservation and efficiency in buildings throughout the community, promote renewable forms of energy production, reduce the "urban heat island" effect by increasing reflectivity of roofs and parking lots, and promote the planting of (low-VOC emitting) trees to reduce biogenic emissions from trees, lower air temperatures, provide shade and absorb air pollutants. Table 3.4-11 of the General Plan EIR lists policies that are supportive of the Bay Area 2010 CAP ECMs. A description of each applicable ECM is provided along with a listing of relevant proposed General Plan policies (Chapter 3) that would implement each measure.

As of 2019, the City received its energy from SJCE, which procures energy from power suppliers of nuclear, hydroelectric, wind, geothermal, biomass, and solar sources in addition to burning of natural gas and coal. With a City goal of converting its energy sources entirely to clean, renewable sources by 2022, it is expected that the City could employ sources such as wind, geothermal, biomass, and solar (and possibly tidal) to meet demands of General Plan-related growth.

Climate Smart San José

The City Council adopted the Climate Smart San José, the City's Climate Action Plan, in 2018. Climate Smart San José builds upon the 2007 Green Vision, encouraging the entire San José community to join an ambitious campaign to reduce greenhouse gas emissions, save water and improve quality of life. The plan focuses on energy, mobility, and water usage to achieve its climate goals in the City.

Impact Discussion

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

Construction Energy Demand

Less Than Significant. Construction activity would use energy in the form of petroleum-based fuels used to power off-road construction vehicles and equipment on the project site, construction worker travel to and from the project site, and vehicles used to deliver materials to the site. The project would require removal of existing materials on the site; site preparation and grading, including hauling material off-site; pavement and asphalt installation; building construction; architectural coating; and landscaping and hardscaping.

Consumption of energy resources during project construction would be similar to that of other mixed-use projects. Construction equipment would be maintained to all applicable standards as required by the U.S. EPA Construction Equipment Fuel Efficiency Standard, and construction activity and associated fuel consumption and energy use would be temporary and typical for construction sites. It is also reasonable to assume contractors would avoid wasteful, inefficient, and unnecessary fuel consumption during construction to reduce construction costs. Therefore, the project would not involve the inefficient, wasteful, and unnecessary use of energy during construction. This impact would be less than significant.

Operational Energy Demand

***Less than Significant*.** Operation of the project would require energy use in the form of electricity, natural gas, and gasoline consumption. Natural gas and electricity would be used for heating and cooling systems, lighting, appliances, water use, and the overall operation of the project. Gasoline consumption would be attributed to vehicular travel from residents and guests traveling to and from the project site.

Consumption of energy resources during project operation would be similar to that of other mixed-use projects. Based on the San José VMT Evaluation Tool, the project is not anticipated to result in vehicle miles traveled (VMT) in exceedance of the City's threshold. Further, the project is consistent with the Neighborhood/Community Commercial land use, as designated by the General Plan. As such, energy demand introduced by the project is accounted for in long-range planning documents such as the General Plan.

Although the project would use electricity and natural gas, the project would be required to comply with all standards set in California Building Code (CBC) Title 24, which would minimize wasteful, inefficient, or unnecessary consumption of energy resources during operation. **Table 11** demonstrates how the project would be consistent with applicable state renewable energy and energy efficiency plans.

Table 11 Project Consistency with State Renewable Energy and Energy Efficiency Plans

Efficiency Measure	Description of Required Action
Title 24, California Code of Regulations (CCR) – Part 6 (Building Energy Efficiency Standards) and Part 11 (CALGreen). The 2019 Building Energy Efficiency Standards move toward cutting energy use in new homes by more than 50 percent and will require installation of solar photovoltaic systems for single-family homes and multi-family buildings of three stories and less. The CALGreen Standards establish green building criteria for residential and nonresidential projects. Updates to the 2016 Standards include the following: increasing the number of parking spaces that must be prewired for electric vehicle chargers in residential development; requiring all residential development to adhere to the Model Water Efficient	**Consistent**. The project would be required to comply with SJMC, which mandates the implementation of the Building Energy Efficiency Standards and CALGreen requirements of CCR Title 24. Therefore, the project would not conflict with or obstruct implementation of the Title 24 standards.

Efficiency Measure	Description of Required Action
Landscape Ordinance; and requiring more appropriate sizing of HVAC ducts.	
California Renewable Portfolio Standard. California's RPS obligates investor-owned utilities, energy service providers, and community choice aggregators to procure 33 percent total retail sales of electricity from renewable energy sources by 2020, 60 percent by 2030, and 100 percent by 2045.	**Consistent.** Electricity in the City is provided by SJCE. SJCE is required to increase its renewable energy resources to 60 percent by 2030 and 100 percent by 2045. SJCE currently provides 45 percent renewable electricity. Because SJCE would provide electricity service to the project site, it would not conflict with or obstruct implementation of the California RPS.
Assembly Bill (AB) 1493: Reduction of Greenhouse Gas Emissions. AB 1493 requires CARB to develop and adopt regulations that achieve maximum feasible and cost-effective reduction of GHG emissions from passenger vehicles, light-duty trucks, and other vehicles used for noncommercial personal transportation in California.	**Consistent.** Vehicles used by future residents and visitors of the project would be subject to the regulations adopted by CARB pursuant to AB 1493. Therefore, the project would not conflict with or obstruct implementation of AB 1493.

Source: City of San José 2020

Project operation would involve the consumption of energy in the form of electricity, natural gas, and fuel; however, the project's energy usage would be in conformance with the latest version of California's Green Building Standards Code and the Building Energy Efficiency Standards, and reasonable measures, as described above, would be taken to maximize energy efficiency in project operations. The project would also include the following green building features: achievement of at minimum a Silver level certification; a total of 12 EV parking stalls on the site; and the provision of a solar ready roof (%15) for future installation.

Given the above, the project would not involve wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation and would therefore have a less than significant impact related to consumption of energy resources.

b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

Less Than Significant. As mentioned above, SB 100 mandates 100 percent clean electricity for California by 2045. Because the project would be powered by the existing electricity grid, the project would eventually be powered by renewable energy mandated by SB 100 and would not conflict with this statewide plan. Additionally, the project would be subject to energy efficiency standards pursuant to CCR Title 24 requirements.

The City's 2030 GHGRS contains mandatory emissions-reduction measures for projects and other voluntary measures that may be implemented at the discretion of the City, several of which are energy-related in nature. The 2030 GHGRS was adopted as an appendix to the General Plan and as such contains mandatory measures and amendments that apply to the City. The City's GHGRS Compliance Checklist (Attachment A in the 2030 GHGRS) serves as to implement GHG reduction strategies from the 2030 GHGRS to new development projects and provide a streamlined review process for proposed new development projects that are subject to discretionary review and trigger environmental review pursuant to the. Consistency with the City's GHGRS Checklist is shown in **Appendix A**.

Table 11 demonstrates that the project would be consistent with the energy efficiency strategies included in Climate Smart San José. In addition to the items outlined in **Table 12**, the project would comply with the City's Energy and Water Building Performance Ordinance and the San José Green Building Policies, which requires buildings to be designed and constructed to achieve, at a minimum, the United States Green Building Council's LEEDTM rating system silver-level certification with a goal of reaching LEED gold or platinum levels. The project would not interfere with the 2030 GHGRS or the General Plan's energy performance and efficiency strategies and would not conflict with or obstruct the state plan for renewable energy. This impact would be less than significant.

Table 12 Project Consistency with Climate Smart San José Strategies

Strategy	Consistency
1.1 Transition to a renewable energy future	**Consistent.** Electricity in the City is provided by SJCE. SJCE is required to increase renewable energy resources to 60 percent by 2030 and 100 percent by 2045. SJCE currently provides 45 percent renewable electricity. Because SJCE would provide electricity service to the project site, it would not conflict with or obstruct implementation of the California RPS.
2.1 Densify our city to accommodate our future neighbors	**Consistent.** The project would involve infill development that would densify the site, which does not currently contain residences or commercial uses, and would not promote urban sprawl.
2.2 Make homes efficient and affordable for our residents	**Consistent.** The project would be required to comply with the SJMC Title 24, which mandates the implementation of the Building Energy Efficiency Standards and CALGreen requirements of CCR Title 24. Additionally, all residential units for the project would be affordable below market rate units, ensuring that these homes are available, efficient, and affordable to residents.
2.3 Create clean, personalized mobility choices	**Consistent.** Five VTA bus routes provide service to the project site. The project would also include bicycle parking for residents and visitors. Additionally, the project would include retail uses and the project site is located within walking distance, via sidewalks on Alum Rock Avenue, from commercial development. With these viable alternative transportation options, people would have mobility options that may lead to less driving to the project site.

Source: Rincon Consultants, Inc. 2020

2.7 Geology and Soils

	Significant Impact	Less than Significant with Mitigation	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:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the	☐	☐	☐	☒

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
State Geologist for the area or based on other substantial evidence of a known fault?				
ii) Strong seismic ground shaking?	☐	☐	☐	☐
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
iv) Landslides?	☐	☐	☐	☒
b) Would the project 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 table 18-1b of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	☐	☐	☒	☐
e) Have soils incapable of adequately supporting the use of septic tanks or alternative 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?	☐	☐	☒	☐

Environmental Setting

Regional Geology

The project site is located in the Santa Clara Valley, a relatively flat alluvial basin south of the San Francisco Bay, north and northeast of the Santa Cruz Mountains, and west of the Diablo Mountain Range. The project site is primarily underlain by older alluvium, lake, playa, and terrace deposits.[15] Groundwater depth at the project site varies from approximately 14 to 17 feet below ground surface.[16]

[15] Department of Conservation. 2010. *Geologic Map of California.* Available http://maps.conservation.ca.gov/cgs/gmc/. Accessed March 2021.

[16] KCE Matrix, Inc. *Phase 1 Environmental Site Assessment*. August 2020.

Seismicity and Seismic Hazards

The Alquist-Priolo Earthquake Zoning Act (1972) and the Seismic Mapping Act (1990) direct the State Geologist to delineate regulatory zones to prevent the construction of buildings used for human occupancy on the surface trace of active faults. The project site is not located within the Alquist-Priolo Earthquake Zone and no active faults have been mapped on the project site.[17] However, there are several active faults located nearby capable of generating ground shaking at the project site, including Calaveras Fault (4.6 miles), Hayward Fault (5.29 miles), San Andreas (14.5 miles), Greenville Fault (19.0 miles), and Mount Diablo Fault (25.0 miles).[18]

Liquefaction

Liquefaction occurs when water-saturated soils lose structural integrity due to seismic activity. Typically, liquefaction is associated with soils near the ground surface. Factors that contribute to liquefaction include soil age, type, cohesion, density, and depth to groundwater. Soils that are saturated, uniformly graded, and loose are more susceptible to liquefaction. According to General Plan EIR Figure 3.6-1 (Geologic and Seismic Hazards), the project site is not located within a liquefaction hazard zone.

Landslides

Landslides result from the downgradient movement of earthen material along a slope or hillside. Landslides can result from a variety of causes such as steepness of slope, type of material, water content of slope soils, amount and type of vegetation, and major natural hazards such as earthquakes, volcanic eruptions, wildfires, and floods. Landslides can occur as rapid deterioration or slow, progressive movements over time. The project site and its surroundings are relatively flat and do not contain steep slopes or hillsides that would be susceptible to landslides. According to the Santa Clara County Hazard Zone Map, the project site is not located within a landslide hazard zone.[19]

Expansive Soils

Expansive soils have a high shrink-swell potential and occur where a sufficient percentage of certain clay materials are present in the soil. These soil conditions can impact the structural integrity of buildings and other structures. Much of the soil in the City is moderately to highly expansive.

[17] California Department of Conservation. *Geological Hazard Zones Map*. Available https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf. Accessed March 2021.

[18] United States Geological Survey. 2018. *USGS Earthquake Hazards of the Bay Area Today*. Available https://earthquake.usgs.gov/earthquakes/events/1906calif/virtualtour/modern.php. Accessed March 2021.

[19] Santa Clara County. 2012. *Santa Clara County Geologic Hazard Zone*s. Available https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf. Accessed March 2021.

Regulatory Setting

General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating geological impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the policies listed in the General Plan, including the following:

Policy EC-3.1: Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.

Policy EC-4.1: Design and build all new or remodeled 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.

Policy EC-4.2: Development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.

Policy EC-4.4: Require all new development to conform to the City of San José's Geologic Hazard Ordinance.

Policy EC-4.5: Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of 1 acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 30.

Action EC-4.11: Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.

Action EC-4.12: Require review and approval of grading plans and erosion control plans (if applicable) prior to issuance of grading permits by the Director of Public Works.

Policy ES-4.9: Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

Alquist-Priolo Earthquake Fault Zoning Act

The primary purpose of the Alquist-Priolo Earthquake Fault Zoning Act is to prevent the construction of buildings used for human occupancy on the surface trace of active faults. The law requires the State Geologist to establish regulatory zones (known as Earthquake Fault Zones) around the surface traces of active faults, Local agencies must regulate relevant development projects, which include land divisions and most structures for human occupancy. Pursuant to this act, a structure for human occupancy cannot be placed over the trace of the fault and must be set back from the fault (generally at least 50 feet).

California Building Code

The CBC serve as the basis for the design and construction of buildings in California. Currently, the 2016 CBC contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, the strength of the ground, and distance to seismic sources.

City of San José Municipal Code

Title 24 of the SJMC includes the City adopted 2007 California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes under ordinance No. 28166 (2007). These regulations include requirements for building foundations, walls, and seismic resistant design. 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 SJMC. Requirements for grading and excavation permits and erosion control are included in Chapter 17.10 (Building Code, Part 6 Excavation and Grading).

Geologic hazard regulations in Chapter 17.10 of the SJMC restrict the ability to issue grading and building permits within defined geologic hazard zones until the Director of Public Works has issued a Certificate of Geologic Hazard Clearance. The areas of the City affected by these requirements include identified areas with very high landslide susceptibility, high or moderate/high landslide susceptibility zones, designated State Seismic Hazard Zones for Liquefaction and Earthquake-Induced Landslides, and mapped fault hazard zones.

Impact Discussion

a) Expose people or structures to potential substantial adverse effects including the risk of loss, injury or death involving:

i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?

No Impact. The project site is not located within an Alquist-Priolo Earthquake Fault Zone and no active faults cross the project site. No impact would occur.

ii. Strong seismic ground shaking?

and

iii. Seismic-related ground failure, including liquefaction?

Less than Significant. Earthquakes along active faults in the region could cause moderate to strong ground shaking at the project site, which could directly endanger structures on the project site through ground shaking and associated hazards, including liquefaction. The intensity of the ground motions and the resulting damage would depend on several earthquake characteristics, including distance to the fault rupture zone, earthquake magnitude, earthquake duration, and site-specific geologic conditions.

As stated in General Plan Action EC-4.11, the project applicant would be required to prepare a design-level geotechnical investigation in compliance with the Standard Permit Condition. Potential impacts related to seismic ground shaking and ground failure, including liquefaction, would be less than significant with adherence to the Standard Permit Condition outlined below.

Standard Permit Condition:

The project applicant shall implement the following conditions:

- To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on-site and off site to the extent feasible and in compliance with the Building Code.
- All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
- The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

iv. Landslides?

No Impact. The project site and its surroundings are flat and do not contain steep slopes or hillsides that would be susceptible to landslides. The project site is not located in an Earthquake-Induced Landslides Zone on the State of California Seismic Hazards Zone Map. No impact would occur.

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

and

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?

Less than Significant. As previously discussed under **Section 2.6, Geology and Soils, Impact (a)**, the project site is not subject to landslides and implementation of Standard Permit Conditions would minimize liquefactions hazards on the project site. This impact would be less than significant.

d) Be located on expansive soil, as defined in table 18-1b of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?

Less than Significant. The project site could be located on expansive soil. Through the process of acquiring building, utility, conditional use, and special use permits from the City, a geotechnical report will be required by the City and the project would be required to conform to the standards set forth in the most recently approved CBC.[20] Implementation of the standards set forth in the most recently approved CBC, along with compliance with City's Geologic Hazards Ordinance[21], would reduce the potential risks associated with expansive soils to a less-than-significant level.

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?

No Impact. The project site is located within an urbanized area of the City where sanitary sewer lines are available to dispose wastewater from the project site. The project does not propose septic tanks. No impact would occur.

f) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?

Less than Significant. Figure 3.11-1 in the General Plan EIR identifies geologic formations within the City that could contain paleontological resources. According to Figure 3.11-1, the project site exhibits low paleontological sensitivity at the ground surface but high paleontological sensitivity at lower depths. Additionally, soil on the project site has been previously disturbed during construction

[20] General Plan Police EC-4.1 establishes the following: All new or remodeled habitable structures shall be designed and built in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls.

[21] The following excerpt is taken from Appendix F, Section 5.2.6 of the General Plan EIR, which discusses feasible engineering approaches to minimize expansive soil hazards:

"*Building areas with moderate to highly expansive soils are typically "pre-saturated" to a moisture content and depth specified by the geotechnical engineer, thereby "pre-swelling" the soil prior to constructing the structural foundation or hardscape. This method is often used in conjunction with a layer of imported non-expansive fill material placed directly below foundations and slabs to control seasonal moisture fluctuations. In addition, stronger foundations are often utilized, such as rigid mat or grid footing foundations, which can resist small ground movements without cracking. Good surface drainage control is essential for all types of improvements, both new and old. Property owners should be educated about the importance of maintaining relatively constant moisture levels in their landscaping. Excessive watering or alternating wetting and drying can result in distress to improvements and structures.*"

of the existing residential and commercial buildings, which further reduces the likelihood of encountering near-surface paleontological resources. However, redevelopment of the project site has the potential to encounter previously unidentified paleontological resources. Implementation of Standard Permit Conditions outlined below would reduce paleontological resource impacts to a less-than-significant level.

Standard Permit Conditions:

If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, the Director of the Department 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.

2.8 Greenhouse Gas Emissions

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

Environmental Setting

Rincon Consultants prepared a Greenhouse Gas Study in 2021 (**Appendix A**) to analyze the project's potential air quality impacts. This report is incorporated by reference.

Global warming associated with the "greenhouse effect" is a process whereby GHG's accumulating in the atmosphere contribute to an increase in the temperature of the earth's atmosphere. The principal GHGs contributing to global warming and associated climate change are carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), and fluorinated compounds. Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the transportation, industrial and manufacturing, utility, residential, commercial, and

agricultural sectors. The commercial building located on the project site is vacant and does not produce GHG emissions.

Regulatory Setting

Federal Regulations

The U.S. Supreme Court determined in Massachusetts et al. v. Environmental Protection Agency et al. ([2007] 549 U.S. 05-1120) that the U.S. EPA has the authority to regulate motor-vehicle GHG emissions under the federal Clean Air Act. The U.S. EPA issued a Final Rule for mandatory reporting of GHG emissions in October 2009. This Final Rule applies to fossil fuel suppliers, industrial gas suppliers, direct GHG emitters, and manufacturers of heavy-duty and off-road vehicles and vehicle engines and requires annual reporting of emissions. In 2012, the U.S. EPA issued a Final Rule that established the GHG permitting thresholds that determine when Clean Air Act permits under the New Source Review Prevention of Significant Deterioration (PSD) and Title V Operating Permit programs are required for new and existing industrial facilities.

In Utility Air Regulatory Group v. Environmental Protection Agency (134 S. Ct. 2427 [2014]), the U.S. Supreme Court held U.S. EPA may not treat GHGs as an air pollutant for purposes of determining whether a source can be considered a major source and be required to obtain a PSD or Title V permit. The Court also held that PSD permits otherwise required based on emissions of other pollutants, may continue to require limitations on GHG emissions based on the application of Best Available Control Technology.

State Regulations

The State of California considers GHG emissions and the impacts of climate change to be a serious threat to the public health, environment, economic well-being, and natural resources of California and has taken an aggressive stance to mitigate the State's impact on climate change through the adoption of policies and legislation. CARB is responsible for the coordination and oversight of state and local air pollution control programs in California. California has a numerous regulation aimed at reducing the state's GHG emissions. Some of the major initiatives are summarized below.

Assembly Bill 32

California's major initiative for reducing GHG emissions is outlined in AB 32, the "California Global Warming Solutions Act of 2006," which was signed into law in 2006. AB 32 codifies the statewide goal of reducing GHG emissions to 1990 levels by 2020 and requires CARB to prepare a Scoping Plan that outlines the main State strategies for reducing GHGs to meet the 2020 deadline. In addition, AB 32 requires CARB to adopt regulations to require reporting and verification of statewide GHG emissions. Based on this guidance, CARB approved a 1990 statewide GHG level and 2020 limit of 427 MMT CO_2e. The Scoping Plan was approved by CARB on December 11, 2008 and included measures to address GHG emission reduction strategies related to energy efficiency, water use, and recycling and solid waste, among other measures. Many of the GHG reduction measures included in the Scoping Plan (e.g., Low Carbon Fuel Standard, Advanced Clean Car standards, and Cap-and-Trade) have been adopted since approval of the Scoping Plan.

In May 2014, CARB approved the first update to the AB 32 Scoping Plan. The 2013 Scoping Plan update defined CARB's climate change priorities for the next five years and set the groundwork to reach post-2020 statewide goals. The update highlighted California's progress toward meeting the "near-term" 2020 GHG emission reduction goals defined in the original Scoping Plan. It also evaluated how to align the State's longer-term GHG reduction strategies with other State policy priorities, including those for water, waste, natural resources, clean energy, transportation, and land use.

Senate Bill 375

Senate Bill (SB) 375, signed in August 2008, enhances the State's ability to reach AB 32 goals by directing CARB to develop regional GHG emission reduction targets to be achieved from passenger vehicles for 2020 and 2035. In addition, SB 375 directs each of the state's 18 major Metropolitan Planning Organizations (MPO) to prepare a "sustainable communities' strategy" (SCS) that contains a growth strategy to meet these emission targets for inclusion in the Regional Transportation Plan (RTP). On March 22, 2018, CARB adopted updated regional targets for reducing GHG emissions from 2005 levels by 2020 and 2035. SB 375 also provides the option for the coordinated development of subregional plans by the subregional councils of governments and the county transportation commissions to meet SB 375 requirements.

Senate Bill 97

SB 97, signed in August 2007, acknowledges that climate change is an environmental issue that requires analysis in CEQA documents. In March 2010, the California Natural Resources Agency adopted amendments to the CEQA Guidelines for the feasible mitigation of GHG emissions or the effects of GHG emissions. The adopted guidelines give lead agencies the discretion to set quantitative or qualitative thresholds for the assessment and mitigation of GHG and climate change impacts.

Senate Bill 1383

Adopted in September 2016, SB 1383 requires CARB to approve and begin implementing a comprehensive strategy to reduce emissions of short-lived climate pollutants. The bill requires the strategy to achieve the following reduction targets by 2030:

- Methane – 40 percent below 2013 levels
- Hydrofluorocarbons – 40 percent below 2013 levels
- Anthropogenic black carbon – 50 percent below 2013 levels

The bill also requires the California Department of Resources Recycling and Recovery, in consultation with CARB, to adopt regulations that achieve specified targets for reducing organic waste in landfills.

Senate Bill 32

On September 8, 2016, the governor signed SB 32 into law, extending AB 32 by requiring the State to further reduce GHGs to 40 percent below 1990 levels by 2030 (the other provisions of AB 32

remain unchanged). On December 14, 2017, CARB adopted the 2017 Scoping Plan, which provides a framework for achieving the 2030 target. The 2017 Scoping Plan relies on the continuation and expansion of existing policies and regulations, such as the Cap-and-Trade Program, as well as implementation of recently adopted policies and policies, such as SB 1383. The 2017 Scoping Plan also puts an increased emphasis on innovation, adoption of existing technology, and strategic investment to support its strategies. As with the 2013 Scoping Plan Update, the 2017 Scoping Plan does not provide project-level thresholds for land use development. Instead, it recommends that local governments adopt policies and locally-appropriate quantitative thresholds consistent with statewide per capita goals of six metric tons (MT) of CO_2e by 2030 and two MT of CO_2e by 2050. As stated in the 2017 Scoping Plan, these goals may be appropriate for plan-level analyses (city, county, subregional, or regional level), but not for specific individual projects because they include all emissions sectors in the state.

Senate Bill 100

Adopted on September 10, 2018, SB 100 supports the reduction of GHG emissions from the electricity sector by accelerating the state's Renewables Portfolio Standard (RPS) Program, which was last updated by SB 350 in 2015. SB 100 requires electricity providers to increase procurement from eligible renewable energy resources to 33 percent of total retail sales by 2020, 44 percent by 2024, 60 percent by 2030, and 100 percent by 2045.

Executive Order B-55-18

On September 10, 2018, the governor issued Executive Order B-55-18, which established a new statewide goal of achieving carbon neutrality by 2045 and maintaining net negative emissions thereafter. This goal is in addition to the existing statewide GHG reduction targets established by SB 375, SB 32, SB 1383, and SB 100. EO B-55-18 also tasks CARB with including a pathway toward the EO B-55-18 carbon neutrality goal in the next Scoping Plan update.

California Environmental Quality Act

Pursuant to the requirements of SB 97, the California Natural Resources Agency has adopted amendments to the CEQA Guidelines for the feasible mitigation of GHG emissions or the effects of GHG emissions. The adopted CEQA Guidelines provide general regulatory guidance on the analysis and mitigation of GHG emissions in CEQA documents, while giving lead agencies the discretion to set quantitative or qualitative thresholds for the assessment and mitigation of GHGs and climate change impacts.

Regional and Local Regulations

Plan Bay Area

Plan Bay Area 2040 is a state-mandated, integrated long-range transportation, land-use, and housing plan that would support a growing economy, provide more housing and transportation choices, and reduce transportation-related pollution in the nine-county San Francisco Bay Area (Association of Bay Area Governments [ABAG] 2017). The SCS builds on earlier efforts to develop an

efficient transportation network and grow in a financially and environmentally responsible way. Plan Bay Area 2040 would be updated every four years to reflect new priorities. A goal of the SCS is to "reduce VMT per capita by 10 percent".

City of San José Green Building Policy

Under the City's Green Building Policy, all private sector and municipal building projects constructing or adding more than 10,000 square-feet of occupied space (as defined in the adopting building code) are required to be designed and constructed to achieve, at a minimum, the United States Green Building Council's Leadership in Energy and Environmental Design (LEED TM) rating system Silver-level certification with a goal of reaching LEED Gold or Platinum levels.

Climate Smart San José

Climate Smart San José builds upon the 2007 Green Vision, encouraging the entire San José community to join an ambitious campaign to reduce greenhouse gas emissions, save water and improve quality of life. The plan focuses on energy, mobility, and water to achieve its climate goals in the City.

San José's Reach Code

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

In December 2020, the City Council adopted an amendment to the Reach Code and approved Ordinance No. 30502 (City of San José 2020c). This new ordinance requires all new constructed developments be all electric effective on or after August 1, 2021. This applies to single-family, detached accessory dwelling unit (ADU), low-rise multi-family, high-rise multi-family (four plus stories), and other non-residential developments. There are exceptions for hospitals and facilities with a distributed energy resource. For new construction operating before August 1, 2021, only single-family residences, ADUs, and low-rise multi-family residences are required to be all-electric buildings. High-rise multi-family residential and non-residential developments must meet Title 24 requirements if all-electric or if mixed fuel then a specific efficiency percentage.

City of San José General Plan

The General Plan contains the following policies related to global climate change and GHGs applicable to the project:

Policy MS-1.1: Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as

state and/or regional policies which require that projects incorporate various green building principles into their design and construction.

Policy MS-1.2: Continually increase the number and proportion of buildings within San José that make use of green building practices by incorporating those practices into both new construction and retrofit of existing structures.

Policy MS-2.2: Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.

Policy MS-2.3: Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.

Policy MS-2.11: Require new development to incorporate green building policies, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize effectiveness of passive solar design.).

Policy MS-3.1: Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.

Policy MS-5.5: Maximize recycling and composting from all residents, businesses, and institutions in the City.

Policy MS-5.6: Enhance the construction and demolition debris recycling program to increase diversion from the building sector.

Policy MS-14.4: Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.

City of San José Greenhouse Gas Reduction Strategy

In November 2020, the City of San José adopted the 2030 GHGRS, which is an update to the City's 2015 GHGRS. The 2030 GHGRS address the SB 32 target of reducing GHG emissions 40 percent below 1990 levels by 2030 and the long-term goal of carbon neutrality by 2045 set by EO B-55-18 (City of San José 2020b). The 2030 GHGRS is considered a qualified Climate Action Plan (CAP) that will allow developments to tier off and streamline the GHG analyses under CEQA. The 2030 GHGRs is a qualified GHG reduction strategy since it completed the following steps required by BAAQMD to be considered qualified: the GHGRS quantified community-wide GHG emissions; the GHGRS

prepared GHG projections for the next target year (e.g. 2030) for business-as-usual conditions and conditions that include GHG reduction measures; the GHGRS established emission level targets based on substantial evidence; the GHGRS specified mandatory and enforceable reduction measures that are applicable to existing developments, new developments, and municipal operations; the GHGRS includes an implementation and monitoring plan to monitor the plan's progress; the GHRS underwent CEQA review and was adopted after public hearings. Thus, the 2030 GHGRS is a qualified CAP that projects can tier off of for CEQA review. Projects that comply with *Attachment A: Development Compliance Checklist* from the GHGRS would be considered to have less than significant GHG impacts under CEQA. The following GHGRS Strategies are associated with each of the Consistency Options outlined in the GHGRS Compliance Checklist:

- 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.

Impact Discussion

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

and

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

Less Than Significant. Pursuant to the BAAQMD May 2017 CEQA Air Quality Guidelines, a project that complies with a qualified GHGRS, such as the 2030 GHGRS, would be considered to have less than significant GHG impact. The 2030 GHGRS includes a GHGRS Compliance Checklist (Attachment

A in the 2030 GHGRS) to demonstrate if new developments are consistent with reduction strategies from the 2030 GHGRS. The purpose of the checklist is to streamline project-level CEQA requirements by identifying clear GHG reduction strategies that all new developments would need to implement for compliance with the GHGRS. If a project meets the checklist criteria, then it would be considered to have a less than significant GHG impact.

The project applicant completed the GHGRS Compliance Checklist to demonstrate the project's conformance with the San José General Plan and GHGRS (**Appendix A**). The project's consistency with the checklist, and thus GHGRS, is shown in **Table 13**. In addition, the construction and operational GHG emissions are described below for informational purposes only.

Table 13 Project Consistency with the City of San José's 2030 GHG Reduction Strategy

Goals, Targets, and Policies	Project Consistency
City of San José General Plan Consistency	
Consistency with the Land Use/Transportation Diagram	**Consistent.** The project is a mixed-use development consisting of 164 dwelling units and approximately 7,500 square-feet of commercial space. Based on the Land Use/Transportation Diagram, the project site is designated Neighborhood/Community Commercial. This land use designation supports commercial uses that serve the neighboring communities and support walking, transit use, and public interaction. The project would be consistent with this land use designation since it fronts a commercial use along Alum Rock Avenue that would be open to the general public.
Implementation of Green Building Measures	**Consistent.** Approximately 15 percent of the project's roof would be designed for future installation of solar photovoltaic panels. In addition, the project would be constructed and designed to achieve LEED Silver level certification. The project would also enroll in SJCE for electricity. SJCE currently provides electricity that is 86% percent carbon free and 100% carbon free. Eventually, SJCE plans to provide 100% carbon free electricity as its base power mix.
LEED Pedestrian, Bicycle & Transit Site Design Measures	**Consistent.** The project plans to eliminate one of the two driveways from the Alum Rock Avenue frontage, which would improve traffic flow on Alum Rock Avenue and provide safer travel for pedestrians. In conformance with the General Plan, the project would widen the sidewalk on Alum Rock Avenue to 15 feet creating a comfortable and safe pedestrian environment along the project frontage. The project is a proposed 100% affordable housing project located within one half mile of the Alum Rock Valley Transportation Authority Light Rail Station, and across the street from Bus Route 25. The project qualifies for the State Density parking bonus and proposes reduced parking at a ratio of 0.5 space per unit. The project would also provide 167 bicycle parking spaces on-site.
Water Conservation and Urban Forestry Measures	**Consistent.** The project would conform to the State's Model Water Efficient Landscape Ordinance. The landscaping is designed with plant material appropriate for the climate and water use zones. Furthermore, the project would install low flow pumping fixtures.
City of San José GHG Reduction Strategy Compliance	
Zero Net Carbon Residential Construction (Supports Strategies: GHGRS #1, GHGRS #2, GHGRS #3)	**Consistent.** Pursuant to Ordinance No. 30502, all new construction would be required to be all-electric. The project would adhere to this ordinance and all buildings would be fully electric with no natural gas infrastructure.

Goals, Targets, and Policies	Project Consistency
	Furthermore, the project would participate in SJCE, which plans to provide 100 percent carbon free electricity as its base power mix.
Renewable Energy Development (Supports Strategies: GHGRS #1, GHGRS #3)	**Consistent.** The project would install future solar panels on 15 percent of the roof. In addition, the project would enroll with SJCE for electricity.
Building Retrofits – Natural Gas (Supports Strategies: GHGRS #4)	**Not Applicable.** The project does not include the retrofit of an existing building.
Zero Waste Goals (Supports Strategies: GHGRS #5)	**Consistent.** The project will strive to exceed the City's construction and demolition waste diversion requirement.
Caltrain Modernization (Supports Strategies: GHGRS #6)	**Consistent.** The project would provide 44 bicycle parking spaces and 10 bicycles for tenant-use.
Water Conservation (Supports Strategies: GHGRS #7)	**Consistent.** The project would include high-efficiency low-flow appliances to reduce water use. Reclaimed water is not available for the project.

Source: Rincon Consultants, Inc. 2021

As shown in **Table 13**, the project would be consistent with the 2030 GHGRS measures and supporting strategies GHGRS #1 through GHGRS #7. Supporting strategies are listed in order of effectiveness in reducing GHG emissions, with GHGRS#1 being most effective and GHGRS #7 being least effective. The project would support City implementation of GHGRS #1, GHGRS #2, GHGRS #3, GHGRS #5, GHGRS #6, and GHGRS #7 which pertain to City efforts to implement the SJCE program to provide residents and businesses access to cleaner energy at competitive rates, to guide new construction in the City toward zero net carbon buildings, to expand rooftop solar energy to make progress toward the Climate Smart San José goal of becoming a one-gigawatt solar city, to divert 90 percent of waste away from landfills, to enhance local transit opportunities while simultaneously improving the City's air quality, and to expand water conservation efforts to achieve and substation long-term per capita water use reductions. Therefore, the project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing GHG emissions, and this impact would be less than significant.

Construction

Less Than Significant. Project-related construction emissions are confined to a relatively short period in relation to the overall life of the project. Construction-related GHG emissions were quantified for informational purposes. The project would generate approximately 400 MT of CO_2e during construction. Given project consistency with the 2030 GHGRS Compliance Checklist, this impact would be less than significant.

Operation

Less Than Significant. **Appendix A** quantifies the GHG emissions associated with operation of the project for informational purposes. However, this impact would be less than significant given project consistency with the GHGRS Compliance Checklist.

2.9 Hazards and Hazardous Materials

	Significant Impact	Less than Significant with Mitigation	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) Be located on a site which is included on a list of hazardous materials sites complied pursuant to Government Code Section 65962.5 and as a result, would it create a significant hazard to the public or the environment?	☐	☐	☒	☐
d) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☒	☐
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard 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 the risk of loss, injury or death involving wildland fires?	☐	☐	☐	☒

Environmental Setting

KCE Matrix prepared a Phase I Environmental Site Assessment (ESA) for the project site in 2020 (**Appendix G**). A review of historical records found that the project site was vacant land from at least 1940 through at least 1956. As of 1962 and through the present, a commercial structure has been located on the central portion of the property and is currently still on-site. Between 1962 and 2017, the structure and the property were occupied by several businesses, including a bank, a discount store, and a restaurant, café. On July 22, 2020, a representative of KCE Matrix conducted site inspection for the subject property an observed that the commercial structure and the property to be unoccupied.

UST-Related Contamination

In July 2020, KCE Matrix submitted a written request to the Regional Water Quality Control Board (RWQCB), the State Water Resources Control Board (SWRCB), and the California Department of Toxic Substances (DTSC) for information regarding Underground Storage Tanks (USTs) and hazardous materials for the subject property. Both agencies did not maintain any records for the subject property.

KCE Matrix also researched the records maintained by the Santa Clara County – Department of Environmental Health, the California Geologic Energy Management Divisions, and the California Environmental Protection Agency. All three agencies did not maintain relevant records for the property.

In July 2020, KCE Matrix was able to obtain records maintained by the San José City Fire Department. These records included several inspection records dated between 2011 and 2015, and were related to violations regarding the following: 1) Secure compressed gas containers, cylinders and tanks; 2) identification of fire protection equipment; 3) room occupancy signage to be posted; and 4) illumination emergency power connections.

Non-UST-Related Contamination

The Phase I ESA did not discover or observe subsurface environmental site activity that would indicate potential migration of contamination from other nearby sites towards the project site property.

Soil Vapor Contamination

KCE Matrix conducted a vapor encroachment screen to identify a potential vapor encroachment condition (VEC) for the project site. A VEC is defined as the presence or likely presence of chemical of concern vapors in the subsurface of the project site caused by the release of vapors from contaminated soil or groundwater either on or near the project site. Based on the research conducted during the investigation, a VEC originating from the project site was not identified.

Regulatory Setting

In California, the U.S. EPA has granted most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (Cal/EPA). In turn, local agencies including the San José Fire Department and the SCCDEH have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program.

Department of Toxic Substances Control and Regional Water Quality Control Board

The Department of Toxic Substances Control (DTSC) regulates hazardous waste and remediation of existing contamination and evaluates procedures to reduce the hazardous waste produced in California. The RWQCB also provides regulatory oversight for sites with contaminated groundwater or soils.

Government Code §65962.5 (Cortese List)

Section 65962.5 of the Government Code requires the Cal/EPA to develop and annually 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 DTSC and the State Water Resources Control Board (SWRCB). The project site is not located on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

City of San José General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating hazards and hazardous materials impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the hazards and hazardous materials policies listed in the General Plan, including the following:

Policy EC-6.6: Address through environmental review for all proposals for new residential, park and recreation, school, day care, hospital, church or other uses that would place a sensitive population in close proximity to sites on which hazardous materials are or are likely to be located, the likelihood of an accidental release, the risks posed to human health and for sensitive populations, and mitigation measures, if needed, to protect human health.

Action EC-6.8 The City will use information on file with the County of Santa Clara Department of Environmental Health under the California Accidental Release Prevention (CalARP) Program as part of accepted Risk Management Plans to determine whether new residential, recreational, school, day care, church, hospital, seniors, or medical facility developments could be exposed to substantial hazards from accidental release of airborne toxic materials from CalARP facilities.

Action EC-6.9 Adopt City guidelines for assessing possible land use compatibility and safety impacts associated with the location of sensitive uses near businesses or institutional facilities that use or store substantial quantities of hazardous materials by September 2011. The City will only approve new development with sensitive populations near sites containing hazardous materials such as toxic gases when feasible mitigation is included in the projects.

Policy EC-7.1: For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.

Policy EC-7.2: Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental

risk, in conformance with regional, State, and federal laws, regulations, guidelines and standards.

Policy EC-7.3 Where a property is located near proximity of known groundwater contamination with volatile organic compounds or within 1,000 feet of an active or inactive landfill, the potential for indoor air intrusion of hazardous compounds shall be evaluated and mitigated to the satisfaction of the City's Environmental Compliance Officer and appropriate regional, state, and federal agencies prior to approval of a development or redevelopment project.

Policy EC-7.4: On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-based paint and asbestos containing materials, shall be implemented in accordance with State and federal laws and regulations.

Policy EC-7.5: In development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements.

Action EC-7.8 Where an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazardous materials found in the soil, groundwater, soil vapor, or in existing structures.

Action EC-7.9: Ensure coordination with the County of Santa Clara Department of Environmental Health, RWQCB, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.

Action EC-7.10: Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.

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

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

Impact Discussion

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

Less than Significant. The project would involve the use of potentially hazardous materials such as paints, oils, absorbents, cleaners, and pesticides for landscaping. All potentially hazardous materials used on the project site would be contained, stored, and used in accordance with manufacturer's instructions and handled in compliance with applicable standards and regulations. In accordance with federal and State law, the project would be required to disclose hazardous materials handled at reportable amounts. Additionally, the project applicant would be required to prepare an emergency response and evacuation plan, conduct hazardous materials training (including remediation of accidental releases), and notify employees who work in the vicinity of hazardous materials, in accordance with Federal Occupational Health and Safety Administration and California Division of Occupational Safety and Health requirements. Therefore, impacts related to the routine transport, use, or disposal of hazardous materials would be less than significant.

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?

Less than Significant. According to the Phase l ESA, no documented hazardous material use or storage is associated with the project site. While no contamination is recorded on the project site, asbestos-containing materials, lead based paint, and lead containing materials could be encountered during construction given the age of the existing structures. Demolition of these structures could expose construction workers, or others, to asbestos and lead-based paint products, if present. Implementation of the following Standard Permit Conditions would reduce impacts associated with demolition and construction to a less-than-significant level.

Standard Permit Conditions:

Asbestos and Lead-Based Paint.

- In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials (ACMs) and/or lead-based paint (LBP).
- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or

coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.

- All potentially friable ACMs shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.
- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
- Materials containing more than one-percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.
- Based on Cal/OSHA rules and regulations, the following conditions are required to limit impacts to construction workers.

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

Operation

The project would connect to the existing municipal services, which would not use the extraction of groundwater for supply. With implementation of the above-mentioned Standard Permit Conditions, impacts associated with reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment would be reduced to a less-than-significant level.

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

Site Contamination

Less than Significant. As discussed above, a database search was conducted and indicated that the project site is not listed on hazardous material site lists compiled pursuant to Government Code Section 65962.5. Although there are listed sites that have not been remediated located within the

vicinity of the project site, the project site itself is not listed. Therefore, the project would not result in a hazard to the public. This impact would be less than significant.

d) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

Less than Significant with Mitigation Incorporated. James Lick High School is the nearest school to the project site, approximately 0.12 miles northeast. There are no other schools within one-quarter mile of the project site.

During construction, demolition of the existing building would potentially involve the handling and disposal of hazardous waste products, including asbestos, lead, motor and transmission oils, etc. Most of these substances are typically found within commercial sites. Additionally, the excavation and grading associated with construction activities at the project site could result in encountering potentially contaminated soils, soil vapors, and groundwater. Handling of such substances would be regulated by federal and state hazardous materials laws that would minimize the risk of exposure to nearby land uses, including schools. Additionally, implementation of the above-mentioned Standard Permit Conditions would further reduce potential risk of exposure to nearby land uses.

During operation, the project would be used for residential and commercial uses. Common chemicals and materials used at the site would be typical of such uses and would not be considered hazardous. Therefore, the impact would be less than significant.

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

No Impact. The project site is located 1.72 miles southeast of the Reid Hillview Airport, and 5.3 miles east of the Norman Y. Mineta San José International Airport. The project site is not located within the Reid Hillview Airport Influence Area and is not located within the Norman Y. Mineta San José Airport's Comprehensive Land Use Plan.[22,23] Therefore, the project would not result in a safety hazard for people residing or working in the project site. No impact would occur.

f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

No Impact. The project would not change the local roadway circulation pattern in a way that would physically interfere with local emergency response plans. No impact would occur.

[22] Santa Clara County. 2007. *Reid-Hillview Airport Comprehensive Land Use Plan.* October 2007. Available https://www.sccgov.org/sites/dpd/DocsForms/Documents/ALUC_RHV_CLUP.pdf. Accessed April 2021.

[23] Santa Clara County. 2016. *Norman Y. Mineta San José International Airport Comprehensive Land Use Plan.* May 2011. Available https://www.sccgov.org/sites/dpd/DocsForms/Documents/ALUC_SJC_CLUP.pdf. Accessed April 2021.

g) Expose people or structures, either directly or indirectly, to the risk of loss, injury or death involving wildland fires?

No Impact. The project site is located in a developed urban area and is not adjacent to natural areas that would be subject to wildland fires. According to the California Department of Forestry and Fire Protection (CAL FIRE), the project site is not located within a Very High Fire Hazard Severity Zone.[24] No impact would occur.

2.10 Hydrology and Water Quality

	Significant Impact	Less than Significant with Mitigation	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 groundwater quality?	☐	☐	☒	☐
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☒	☐
c) Substantially alter the existing drainage patterns of the site or area including through the alteration of the course of a stream or river, or through the addition of impervious surfaces, in a manner which would:	☐	☐	☒	☐
i) result in a substantial erosion or siltation on- or off-site;	☐	☐	☒	☐
ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite;	☐	☐	☒	☐
iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	☐	☐	☒	☐
iv) impede or redirect flood flows?	☐	☐	☒	☐

[24] California Department of Forestry and Fire Protection. 2012. *San José Fire Hazard Severity Zones*. Available https://osfm.fire.ca.gov/divisions/wildfire-planning-engineering/wildland-hazards-building-codes/fire-hazard-severity-zones-maps/. Accessed April 2021.

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
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?	☐	☐	☒	☐

Environmental Setting

The project site is located approximately 0.6 miles from Lower Silver Creek, the creek flows south of 2880 Alum Rock Avenue and eventually flows into Coyote Creek and the San Francisco Bay. This region is part of the Coyote Creek Watershed.

Stormwater runoff within the urbanized areas of the City is discharged into local storm drains, which, in turn, flow into local creeks and the San Francisco Bay. The City owns and maintains municipal storm drainage facilities throughout the City. Storm drain lines are inspected and maintained by the Department of Transportation and are installed, rehabilitated, or replaced by the Department of Public Works.

Regulatory Setting

Federal Emergency Management Agency

The Federal Emergency Management Agency (FEMA) administers the National Flood Insurance Program (NFIP) to provide subsidized flood insurance to communities that comply with FEMA regulations protecting development in floodplains. As part of the NFIP, FEMA publishes Flood Insurance Rate Maps (FIRMs) that designate 100-year floodplain zones and delineate other flood hazard areas. A 100-year floodplain zone is the area that has a 1 in 100 (1 percent) chance of being flooded in any one year based on historical data. The project site is in Flood Zone X, which is defined as an area of 0.2 percent annual chance of flood (i.e., the 500-year floodplain).[25]

National Pollutant Discharge Elimination System Permit Program

The NPDES permit program controls sources that discharge pollutants into waters of the United States (e.g., streams, lakes, bays, etc.). The RWQCB issues and enforces compliance with the NPDES permits and prepares the relevant Regional Water Quality Control Plan, also known as the Basin Plan.

The San Francisco Bay RWQCB issued a Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008). Under the Municipal Regional Stormwater NPDES Permit, development

[25] FEMA. 2014. *FEMA Flood Map Service Center*. Available https://msc.fema.gov/portal/search?AddressQuery=1936%20alum%20rock%20avenue%20san%20José#searchresultsanchor. Accessed March 2021.

projects that create, add, or replace 10,000 square-feet or more of impervious surface area are required to control post-development stormwater runoff through source control, site design, and treatment control BMPs. Additional requirements must be met by certain large projects that create 1 acre or more of impervious surfaces.

In addition to water quality controls, the Regional Municipal NPDES permit has hydromodification[26] controls as defined in the Hydromodification Management Plan. The NPDES permit requires redevelopment projects that create or replace 1 acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration.

Statewide Construction General Permit

The SWRCB implemented a NPDES General Construction Permit for the State of California. Projects that would disturb more than 1 acre of land are required to submit a Notice of Intent (NOI) and a Storm Water Pollution Prevention Plan (SWPPP) to the SWRCB to apply for coverage under the NPDES Construction and Land Disturbance General Permit. Construction activities subject to this permit include grading, clearing, or any activities that cause ground disturbance such as stockpiling or excavation. The SWPPP will include the site-specific BMPs to control erosion and sedimentation and maintain water quality during the construction phase. The SWPPP also contains a summary of the structural and non-structural BMPs to be implemented during the post-construction period.

City of San José General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating hydrology and water quality impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the hydrology and water quality policies listed in the General Plan, including the following:

Policy ER-8.1: Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.

Policy ER-8.3: Ensure that private development in San José includes adequate measures to treat stormwater runoff.

Policy ER-8.5: Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff on-site.

Policy EC-5.16: Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

Action EC-7.10: Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known

[26] Hydromodification is a change in stormwater runoff characteristics from a watershed caused by changes in land use conditions (i.e., urbanization) that alter the natural cycling of water. Changes in local land use can cause runoff volumes and velocity to increase which can result in a decrease in natural vegetation, changing of river/creek bank grades, soil compaction, and the creation of new drainages.

soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.

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

The City's Post-Construction Urban Runoff Management Policy 6-29 requires all new and redevelopment projects to implement post-construction BMPs and Treatment Control Measures (TCMs). This policy also established specific design standards for post-construction TCMs for projects that create, add, or replace 10,000 square-feet or more of impervious surfaces.

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

The City's Post-Construction Hydromodification Management Policy 8-14 requires redevelopment projects that create or replace 1 acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration. Projects are not required to include hydromodification controls for peak runoff under this policy if they do not create an increase in impervious surface over pre-project (existing) conditions.

City of San José Municipal Code – Stormwater Management – Projects Disturbing 1 Acre or More

Projects disturbing 1 acre or more are required to comply with SJMC Title 20 Zoning (Section 20.100.480) as described below:

- All development projects with an approved development permit that result in a land disturbance of 1 acre or more shall, prior to the commencement of any clearing, grading or excavation, comply with the City's NPDES General Construction Activities Permit as follows:
- The applicant shall develop, implement and maintain a SWPPP to control the discharge of stormwater pollutants including sediments associated with construction activities.
- The applicant shall file a NOI with the SWRCB.
- Along with these documents, the applicant may also be required to prepare an erosion control plan. The erosion control may include BMPs as specified in the California Storm Water Best Management Practice Handbook for reducing impacts on the City's storm drainage system from construction activities.
- Prior to the issuance of a grading permit, the applicant shall submit copies of the NOI and erosion control plan (if required) to the City project engineer, department of public works.
- The applicant shall maintain a copy of the most current SWPPP on the project site and shall provide a copy to any City representative or inspector on demand.
- The applicant shall implement and maintain all BMPs or control measures identified in the SWPPP and/or erosion control plan.
- Any proposed development of real property that will create, on or above ground through installation, construction, or replacement, ten thousand (10,000) square-feet or more of impervious surface shall be designed in conformance with City Council Policy No. 6-29, entitled "City Council Policy on Post Construction Urban Runoff Management," and the provisions of this chapter.

Impact Discussion

a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality?

Less Than Significant. The RWQCB oversees certain discharges to land, groundwater, or from diffused sources by applying waste discharge requirements and permits. This requirement applies to projects that:

- Would not discharge into a community sewer system
- Would not fall under a General NPDES permits that use an NOI

The project would connect to existing sewer and stormwater systems, and (as described below) would be subject to the NPDES General Construction Permit which would require submittal of a NOI.

Construction

Project construction would include excavation, grading, and trenching. These activities could generate polluted stormwater runoff that could degrade water quality if not properly controlled. Because project construction would disturb over 1 acre, the project would be subject to a NPDES General Construction Permit which would require submittal of a NOI.

Erosion control requirements are stipulated in the NPDES Permit issued by the RWQCB. These requirements include the preparation and implementation of a SWPPP to identify potential sediment sources and other pollutants and prescribe BMP to ensure that potential adverse erosion, siltation, and contamination impacts would not occur during construction activities. BMPs include, but are not limited to, damp-street sweeping and providing the temporary cover of disturbed surfaces. Implementation of the SWPPP would control erosion and protect water quality from potential contaminants in stormwater runoff emanating from the construction site.

Project construction could mobilize sediment, vehicle fluids (i.e. fuel or oil), or other construction-related substances. As described above, compliance with the provisions of the NPDES, SWPPP, and applicable BMPs would minimize potential water quality impacts during construction. Therefore, compliance with these regulations and implementation of the Standard Permit Conditions as outlined below would reduce this impact to a less-than-significant level.

Standard Permit Conditions:

The project would implement the following standard construction-related water quality conditions:

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.

- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- Vegetation in disturbed areas shall be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system shall be installed if requested by the City.
- The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

Operation

The project site contains 53,769 square-feet of impervious surface areas and 3,659 acres of pervious areas. Project construction would reduce the total impervious surface area to 37,796 square-feet and increase the total pervious surface to 19,183 square-feet. As the project would replace more than 10,000 square-feet of impervious surface, it would be subject to the requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit and the City's Post-Construction Urban Runoff Policy 6-29. Stormwater runoff would drain into the treatment areas prior to entering the storm drainage system. Project operation would also involve the use of paints, oils, absorbents, cleaners, and pesticides for landscaping, which would be contained, stored, and handled in accordance with manufacturer's instructions and applicable regulations to minimize accident conditions that could degrade water quality. The Municipal Regional Stormwater Permit (MRP) requires regulated projects to include Low Impact Development (LID) practices, such as site design measures, pollutant source control measures, and stormwater treatment features aimed to maintain or restore the site's national hydrologic functions. The MRP requires that stormwater treatment measures are properly installed, operated, and maintained. Given the above, operational stormwater impacts would be less than significant.

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

Less than Significant. The project site is primarily impervious and therefore does not currently contribute to groundwater aquifer recharge. Implementation of the project would decrease the quantity of impervious surfaces on-site. New pervious landscaping would include flow-through planters and pervious pavers. Once implemented, the project would result in a net benefit regarding groundwater recharge. This impact would be less than significant.

c) Substantially alter the existing drainage patterns 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?

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

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

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

iv. impede or redirect flood flows?

Less than Significant. The project site is mostly flat and project implementation would not substantially alter the existing drainage pattern of the site that would otherwise result in flooding on or offsite. However, construction would include excavation, grading, trenching and other activities that would result in ground disturbance. As described above in **Section 2.9, Hydrology and Water Quality, Impact (a)**, project construction would be subject to a State NPDES General Construction Permit and a Municipal Regional Stormwater NPDES Permit, which impose strict requirements on construction and post-construction activities. Project construction would require the preparation and implementation of a SWPPP to identify potential sediment sources and other pollutants and prescription of BMPs to ensure that substantial erosion or siltation would not occur during construction activities.

The project site is in Flood Zone X, which is the 500-year floodplain and exhibits a low risk for flood hazards.

The project would not create runoff volumes that exceed the capacity of existing or planned stormwater drainage systems or create substantial erosion or siltation. Project implementation would reduce the total impervious surface area from 53,769 square-feet to 37,796 square-feet and increase the total pervious surface from 3,659 square-feet to 19,183 square-feet. Furthermore, the project would implement various landscaping design measures, source control measures, bio-retention, and treatment systems to accommodate surface runoff. Stormwater would be treated on-site through swales or other treatment facilities prior to leaving the site. Since the project would decrease the quantity of impervious surfaces, runoff generated within the project site would not exceed existing runoff volumes. New pervious landscaping would include flow-through planters and pervious pavers. Therefore, the project would not contribute substantial amounts of sediment to storm drainage systems. This impact would be less than significant.

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

No Impact. The project site is in Flood Zone X, which is the 500-year floodplain and exhibits a low risk for flood hazards. The project site is located approximately 31.5 miles from the Pacific Ocean and approximately 9.5 miles from the San Francisco Bay. Because of the project site's distance from

these two bodies of water, there are no potential impacts related to a tsunami.[27] Additionally, the project site is not susceptible to impacts resulting from seiche because of its distance from the San Francisco Bay and the Pacific Ocean. According to the Santa Clara County Dam Failure Inundation Hazard Maps, the project site is not located within a dam failure inundation area. Finally, the relatively flat topography of the project site and its immediate surroundings reduce the likelihood of mudflows. No impact would occur.

e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

Less than Significant. With implementation of the State NPDES General Construction Permit and a Municipal Regional Stormwater NPDES Permit, the project would not conflict with any activities outlined the 2016 Valley Water Groundwater Management Plan.[28] This impact would be less than significant.

2.11 Land Use and Planning

	Significant Impact	Less than Significant with Mitigation	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 applicable land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒

Environmental Setting

The project site's General Plan land use designation is Neighborhood/Community Commercial and the project site is zoned CN. The Urban Village land use designation and CN Zoning District support a wide variety of commercial, residential, institutional, or other land uses with an emphasis on establishing an attractive urban form in keeping with the Urban Village concept. The urbanized project site is surrounded by commercial, retail, and residential land uses.

[28] Valley Water. 2019. *Groundwater Management Plan, Santa Clara County*. Available: https://s3.us-west-2.amazonaws.com/assets.valleywater.org/2016%20Groundwater%20Management%20Plan.pdf. Accessed: April 2021.

Regulatory Setting

City of San José General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating land use impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the policies listed in the General Plan, including the following:

Policy CD-1.12: Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.

Policy CD-4.9: For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).

Policy VN-1.6: Design new development to contribute to the positive identity of a neighborhood and to encourage pedestrian activity.

Impact Discussion

a) Physically divide an established community?

No Impact. Projects that have the potential to physically divide an established community include new freeways and highways, major arterials streets, and railroad corridors. The urbanized project site is located in a developed area surrounded by residential and commercial land uses. The project would be compatible with the pattern of surrounding land uses and would not physically divide an established community. No impact would occur.

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

No Impact. Implementation of the project would introduce commercial and residential uses onto the project site. These uses are consistent with project site's existing land use designation and planned growth as identified in the General Plan. The project site is zoned CN, which is intended to provide for neighborhood serving commercial uses without an emphasis on pedestrian orientation except within the context of a single development. Mixed-use projects are allowed within MS-G districts with approval of Conditional Use Permit. Once the Conditional Use Permit is obtained, the project would be consistent with applicable land use plans, policies, and regulations. This impact would be less than significant.

2.12 Mineral Resources

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

Environmental Setting

According to the General Plan EIR, the Communications Hill area, located approximately 5.4 miles from the project site, is the only area in the City designated by the State Mining and Geology Board under the Surface Mining and Reclamation Act of 1975 (SMARA) as containing mineral deposits which are of regional significance. No other areas of the City have been designated mineral deposits subject to SMARA.

Impact Discussion

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?

and

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?

No Impact. The project site is located 5.4 miles away from Communications Hill, which is the nearest known mineral resource of statewide, regional, or local value. Given this, implementation of the project would not disturb protected mineral resources. No impact would occur.

2.13 Noise and Vibration

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
Would the project:				
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 ground borne vibration or ground borne 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?	☐	☐	☐	☒

Environmental Setting

Rincon Consultants, Inc. provided a Noise Assessment in 2021 (**Appendix H**) to evaluate potential noise impacts associated with the project. This report includes background information on acoustics, noise standards applicable to the project, construction-period and operational noise impacts, and measures to reduce noise impacts. Traffic assumptions used in this assessment derive from the Local Transportation Analysis (LTA) (**Appendix I**).

Sensitive Receivers

Noise exposure goals for various types of land uses reflect the varying noise sensitivities associated with those uses. As defined by the City's Noise Element Background Report, noise sensitive land uses (also referred to as "sensitive receivers") include picnic areas, recreational areas, playgrounds, active sport areas, parks, residences, motels, hotels, schools, churches, libraries, and hospitals.[29] Sensitive receivers nearest to the project site include multi-family residences located adjacent to the western boundary of the project site and single-family residences located adjacent to southern boundary of the project site.

[29] City of San José 2009. *General Plan Comprehensive Update Noise Background Report*. Available https://www.sanjoseca.gov/Home/ShowDocument?id=22787. Accessed March 2021.

Project Noise Setting

The most common source of noise in the project site vicinity is vehicular traffic from Alum Rock Avenue. According to the General Plan, the project site is located within the 65 dBA to 70 dBA Ldn noise contours.[30]

To characterize ambient sound levels at and near the project site, two 15-minute sound level measurements were conducted on February 16, 2021, and one 24-hour measurement was conducted on February 16 and 17, 2021. The sound meter was calibrated prior to measurements. Measurement Short-term (ST) 1 was conducted to capture the noise levels of Alum Rock Avenue and ST-2 was conducted near the existing on-site structure and double the distance of ST-1 from Alum Rock Avenue. Measurement Long-term (LT) 1 was conducted to capture on-site noise levels over a 24-hour period to establish day and night noise energy split in the project site and accounted for in project noise calculations. The 24-hour measurement was conducted near the eastern project boundary and shielded from full exposure from Alum Rock Avenue traffic noise by the existing commercial structures on- and off-site. The 24-hour measurement resulted in a noise level of 71 dBA Ldn with a day and night energy split of 81 percent and 19 percent, respectively. Daytime average hourly noise level is 68 dBA and nighttime average hourly noise level is 64 dBA. The highest measured daytime and nighttime hourly noise levels were 71 dBA and 70 dBA Leq, respectively.

Table 14 and **Table 15** summarize the results of the noise measurements. During ST-1 and ST-2, vehicles with modified mufflers generated noise that was observed to be louder than typical roadway noise. In addition, music emanating from vehicles was noted to be louder than the roadway noise. Traffic vehicle counts were conducted during noise measurement ST-1 and consisted of 405 automobiles and 7 medium trucks.

Table 14 Project Site Sound Level Monitoring Results

Measurement	Location	Sample Times	Approximate Distance to Primary Noise Source	L_{eq} (dBA)	L_{max} (dBA)	Notes
ST-1	Northern project boundary line	12:14 – 12:29 p.m.	75 feet from Alum Rock Avenue centerline	68	97	Alum Rock Avenue traffic noise
ST-2	Near existing on-site structure	12:35 – 12:50 p.m.	150 feet from Alum Rock Avenue centerline	59	68	Alum Rock Avenue traffic noise

dBA=A-weighted decibels; L_{eq} = average energy noise level; L_{max}= instantaneous maximum noise level;
Source: Rincon Consultants, field measurements conducted on February 16, 2021, using ANSI Type II Integrating sound level meter.

[30] City of San José 2020. *Envision San José 2040 General Plan*. Available https://www.sanjoseca.gov/home/showpublisheddocument?id=22359. Accessed April 2021.

Table 15 Project Site Noise Monitoring Results – Long Term

Sample Time	dBA L_{eq}	Sample Time	dBA L_{eq}
LT1 – Eastern Boundary of Project Site, February 16 and 17, 2021			
1:03 p.m.	65	1:03 a.m.	60
2:03 p.m.	68	2:03 a.m.	60
3:03 p.m.	68	3:03 a.m.	59
4:03 p.m.	71	4:03 a.m.	64
5:03 p.m.	69	5:03 a.m.	65
6:03 p.m.	67	6:03 a.m.	70
7:03 p.m.	67	7:03 a.m.	68
8:03 p.m.	66	8:03 a.m.	70
9:03 p.m.	65	9:03 a.m.	71
10:03 p.m .	61	10:03 a.m.	67
11:03 p.m.	61	11:03 a.m.	71
12:03 a.m.	59	12:03 p.m.	66
24-hour Noise Level			71 dBA L_{dn}

dBA=A-weighted decibels; Leq = average energy noise level

Source: Rincon Consultants, field measurements conducted on February 16 and 17, 2021, using ANSI Type II Integrating sound level meter.

Regulatory Setting

State of California Code of Regulations, Title 24

The State of California Code of Regulations, Title 24 (CBC), Ref. (c), specify an interior noise exposure limit of 45 dB DNL from exterior noise sources. The Title 24 standards also specify minimum sound insulation ratings for common partitions separating different dwelling units and dwelling units from interior common spaces.

General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating noise impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the noise policies listed in the General Plan, including the following:

Policy EC-1.1: Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, State, and city noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include:

Interior Noise Levels: The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected Envision General Plan traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan.

Exterior Noise Levels: The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses(Table EC-1, shown in **Table 16**). The acceptable exterior noise level objective is established for the City, except in the environs of the San José International Airport and the Downtown, as described below:

- For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.
- For single family residential uses, use a standard of 60 dBA DNL for exterior noise in private usable outdoor activity areas, such as backyards

Policy EC-1.2: Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would:

- Cause the DNL at noise sensitive receptors to increase by 5 dBA DNL or more where the noise levels would remain "Normally Acceptable"; or
- Cause the DNL at noise sensitive receptors to increase by 3 dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.

Policy EC-1.7: Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near

residential uses per the city's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:

- Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.

For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.

Policy EC-2.3 Require new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a 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 vibration limit of 0.20 in/sec ppv will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Equipment or activities typical of generating continuous vibration include but are not limited to: excavation equipment; static compaction equipment; vibratory pile drivers; pile-extraction equipment; and vibratory compaction equipment. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of historical buildings, or buildings in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction. Transient vibration impacts may exceed a vibration limit of 0.08 in/sec PPV only when and where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

Table 16 Land Use Compatibility Guidelines for Community Noise in San José (Table EC-1 in the General Plan)

LAND USE CATEGORY	EXTERIOR NOISE EXPOSURE (DNL IN DECIBELS (DBA)) 55 60 65 70 75 80
1. Residential, Hotels and Motels, Hospitals and Residential Care[1]	
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds	
3. Schools, Libraries, Museums, Meeting Halls, Churches	
4. Office Buildings, Business Commercial, and Professional Offices	
5. Sports Arena, Outdoor Spectator Sports	
6. Public and Quasi-Public Auditoriums, Concert Halls, Amphitheaters	

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

Normally Acceptable:

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

Conditionally Acceptable:

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

Unacceptable:

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

Source: City of San José 2020. Envision San José 2040 General Plan. Available https://www.sanjoseca.gov/home/showpublisheddocument/22359/637394795874170000. Accessed June 2021

City of San José Municipal Code

SJMC Title 20 (Section 20.100.450), establishes the hours of construction within 500 feet of a residential unit, as described below:

- Unless otherwise expressly allowed in a development permit or other planning approval, no applicant or agent of an applicant shall suffer or allow any construction activity on a site located within 500 feet of a residential unit before 7:00 AM or after 7:00 PM, Monday through Friday, or at any time on weekends.
- Without limiting the scope of Section 20.100.310, no applicant or agent of an applicant shall suffer or allow any construction activity on a site subject to a development permit or other planning approval located within 500 feet of a residential unit at any time when that activity is not allowed under the development permit or planning approval.
- This section is applicable whenever a development permit or other planning approval is required for construction activity.

The SJMC does not establish quantitative noise limits for demolition or construction activities occurring in the City.

Impact Discussion

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?

Construction

Less than Significant with Mitigation Incorporated. Project construction and demolition would occur nearest to the multi-family residences to the southwest and single-family residences to the northeast of the project site. Over the course of a typical construction day, construction equipment could be located as close as 50 feet to the multi-family residences and as close as 180 feet to the single family residences, but would typically be located at an average distance farther away due to the nature of construction and the size of the project site. Therefore, it is assumed that over the course of a typical day the construction equipment would operate at an average distance of 75 feet from the multi-family residences and 200 feet from single family residences.

At a distance of 75 feet, a grader, dozer and a backhoe would generate a noise level of 72 dBA Leq and at 200 feet would generate a noise level of 67 dBA. Per SJMC Chapter 20.100.450, the hours of construction would be limited to 7:00 a.m. to 7:00 p.m. Monday through Friday because the project site is within 500 feet of a residential land use.

The City does not currently have an established quantitative noise standard for construction noise. However, according to the General Plan, the project would have a significant impact if it generates substantial noise continuing for more than 12 months within 500 feet of a residence or 200 feet of commercial or office use, or does not use best available suppression devices and techniques. Because existing residences are located within 500 feet of the project site and construction would continue for more than 12 months, a construction noise logistics plan would be required. Adherence to the Standard Permit Conditions for construction noise such as installing temporary noise barriers and locating stationary equipment as far as possible from sensitive receivers would reduce the exposure of sensitive receivers to construction noise. The existing noise environment surrounding the project site is 71 dBA Ldn due to traffic noise from Alum Rock Avenue. Project construction would not substantially increase existing noise levels at sensitive receivers near the project. In addition, construction noise would be typical of common construction in urban areas and would not include the use of exceptionally high noise-generating equipment such as pile drivers. With the implementation of the Standard Permit Conditions and **Mitigation Measure NOI-1,** impacts would be less than significant.

Standard Permit Conditions:

Consistent with General Plan Policy EC-1.7 and the SJMC, the City would require the applicant to implement the following standard project condition of approval to reduce construction-related noise impacts:

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

Mitigation Measure NOI-1*:* Prior to the issuance of any demolition, grading or building permits, the project applicant shall prepare 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 noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction (i.e., prior to grading permits) and implemented during construction to reduce noise impacts on neighboring residents and other uses. The construction noise logistics plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee for review prior to issuance of any demolition, grading, or building permits.

Operation

Less than Significant. The proposed residences and commercial development would be a new source of noise that may be audible at nearby properties, which include single-family and multi-family residences. These sensitive receivers would periodically be subject to stationary noise from packaged terminal air conditioner (PTAC) units, traffic noise from project vehicles added to Alum Rock Avenue, activities associated with the commercial space proposed in Building A, and typical residential activities of people talking, cars entering and exiting the project site, car door closing and car alarms.

Mechanical Noise

Noise levels from proposed mechanical equipment were modeled at eight receivers in the project site. As shown in **Table 17**, noise levels would not exceed City noise limits of 55 dBA L_{eq} from stationary sources at residential uses and 60 dBA L_{eq} at commercial uses. With the implementation of the Standard Permit Conditions, noise levels from project operation would be less than significant.

Standard Permit Conditions:

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

Table 17 Operational Noise Levels at Off-site Receivers

Receiver	Description	HVAC Noise Levels (dBA L_{eq})	Exceed Threshold?[1]
OFF1	Single-family residential	36	No
OFF2	Commercial	38	No
OFF3	Multi- family residential	43	No
OFF4	Multi- family residential	40	No

Receiver	Description	HVAC Noise Levels (dBA L_{eq})	Exceed Threshold?[1]
OFF5	Multi- family residential	37	No
OFF6	Multi- family residential	43	No
OFF7	Multi- family residential	42	No
OFF8	Multi- family residential	42	No

[1] In accordance with Chapter 20.40.600 of the SJMC, the applicable threshold is that operational noise shall not exceed 55 dBA L_{eq} at any residentially zoned property line and 60 dBA L_{eq} at any commercially zoned property line.

Off-site Traffic Noise

The project would generate 849 new vehicle trips that would increase noise levels on nearby roadways. These trips would occur primarily on Alum Rock Avenue. As shown in **Table 18**, the project is anticipated to increase traffic by up to six percent on Alum Rock Avenue. A six percent increase in traffic would result in traffic noise increase of less than 1 dBA. Therefore, the project's traffic noise increase would not exceed the 3 dBA criteria for off-site traffic noise impacts. Impacts would be less than significant.

Table 18 Existing and Future Traffic Volumes

Roadway	Existing	Background	Existing +Project	Background + Project
Alum Rock Avenue				
West of Capitol Avenue	24,500	25,400	24,900	25,900
East of Capitol Avenue	21,600	22,400	22,100	22,900

Source: Hexagon Transportation Consultants Inc. 2021

Land Use Compatibility

Receivers were modeled at all building façades to represent potential building façade with the highest noise level due to Alum Rock Avenue traffic noise. Building façade noise levels were modeled at ground-level and at 2nd through 6th floors of the proposed residential structure and commercial development and are shown in **Table 19** as receivers ON1 through ON14. As shown in **Table 19**, exterior traffic noise levels at the building façade would range from 73 to 74 dBA Ldn for receiver ON1 at all floors, the façade closest to Alum Rock Avenue. Therefore, noise levels would comply with the City's 75 dBA Ldn conditionally acceptable exterior noise standard because this study serves as the detailed analysis of the noise reduction requirements and needed noise insulation features for the site. Specified land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features included in the design.

Table 19 Traffic Noise Levels

Receiver	Description	Noise Level (L_{dn}) Ground Level/ 1st Floor	2nd Floor	3rd Floor	4th Floor	5th Floor	6th Floor	Exceed Exterior Threshold	Exceed Interior Threshold
ON1	Residential Building façade	**74**	**74**	**74**	**73**	**73**	**73**	No	**Yes**
ON2	Residential Building façade	68	69	69	68	68	68	No	No
ON3	Residential Building façade	63	65	66	66	66	66	No	No
ON4	Residential Building façade	58	62	64	64	63	63	No	No
ON5	Residential Building façade	55	60	61	62	62	62	No	No
ON6	Residential Building façade	47	49	46	37	31	32	No	No
ON7	Residential Building façade	54	59	62	62	62	62	No	No
ON8	Residential Building façade	56	61	63	63	63	63	No	No
ON9	Residential Building façade	62	65	65	65	65	65	No	No
ON10	Residential Building façade	68	69	69	68	68	68	No	No
ON11	Residential Building façade	50	59	66	66	66	66	No	No
ON12	Residential Building façade	53	58	61	62	62	62	No	No
ON13	Residential Building façade	48	51	48	30	31	32	No	No
ON14	Residential Building façade	54	59	61	61	61	61	No	No

See Figure 4 for receiver locations. Bold numbers exceed thresholds.

Informational Interior Noise Analysis

An evaluation of interior noise levels for the project is not a requirement under CEQA but is provided for informational purposes. Standard construction techniques for wood-frame construction buildings required under the California Building Code typically achieve a minimum 25 dBA reduction from exterior sources at interior locations when the windows are in a closed position. Commercial structures can similarly attain a 35 dBA L_{dn} reduction though standard building practices. Therefore, where building façade noise levels would exceed 70 dBA L_{dn} (i.e., residential units adjacent to Alum Rock Avenue), interior noise levels for the project would not comply with the City's interior noise standard of 45 dBA L_{dn} for residences as well as the State interior noise level standard for non-residential occupied space. Therefore, noise levels at interior areas of project residences adjacent to Alum Rock Avenue would exceed the City's 45 dBA L_{dn} interior noise standard and would potentially conflict with the Envision San José 2040 General Plan. Implementation of the Standard Permit Conditions below would minimize interior noise levels and ensure project compliance with the City's interior noise standard.

Standard Permit Conditions:

Interior Noise Standard For Residential Development: The project applicant shall prepare final design plans that incorporate building design and acoustical treatments to ensure compliance with State Building Codes and City noise standards. A project-specific acoustical analysis shall be prepared to ensure that the design incorporates controls to reduce interior noise levels to 45 dBA DNL or lower within the residential unit. The project applicant shall conform with any special building construction techniques requested by the City's Building Department, which may include sound-rated windows and doors, sound-rated wall constructions, and acoustical caulking.

b) Generation of excessive ground borne vibration or ground borne noise levels?

***Less Than Significant*.** Construction activities known to generate excessive ground-borne vibration, such as pile driving, are not proposed for the project. **Table 20** shows typical vibration levels for various pieces of construction equipment used in the assessment of construction vibration (FTA 2018).

Table 20 Vibration Levels Measured during Construction Activities

Equipment	PPV at 25 ft. (in/sec)
Large Bulldozer	0.089
Loaded Trucks	0.076
Jackhammer	0.035
Small Bulldozer	0.003

Source: FTA 2018. Noise Measurement Handbook – Final Report. June 1. Available at: https://www.fhwa.dot.gov/ENVIRonment/noise/measurement/handbook.cfm

The greatest anticipated source of vibration during general project construction activities would be from a dozer, which may be used within 60 feet of the nearest off-site multi-family residential structures to the southeast. A dozer would create approximately 0.089 in/sec PPV at a distance of 25 feet. This would equal a vibration level of 0.034 in/sec PPV at a distance of 60 feet. Therefore, project construction would not exceed the SJMC vibration limit of 0.20 in/sec PPV for cosmetic damage at buildings of normal conventional construction. A vibration level of 0.034 in/sec PPV during the potential use of a

dozer also would not exceed 0.25 in/sec PPV, Caltrans' recommended criterion for distinctly perceptible vibration from transient sources. Therefore, temporary impacts associated with a dozer (and other potential equipment) would be less than significant.

Operation of the project would not include any substantial vibration sources. Therefore, operational vibration impacts would be less than significant.

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

No Impact. The nearest airport to the project site is the San José International Airport, which is approximately 4.5 miles to the west. The project site is not located within the noise contours of the airport.[31] Therefore, the project would not expose people to excessive noise associated with an airstrip or airport. No impact would occur.

2.14 Population and Housing

	Significant Impact	Less than Significant with Mitigation	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?	☐	☐	☒	☐

Environmental Setting

According to the California Department of Finance, the City included 1,043,058 residents and 335,887 housing units in January, 2019.[32] The average number of persons per household in the City is 3.19. With its current development and growth capacity, the City could grow to 840,000 jobs and 429,350 dwelling units in total, supporting a residential population of approximately 1.1 million people.

[31] Santa Clara County. 2016. *Norman Y. Mineta San José International Airport Comprehensive Land Use Plan.* May 2011. Available https://www.sccgov.org/sites/dpd/DocsForms/Documents/ALUC_SJC_CLUP.pdf. Accessed March 2021.

[32] California Department of Finance (DOF). 2019. California Department of Finance (DOF). E-5 Population and Housing Estimates for Cities, Counties, and the State, 2011-2019 with 2010 Census Benchmark. January 2019. http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/. Assessed March 2021.

Impact Discussion

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)?

Less than Significant. Although implementation of the project would develop 164 dwelling units and introduce approximately 524 residents (164 units x 3.19 persons per household)the project represents planned growth projected under the General Plan. As outlined in the General Plan EIR, new development and redevelopment allowed under the General Plan would not induce growth beyond that anticipated in ABAG projections for the San Francisco Bay Area.. Therefore, growth induced by the project is planned within the General Plan and analyzed within the General Plan EIR. Finally, the project site is completely urbanized and would not require the extension of roads or infrastructure into previously undeveloped areas. This impact would be less than significant.

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

Less than Significant. The project would develop 164 affordable housing units on an existing vacant 8,200 square-foot commercial restaurant and associated surface parking. The project would not displace people or housing such that it would necessitate the construction of replacement housing. Furthermore, the project is consistent with the General Plan development assumptions and would support implementation of the General Plan EIR by constructing affordable housing at a site designated for residential development. This impact would be less than significant.

2.15 Public Services

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
Would the project:				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
i) Fire protection?	☐	☐	☒	☐
ii) Police protection?	☐	☐	☒	☐

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
iii) Schools?	☐	☐	☒	☐
iv) Parks?	☐	☐	☒	☐
v) Other public facilities?	☐	☐	☒	☐

Environmental Setting

Fire Protection

The San José Fire Department (SJFD) provides fire protection within the City.[33] SJFD's current performance goal is to arrive within 8 minutes for 80 percent of 9-1-1 calls for serious (Priority 1) incidents. Priority 2 incidents current performance goal is to arrive within 13 minutes for 80 percent of calls. For medical emergencies and emerging fires, national best practices recommend that the first fire unit arrive within 7 minutes of a 9-1-1 call 90 percent of the time. In addition, the General Plan identifies a 4-minute response time for first engine response, and a 6-minute response time for the second engine and first truck/urban search and rescue responses. No SJFD station meets this response time goal. The SJFD's primary obstacles to meeting response goals include too few stations, traffic congestion, high workload rates, and movements of station companies for mandatory multi-unit training.

Police Protection

SJPD provides police services within the City, and currently employs 1,149 sworn officers and 561 civilian staff members.[34] SJPD's response target, defined as the period from when a call is received until an officer is on the scene, is under 6 minutes for Priority 1 calls and under 11 minutes for Priority 2 calls.[35] In 2020, SJPD maintained an average 7-minute response time for Priority 1 calls and 21-minute response time for Priority 2 calls. SJPD responded to 52 percent of Priority 1 calls within 6 minutes, and 46 percent of Priority 2 calls within 11 minutes. SJPD operates out of a headquarters station that serves the entire City, located approximately 4.2 miles west of the project site at 201 West Mission Street. As of February 2019, the SJPD has no plans to build additional police facilities.

[33] Estrada, Hector. SJFD. Personal Communication. May 15, 2020.

[34] City of San José. 2020. *Annual Report on City Services 2019-20.* Available https://www.sanjoseca.gov/your-government/appointees/city-auditor/services-report. Accessed March 2021.

[35] Priority 1 calls indicate an event of immediate potential for imminent danger to life or property; Priority 2 calls indicate that an event has occurred but the suspect is no longer at the scene and/or no imminent threat exists to life or property.

Schools

The project site is located within the Alum Rock Unified School District (ARUSD). ARUSD operates 25 schools with an average daily attendance of 10,000 students. Local ARUSD schools that would serve the project include Lyndale Elementary School, Sheppard Middle School and James Lick High School.[36]

Parks

The Department of Parks, Recreation, and Neighborhood Services (PRNS) provides 199 neighborhood parks and 10 regional parks. The nearest park to the project site is Lobue Park, located approximately 0.48 mile southwest of the project site. The second closest park to the project site is Overfelt Gardens Park located approximately 1.14 mile west of the project site.

Library Services

The San José Public Library System provides library services in the City. The San José Public Library System consists of one main library (Dr. Martin Luther King Jr.) and 23 branch libraries. The nearest library in proximity to the project site is the Dr. Roberto Cruz Alum Rock Branch Library, located approximately 0.25 mile northeast of the site.

Regulatory Setting

General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating impacts to public services resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the policies listed in the General Plan, including the following:

Policy CD-5.5: Include design elements during the development review process that address security, aesthetics, and safety. Safety issues include, but are not limited to, minimum clearances around buildings, fire protection measures such as peak load water requirements, construction techniques, and minimum standards for vehicular and pedestrian facilities and other standards set forth in local, state, and federal regulations.

Policy ES-3.9: Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.

Policy ES-11: Ensure that adequate water supplies are available for fire-suppression throughout the city. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.

Policy 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.

[36] My School Location, 2021. https://www.myschoollocation.com/alumrockuesd/. Accessed March 2021.

California Government Code Section 65996

California Government Code Section 65996 specifies that an acceptable method of offsetting a project's impact on school facilities is the payment of a school impact fee prior to issuance of a building permit. California Government Code Sections 65995-65998 sets forth provisions for the payment of school impact fees by new development as the exclusive means of "considering and mitigating impacts on school facilities that occur or might occur as a result of any legislative or adjudicative act, or both, by any State or local agency involving, but not limited to, the planning, use, or development of real property" [§65996(a)].

Quimby Act

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

Parkland Dedication Ordinance and Park Impact Ordinance

The PDO (SJMC Chapter 19.38) and PIO (SJMC Chapter 14.25) requires new residential development to either dedicate sufficient park land to serve new residents or pay fees to offset the increased costs of providing new park facilities. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities. For projects exceeding 50 units, the City decides whether the project will dedicate land for a new public park site or provide a fee in-lieu of land dedication. Affordable housing, including low, very-low, and extremely-low income units are subject to the PDO and PIO at a rate of 50 percent of applicable parkland obligation. The acreage of parkland required is based on the minimum acreage dedication formula outlined in the PDO.

Impact Discussion

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

i. Fire Protection?

Less than Significant. Implementation of the project would increase the demand for SJFD services due to the addition of new residents. According to the SJFD, the project would not affect service ratios, response times, or other performance objectives to such an extent that would necessitate the construction of new or expanded SJFD facilities.[37] This impact would be less than significant.

ii. Police Protection?

[37] Estrada, Hector. SJFD. Personal Communication. May 15, 2020.

Less than Significant. Implementation of the project would incrementally increase the demand for SJPD services due to the addition of new residents. According to the SJPD, the project would not affect service ratios, response times, or other performance objectives to such an extent that would necessitate the construction of new or expanded SJPD facilities.[38] This impact would be less than significant.

iii. Schools?

Less than Significant. New residents generated by the project could increase enrollment at nearby schools. According to the General Plan EIR, existing and planned facilities for ARUSD would accommodate growth planned for in the General Plan such that no additional schools would be required. As the project is considered planned growth in the General Plan, it is anticipated that no new school facilities beyond those established in the General Plan EIR would be required to accommodate new residents generated by the project. In addition, the project proponent would pay applicable school district fees required by California Government Code Section 65996. This impact would be less than significant.

iv. Parks?

Less than Significant. New residents generated by the project would be served by City parks, thus increasing demand on such facilities. As discussed in **Section 2.15, Parks and Recreation**, the project would comply with the City's PDO and PIO required for residential development projects. This impact would be less than significant.

v. Other public facilities?

Less than Significant. The project would serve existing members of the community and would not substantially increase the population of the City beyond what was anticipated and analyzed in the General Plan EIR. The project would not affect the performance objectives of the other public facilities. This impact would be less than significant.

[38] Benoit, April. SJPD. Personal Communication. May 4, 2020.

2.16 Parks and Recreation

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

Environmental Setting

The City maintains and operates 3,537 acres of parkland, which includes 199 neighborhood parks, 10 regional parks, 102 ballfields (baseball, softball, soccer), 6 pools, over 61 miles of trails, 18 community gardens, various civic grounds and 48 community centers.[39,40] Amenities within the neighborhood parks include basketball courts, exercise courses, picnic tables, playgrounds, restrooms, soccer fields, softball fields, swimming pools, and tennis courts. Planning, acquisition, and development of parks and recreational facilities in the City are the responsibility of the Parks, Recreation, and Neighborhood Services Department. The nearest park to the project site is Lobue Park, located approximately 0.48 mile southwest of the project site. Mayfair Community Center, located approximately one mile southwest of the project site, provides several amenities and programs to the surrounding community.

Regulatory Setting

General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating recreation impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the recreation policies listed in the General Plan, including the following:

Policy PR-1.1: Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.

[39] City of San José. 2016. *Report on Parks Condition Assessment Results and Service Delivery Standards*. Available http://sanjose.granicus.com/MetaViewer.php?meta_id=556557. Accessed April 2021.

[40] City of San José. 2019. *Sustainable Park Maintenance*. Available https://www.sanjoseca.gov/Home/ShowDocument?id=47601. Accessed April 2021.

Policy PR-1.6: Where appropriate and feasible, develop parks and recreational facilities that are flexible and can adapt to the changing needs of their surrounding community.

The Quimby Act (California Code Sections 66475-66478) and the City's Parkland Dedication Ordinance and Park Impact Ordinance also pertain to parkland development in the City. **Section 2.14, Public Services**, describes these regulations.

Impact Discussion

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

and

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

Less than Significant. The project would not include construction or expansion of recreational facilities. However,

new residential development is subject to the City's PDO and PIO fees. Prior to the issuance of a Building Permit, the project applicant would be required to dedicate land and/or pay fees in-lieu of land dedication for public park and/or recreational purposes. With application of the PDO/PIO fees, this impact would be less than significant.

2.17 Transportation/Traffic

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
Would the project:				
a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities?	☐	☐	☒	☐
b) Conflict or be inconsistent with CEQA Guidelines § 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?	☐	☐	☒	☐

Environmental Setting

Hexagon prepared an LTA in 2021 (**Appendix I**) to identify potential traffic impacts related to the project. This report is incorporated by reference.

Existing Transportation Facilities

Existing Roadway Network

Regional access to the project site is provided via I-680. Local access to the site is provided by Alum Rock Avenue, Capitol Avenue, and White Road. These roadways are described below.

I-680 is a north-south freeway that begins at US 101 in San José, where I-280 transitions to I-680, and ends at I-80 in Solano County. I-680 provides access to the project site via the Alum Rock Avenue interchange. The section of I-680 in proximity to the project site is an eight-lane freeway, with four mixed-flow lanes in both directions.

Alum Rock Avenue is an east-west oriented Grand Boulevard that extends from US 101 to Alum Rock Park near the foothills in East San José with interchanges at US 101 and at I-680. Alum Rock Avenue is a Vision Zero Corridor, which is a commitment to prioritizing street safety and ensuring all road users – whether walking, biking, riding transit, or driving – are safe. Alum Rock Avenue has a posted speed limit of 30 mph and consists of four travel lanes with median transit lanes (i.e., bus rapid transit [BRT] service) within the study area. Alum Rock Avenue has sidewalks on both sides of the street but has no bike lanes. Curb parking is allowed along the project frontage but is prohibited along most segments of Alum Rock Avenue. West of US 101, Alum Rock Avenue becomes Santa Clara Street and extends westward through Downtown San José. Alum Rock Avenue provides direct access to the project site.

Capitol Avenue is a north/south City Connector Street with striped bike lanes that runs through east San José. To the north, Capitol Avenue becomes Great Mall Parkway at Montague Expressway, and to the south, Capitol Avenue becomes Capitol Expressway at Ocala Avenue. Capitol Avenue has sidewalks on both sides of the street and is four lanes wide. Curb parking is not allowed on either sides Capitol Avenue. Capitol Avenue has a posted speed limit of 35 mph. Access to the site from Capitol Avenue is provided via Alum Rock Avenue.

White Road is a north/south City Connector Street with striped bike lanes that runs through east San José. To the north, White Road becomes Piedmont Road at Penitencia Creek Road, and to the south, White Road becomes San Felipe Road at Aborn Road. White Road has sidewalks on both sides of the street and is four lanes wide. Curb parking is not allowed on either sides White Road. White Road has a posted speed limit of 35 mph. Access to the site from White Road is provided via Alum Rock Avenue.

Existing Pedestrian, Bicycle, and Transit Facilities

The City desires to provide a safe, efficient, fiscally, economically, and environmentally sensitive transportation system that balances the needs of bicyclists, pedestrians, and public transit riders with those of automobiles and trucks. The existing pedestrian, bicycle, and transit facilities in the study area are described below.

Existing Pedestrian Facilities

Pedestrian facilities in the surrounding the project consist primarily of sidewalks along streets and crosswalks with pedestrian signal heads at intersections. A mid-block unsignalized crosswalk with signage and rectangular rapid flashing beacons (RRFBs) is provided on Alum Rock Avenue at James Lick High School approximately 500 feet east of the project site. Sidewalks are found along all previously described local roadways in the study area.

The existing network of sidewalks and crosswalks provides good connectivity for pedestrians between the project site and other surrounding land uses and transit stops. Crosswalks with pedestrian signal heads and push buttons are located at all the signalized intersections in the study area. Curb ramps are also provided at all the signalized intersections in the study area. However, the curb ramps at the Capitol Avenue/Alum Rock Avenue intersection are missing truncated domes and do not meet current Americans with Disabilities Act (ADA) standards. Truncated domes are the standard design requirement for detectable warnings which enable people with visual disabilities to determine the boundary between the sidewalk and the street.

Existing Bicycle Facilities

Bicycle facilities in the around the project include striped bike lanes (Class II bicycle facilities). Bike lanes are lanes on roadways designated for use by bicycles with special lane markings, pavement legends, and signage. Striped bike lanes are provided on Capitol Avenue and White Road along their entirety. Alum Rock Avenue is a Grand Boulevard with no bicycle facilities.

Existing Transit Services

Existing transit service to the study area is provided by the VTA. Five bus routes provide service to the study area. All the VTA bus routes in proximity to the project site and their headways are summarized in **Table 21**.

The bus stops closest to the project site are located on Alum Rock Avenue at Pleasant Ridge Avenue approximately 250 feet west of the project site, and at James Lick High School about 400 feet east of the project site. These bus stops are served by Route 25, which provides service to the Alum Rock LRT Station located less than 0.5 mile south of the project site. The Alum Rock Station is served by the Orange Line, which provides LRT service between the Alum Rock Station and downtown Mountain View.

Pedestrian access to the closest bus stop (Pleasant Ride Avenue stop) on westbound Alum Rock Avenue is provided via a frontage road on the north side of Alum Rock Avenue. There is no sidewalk along the south side of the frontage road/north side of Alum Rock Avenue providing access to this bus stop. On the other hand, the westbound bus stop in front of James Lick High School is easily accessible via the mid-block crosswalk on Alum Rock Avenue.

Table 21 Existing Bus Service

Bus Route	Route Description	Headway[1]
Local Route 23	De Anza College to Alum Rock LRT Station	15 min
Local Route 25	De Anza College to Alum Rock LRT Station	15 min
Local Route 70	Milpitas BART Station to Eastridge Mall	20 min
Local Route 71	Milpitas BART Station to Capitol Station	30 min
Bus Rapid Transit 522	Palo Alto Transit Center to East Ridge Mall	15-20 min

Source: Hexagon Transportation Consultants, 2021

[1] Approximate headways during peak weekday commute periods.

Regulatory Setting

General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating transportation and traffic impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the transportation and traffic policies listed in the General Plan, including the following:

Policy TR-5.3: Development projects' effects on the transportation network will be evaluated during the entitlement process and will be required to fund or construct improvements in proportion to their impacts on the transportation system. Improvements will prioritize multimodal improvements that reduce VMT over automobile network improvements.

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

City of San José Better Bike Plan 2025

The City of San José Better Bike Plan 2025 (Bike Plan), adopted in 2020, contains policies for guiding the development and maintenance of bicycle and trail facilities within the City. The Bike Plan also includes the following goals for improving bicycle access and connectivity: 1) build a 100-mile low-stress, connected network, 2) achieve a 15 percent bike mode share by 2040 and a 20 percent bike mode share by 2050, 3) eliminate all roadway fatalities and major injuries, in line with Vision Zero San José , 5) expand the availability of sidewalk bike parking, secure bike parking, and end-of-trip facilities at transit stops, 6) achieve Gold-Level Bicycle Friendly Community status, and 7) expand shared micromobility and encourage new technologies that will decrease car use (such as e-bikes and e-scooters).

Grand Boulevards

Grand Boulevards serve as major transportation corridors that connect City neighborhoods. These streets accommodate moderate to high volumes of through traffic within and beyond the City. In most cases these are primary routes for VTA light-rail, BART, and standard/community buses, as well as other public transit vehicles. Signal priority for transit vehicles, bus stops, and where appropriate, exclusive transit lanes, are or can be provided. Other travel modes, including automobiles, bicycles, and trucks, are accommodated in the roadway, but if there are conflicts, transit has priority. Grand Boulevards contribute to the City's overall identity through cohesive design along the boulevard. Within the public right-of-way, special features could include enhanced landscaping, distinctive and attractive lighting, and banners. Pedestrians are accommodated with ample sidewalks on both sides, and pedestrian amenities are enhanced around transit stops.

Transportation Analysis Policy

The City's Transportation Analysis Policy (Council Policy 5-1) establishes procedures for determining project-specific VMT impacts based on project description, characteristics, and/or location. VMT is the total miles of travel by personal motorized vehicles a project is expected to generate in a day. VMT measures the full distance of personal motorized vehicle-trips with one end within the project. Typically,

development projects that are farther from other, complementary land uses (such as a business park far from housing) and in areas without transit or active transportation infrastructure (bike lanes, sidewalks, etc.) generate more driving than development near complementary land uses with more robust transportation options. Therefore, developments located in a central business district with high density and diversity of complementary land uses and frequent transit services are expected to internalize trips and generate shorter and fewer vehicle trips than developments located in a suburban area with low density of residential developments and no transit service near the development.

A project's VMT is compared to the appropriate thresholds of significance based on the project location and type of development. When assessing a residential project, the project's VMT is divided by the number of residents expected to occupy the project to determine the VMT per capita. When assessing an office or industrial project, the project's VMT is divided by the number of employees to determine the VMT per employee. The project's VMT is then compared to the VMT thresholds of significance established based on the average area VMT. A project located in a downtown area is expected to have the project VMT lower than the average area VMT, while a project located in a suburban area is expected to generate project VMT higher than the average area VMT.

To determine whether a project would result in CEQA transportation impacts related to VMT, the City has developed the San José VMT Evaluation Tool to streamline the analysis for residential, office, industrial, and retail projects with local traffic. The tool calculates a project's VMT and compares it to the appropriate thresholds of significance based on the project location (i.e., assessor's parcel number) and type of development. The thresholds of significance for development projects, as established in the Transportation Analysis Policy, are based on the existing citywide average VMT level for residential uses and the existing regional average VMT level for employment uses. Projects located in areas where the existing VMT is above the established threshold are referred to as being in "high-VMT areas". Projects in high-VMT areas are required to include a set of VMT reduction measures that would reduce the project VMT to the extent possible.

Impact Discussion

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

Transit

Less Than Significant. Due to the convenient locations of bus stops surrounding the project site, it is assumed that some project residents would utilize existing transit services. Assuming the existing transit service would remain unchanged with Routes 25 and 522 providing service with 15-20-minute headways during the peak commute periods, the estimated number of new transit riders amounts to fewer than one rider per bus during the peak hours. The small increase in new riders could be accommodated by the current available capacity of the bus service. Thus, the addition of project-generated traffic is so minor that the bus route delay increases would be imperceptible. This impact would be less than significant.

Pedestrians

Less Than Significant. Pedestrian facilities in the immediate vicinity of the project site consist of sidewalks and crosswalks along streets and intersections. Overall, the existing network of sidewalks exhibits good connectivity and would provide safe pedestrian routes to transit services and other points of interest in the area. The project site fronts Alum Rock Avenue, which has been designated as a Grand Boulevard by the General Plan. Grand Boulevards serve as major transportation corridors with priority given to public transit. Grand Boulevard design principles recommend 15-foot-wide sidewalks to enhance pedestrian access along designated Grand Boulevards. The project currently proposes 10-foot-wide sidewalks and a 5-foot easement (total of 15 feet), which would be consistent with the Grand Boulevard design recommendations. This impact would be less than significant.

Bicycles

Less Than Significant. Capitol Avenue and White Road, both approximately ¼ mile from the project site, have striped bike lanes. However, these roadways run parallel to each other, and there is no street with bicycle facilities connecting these parallel roadways in proximity to the project site. According to the City's Bike Plan, protected bike lanes (Class IV bike facilities) are planned along Alum Rock Avenue between Capitol Avenue and White Road. This, the project would be required to pay an in-lieu fee for implementation of Class IV bikeways along project site frontage.

The project would provide adequate bicycle parking and would not remove any existing bicycle facilities, nor would it conflict with any adopted plans or policies for new bicycle facilities. The Bike Plan and General Plan identify planned improvements to the bicycle network within the City and provide policies and goals that are intended to promote and encourage the use of multi-modal travel options. This project would not interfere implementation of bicycle improvements. This impact would be less than significant.

b) Conflict or be inconsistent with CEQA Guidelines § 15064.3, subdivision (b)?

Less Than Significant. The project site contains an existing commercial building which is currently vacant and does not produce vehicle trips. Based on the trip generation counts conducted at the project site, existing uses do not generate vehicle trips during the AM and PM peak periods. The project would generate 849 new daily trips, with 51 trips occurring during the AM peak hour and 68 trips occurring during the PM peak hour.

Screening Criteria for VMT Analysis Exemption

The City's 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 City's screening criteria for CEQA transportation analysis for Restricted Affordable Residential Projects and Local-Serving Retail projects are described below.

<u>Screening Criteria for Restricted Affordable Residential Projects</u>

Affordability: 100 percent restricted affordable units, excluding unrestricted manager units; affordability must extend for a minimum of 55 years for rental homes or 45 years for for-sale homes; and

Planned Growth Areas: Located within a Planned Growth Area as defined in the General Plan; and

High-Quality Transit: Located within 0.5 mile of an existing major transit stop or an existing stop along a high-quality transit corridor; and

Transit-Supporting Project Density:

- Minimum of 35 units per acre for residential projects or components;
- If located in a Planned Growth Area with a maximum density below 35 units per acre, the maximum density allowed in the Planned Growth Area must be met; and

Transportation Demand Management (TDM): If located in an area in which the per capita VMT is higher than the CEQA significance threshold, a robust TDM Plan must be included; and

Parking:

- No more than the minimum number of parking spaces required;
- If located in Urban Villages or Downtown, the number of parking spaces must be adjusted to the lowest amount allowed; however, if the parking is shared, publicly available, and/or "unbundled", the number of parking spaces can be up to the zoned minimum; and

Active Transportation: Not negatively impact transit, bike, or pedestrian infrastructure.

Screening Criteria for Local-Serving Retail

- 100,000 square-feet of total gross floor area or less without drive-through operations.

Consistency with VMT Analysis Criteria

The residential and retail components of the project meet the applicable VMT screening criteria, and the project would not conflict with CEQA Guidelines § 15064.3, subdivision (b). This impact would be less than significant.

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

Site Access

Less Than Significant. Site access to the project would be provided via one existing full-access driveway on Alum Rock Avenue that would serve both the residential and retail components of the project. The 26-foot-wide driveway would continue to be shared with the adjacent property. The two-way center left-turn lane would continue to allow for left turns to and from the driveway. According to the City of San José Department of Transportation (DOT) Geometric Design Guidelines, the standard width for a two-way driveway that serves a multi-family residential development is 26 feet wide, measured at the throat. According to the site plan, the project driveway on Alum Rock Avenue and the on-site drive aisles would be 26 feet wide. According to the site plan, the on-site drive aisle would have a hammerhead configuration at the back (south end) of the site. The drive aisle would provide access to 61 surface parking stalls (open parking) and the secure parking garages serving residents of Building A and Building B. As such, there are no design features that would represent a substantial hazard. This impact would be less than significant.

On-Site Circulation

Less Than Significant. On-site vehicular circulation was reviewed for the parking garage in accordance with generally accepted traffic engineering standards. The main drive aisle and the drive aisles within both parking garages measure 26 feet wide, which meet the City's standard width for two-way drive aisles per San José Municipal Code. The on-site circulation analysis shows that small and large passenger vehicles could adequately negotiate through the site and access the surface parking spaces and garage spaces. However, some drivers may have difficulty backing out of the two parking spaces located at the southeast and southwest corners of the surface parking lot. The site plan shows the main drive aisle would dead-end at either end of the hammerhead configuration, and additional turnaround space would not be provided. Thus, multi-point maneuvers would be required when backing out of these spaces. The security gates at the parking garage entrances would keep retail patrons and guests from entering the secure residential parking garages. The drive aisles within both parking garages would dead-end but would likely not create any significant issues since only residents would be utilizing the garage spaces.

Given the above, the site plan shows adequate on-site circulation, and this impact would be less than significant.

Sight Distance at the Alum Rock Avenue Driveway

Less than Significant. Providing the appropriate sight distance on Alum Rock Avenue reduces the likelihood of a collision at the driveway and provides drivers with the ability to locate and merge into sufficient gaps in traffic flow. There are no roadway curves or landscaping features shown on the site plan that would obstruct the vision of exiting drivers. However, street parking which is currently allowed on Alum Rock Avenue west of the driveway could obstruct the view of exiting drivers if there were cars parked adjacent to the driveway. Accordingly, the project will implement red curbs adjacent to the project driveway at Alum Rock Avenue to ensure adequate sight distance as further described in the Project Condition of Approval.

> **Project Condition of Approval.** Prior to issuance of a grading permit, the project applicant shall implement red curbs adjacent to the project driveway at Alum Rock Avenue to ensure adequate sight distance. The location of the red curbs shall be shown on the final plans and shall be approved by the Public Works Department before a grading permit is issued.

d) Result in inadequate emergency access?

Less than Significant. The SJFD requires that all portions of buildings be within 150 feet of a fire department access road and requires a minimum 6-foot clearance from the property line along all sides of the buildings. The project would meet the 6-foot clearance requirement and the 150-foot fire access requirement. Emergency vehicle access to the site would be provided via Alum Rock Avenue. The driveway and drive aisle would measure 26 feet wide and would comply with the City's fire code. The project would meet these fire access requirements. This impact would be less than significant.

2.18 Tribal Cultural Resources

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

Environmental Setting

Tribal cultural resources are sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a tribe that are listed, or determined to be eligible for listing, in the national, state, or local register of historical resources. Additionally, a tribal cultural resource may also be a resource that the lead agency determines, in its discretion, is a tribal cultural resource.

Cultural resources are generally defined as traces of human occupation and activity that include prehistoric and historic archaeological sites, districts, and objects; standing historic structures buildings, districts, and objects; and locations of important historic events of sites of traditional and/or cultural

importance to various groups. Specifically, the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1 protect the following resources:

> 5024.1(c): A resource may be listed as an historical resource in the California Register if it meets any of the following NRHP criteria:
>
> > (1) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage.
> >
> > (2) Is associated with the lives of persons important in our past.
> >
> > (3) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values.
> >
> > (4) Has yielded, or may be likely to yield, information important in prehistory or history.

The Sacred Lands File, operated by the NAHC, is a confidential set of records containing places of religious or social significance to Native Americans. Circlepoint requested a Sacred Lands File search for the project site from the NAHC on March 8, 2021. The NAHC response on March 19, 2021 indicated that no known Native American cultural resources exist within the project site (included as **Appendix F**). The NAHC results also noted, however, that the absence of specific site information in the Sacred Lands File does not indicate the absence of Native American cultural resources in the project site. Included with the response was a list of six Native American representatives who could provide site-specific knowledge on local Native American cultural resources.

To help determine whether a project may cause a substantial adverse change in the significance of a tribal cultural resource, the City contacted the California Native American tribes traditionally and culturally affiliated with the geographic area of the project. On [April 5, 2021], the City submitted a request to the Amah Mutsun Tribal Band, Amah Mutsun Tribal Band of Mission San Juan Bautista, North Valley Yokuts Tribe, Muwekma Ohlone Indian Tribe of the San Francisco Bay Area, Ohlone Indian Tribe, and Indian Canyon Mutsun Band of Costanoan for further information regarding potential tribal resources within the project site. The correspondence contained information about the project; an inquiry for any unrecorded Native American cultural resources or other areas of concern within or adjacent to the project site; and a solicitation of comments, questions, or concerns with regard the project. The City received responses from two California Native American Tribes- the Indian Canyon Band of Costanoan Ohlone People, and the Tamien Nation.

The first response was received from Kanyon Sayers-Roods, on behalf of the Indian Canyon Band of Costanoan Ohlone People, which recommended the project always have a Native American Monitor and an Archeologist present during construction to minimize potential effects on cultural resources. The Letter, however, provided no indication of nearby cultural resources.

The second response was received from Tamien Nation Chairwoman Quirina Geary on June 28, 2021. The written notice requested the Tamien Nation receive notifications of projects in accordance with Public Resources Code Section 21080.3.1 subd (b), for all proposed projects that require a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report. This project was

determined to potentially be a Mitigation Negative Declaration prior to the receiving this letter. However, as good faith effort, the City sent a notice to Tamien Nation on July 13, 2021.

As previously discussed in **Section 2.5, Cultural Resources**, the CHRIS records search did not identify cultural resources on or near the project site.

Native American Tribal Cultural Resources

On September 25, 2014, Governor Edmund G. Brown signed Assembly Bill 52 (AB52), creating a new category of environmental resources (tribal cultural resources), which must be considered under CEQA. The legislation includes new requirements for consultation regarding projects that may affect a tribal cultural resource, a definition of what may be considered to be a tribal cultural resource, and a list of recommended mitigation measures. AB52 also requires lead agencies to provide notice to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified of projects proposed within that area. Where a project may have a significant impact on a tribal cultural resource, consultation is required until the parties agree to mitigate or avoid a significant impact on a tribal cultural resource or when it is concluded that mutual agreement cannot be reached.

Impact Discussion

a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k)?

Less than Significant. As discussed in **Section 2.5, Cultural Resources**, the commercial building located on the project site does not meet the criteria for listing in the National Register, the California Register, nor as a San José City Landmark, and it is not an historical resource for the purposes of CEQA. Further, no historical resources were identified within 200 feet of the project site. This impact would be less than significant.

ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

Less than Significant. There are no known archeological resources within the project site. The NAHC indicated that no known Native American cultural resources exist within the project site, and Native American tribes contacted during the consultation process initiated on March 8, 2021 did not identify protected resources on the project site. However, the CHRIS search concluded that the project site has low to moderate potential to contain unrecorded archeological resources. Redevelopment of the project site could result in the exposure or destruction of unknown archaeological resources. Implementation of

Standard Permit Conditions discussed in **Section 2.5, Cultural Resources**, would reduce potential impacts during construction. This impact would be less than significant.

2.19 Utilities and Service Systems

	Significant Impact	Less than Significant with Mitigation	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 storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☒	☐
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☒	☐
c) Result in a determination by the waste water treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☒	☐
d) Comply with Federal, State, and local statutes and regulations related to solid waste?	☐	☐	☒	☐
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☒	☐

Environmental Setting

Water Service

The City is serviced by three water retailers: the San José Water Company (SJWC), the San José Municipal Water System (SJMWS), and the Great Oaks Water Company. The project site is serviced by SJWC.[41]

[41] San José Water Company. 2018. *Service Area Address Check*. Available https://www.sjwater.com/service-area-address-check. Accessed April 2021.

Wastewater/Sanitary Sewer System

San José-Santa Clara Regional Wastewater Facility (RWF) provides wastewater treatment services to the City.[42] The RWF serves eight tributary sewage collection agencies with a 1.4 million resident service population and is operated by the City's Department of Environmental Services. The RWF treats an average of 110 million gallons of wastewater per day and has capacity to treat 167 million gallons of wastewater per day. Sanitary sewer lines in the project site are inspected and maintained by the City's Department of Transportation, and rehabilitated and replaced by the Department of Public Works. Domestic sewage lines would be provided to the project by two proposed connections to an existing 17.25-inch water line and an existing 6 inch sanitary sewer line.

Storm Drainage

The project site is developed and consists of both pervious and impervious surfaces. As described in **Section 2.10, Hydrology and Water Quality**, stormwater runoff from the site is discharged into local storm drains, which, in turn, flow into local creeks and the San Francisco Bay. The project site includes a storm drain connection to the existing 12-inch storm drain line at the rear of the site, which is the historic overland release drainage point. The project site contains 53,769 square-feet of impervious surface areas and 3,659 square-feet of pervious areas. Stormwater runoff from the site is collected by an existing stormwater drainage network that connects with a municipal stormwater system. Project shall demonstrate that post construction runoff rates and volumes do not exceed pre-project conditions if the project will be utilizing the historic overland release drainage point.

Solid Waste

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California Integrated Waste Management Board in 1996 and was reviewed in 2004, 2007, and 2011. Each jurisdiction in the County has a landfill diversion requirement of 50 percent per year. According to the IWMP, the County has adequate disposal capacity beyond 2026.[43] Solid waste generated within the County is landfilled at one of several regional sites, including the Newby Island Sanitary Landfill (NISL).

The City has an existing contract with NISL through 2041. The City has an annual disposal allocation for 395,000 tons per year. As of October 2014, NISL has approximately 21.2 million cubic yards of capacity remaining.[44]

Natural Gas and Electricity Services

Electric and gas services within the City are provided by SJCE and PG&E, respectively. SJCE buys its power from several suppliers. Sources of renewable and carbon-free power include California wind, solar and geothermal; Colorado wind; and hydroelectric power from the Pacific Northwest.

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[42] City of San José, 2018. *San José-Santa Clara Regional Wastewater Facility*. Available https://www.sanjoseca.gov/your-government/environment/water-utilities/regional-wastewater-facility. Accessed April 2021.

[43] Santa Clara County. 2016. *Five-Year CIWMP/RAIWMP Review Report*. Available https://www.sccgov.org/sites/rwr/rwrc/Documents/Revised%20June%2022%20RWRC%20Packet.pdf. Accessed April 2021.

[44] CalRecycle 2018. *Newby Island Sanitary Landfill Facility/Site Summary details.* Available https://www.republicservices.com/municipality/newby-island . Accessed April 2021.

Regulatory Setting

State

Assembly Bill 939 (1989)

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 from the landfill at least 50 percent of solid waste generated beginning January 1, 2000, and divert at least 75 percent by 2010. Projects that would have an adverse effect on waste diversion goals are required to include waste diversion mitigation measures.

Assembly Bill 341 (2011)

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

Assembly Bill 1826 (2014)

AB 1826 sets forth the requirements of the statewide mandatory commercial organics recycling program for businesses and multi-family dwellings with five or more units that generate two or more 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.

Senate Bill 1383 (2016)

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.

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.

Local

San José Zero Waste Strategic Plan/Climate Smart San José

Climate Smart San José provides a comprehensive approach to achieving sustainability through new technology and innovation. The Zero Waste Strategic Plan outlines policies to help the City of San José foster a healthier community and achieve its Climate Smart San José goals, including 75 percent diversion of waste from the landfill by 2013 and zero waste by 2022. Climate Smart San José also includes ambitious goals for economic growth, environmental sustainability, and enhanced quality of life for San José residents and businesses.

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 $5,000 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.

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).

General Plan

Various policies in the General Plan have been adopted for the purpose of avoiding or mitigating impacts to utilities and service systems resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the policies listed in the General Plan, including the following:

Policy MS-1.4: Foster awareness in San José's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.

Policy MS-3.2: Promote use of green building technology or techniques that can help to reduce the depletion of the city's potable water supply as building codes permit.

Policy MS-3.3: Promote the use of drought tolerant plants and landscaping materials for non-residential and residential uses.

Policy IN-3.10: Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the city's NPDES.

Post-Construction Urban Runoff Management (City Council Policy 6-29)

As discussed in **Section 2.9, Hydrology and Water Quality**, Policy 6-29 requires all projects to include BMPs that prevent rainwater pollution, treat polluted runoff, and eliminate or control runoff from the project site.

Post Construction Hydro-modification Management Policy and Map (City Council Policy 8-14)

As discussed in **Section 2.9, Hydrology and Water Quality**, Policy 8-14 encourages all projects to be designed to include treatment control measures that hold and slow down the volume of runoff coming from a site.

Private Sector Green Building Policy (City Council Policy 6-32)

This policy establishes baseline green building standards for new private sector construction and provides a framework for the implementation of these standards. This policy fosters practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water, and other resources in the city. The green building standards required by this policy are intended to advance greenhouse gas reduction and other sustainability strategies outlined in the City's Green Vision.

Impact Discussion

a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

Less than Significant. The project is consistent with the project site's General Plan land use designation and zoning. Stormwater would flow from downspouts under the sidewalk and discharge to the pervious pavement via through-curb drains. An existing 12-inch storm drain line, which is the historic overland release drainage point, would also carry stormwater from the project site. The project shall demonstrate that post construction runoff rates and volumes do not exceed pre-project conditions if the project will be utilizing the historic overland release drainage point. Downspouts implemented as part of the project would be spaced such that stormwater is evenly distributed throughout the pervious pavement. Beyond this improvement, the existing utilities and service systems would support the project and growth evaluated by the General Plan. Therefore, the project would not require wastewater facilities beyond what was assumed in the General Plan EIR. This impact would be less than significant.

b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

Less than Significant. The General Plan EIR determined, with implementation of existing regulations and adopted General Plan policies, there would be sufficient water supply to serve new development anticipated by the General Plan. As previously discussed, the project would be consistent with planned growth anticipated in the General Plan. This impact would be less than significant.

c) Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

Less than Significant. The existing wastewater treatment facilities have adequate capacity to serve the project. As discussed above, the project is consistent with the General Plan assumptions for the site. Development allowed under the General Plan would not exceed the City's allocated capacity at the City's wastewater treatment facility. This impact would be less than significant.

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?

Less than Significant. As concluded in the General Plan EIR, there is sufficient capacity at existing landfills which service the City to serve development under buildout of the General Plan. No new or expanded landfills facilities would be required due to implementation of the project. This impact would be less than significant.

e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

Less than Significant. As previously discussed, the project is consistent with development anticipated and analyzed in the General Plan EIR. Given this, the project complies with applicable statutes and regulations regarding solid waste generation. This impact would be less than significant.

2.20 Wildfire

	Significant Impact	Less than Significant with Mitigation	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?	☐	☐	☐	☒

	Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☐	☒
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?	☐	☐	☐	☒

Environmental Setting

The California Department of Forestry and Fire Protection (CAL FIRE) identifies fire hazards based on relevant factors such as fuels, terrain, and weather. There are no Fire Hazard Severity Zones (FHSZ) within the urbanized portion of Santa Clara County that are ranked with moderate to high fire susceptibility. The project site is not located within a Very High Fire Hazard Severity Zone (VHFHSZ).

Regulatory Setting

California Department of Forestry and Fire Protection (CAL FIRE)

The CAL FIRE FHSZ Maps includes proposed FHSZ Maps for State Responsibility Area lands and separate draft VHFHSZ Maps for Local Responsibility Area lands. CAL FIRE allows those reviewing local responsibility area hazard zone maps to verify any adopted ordinances that may affect communities' hazard mapping and building code requirements.

General Plan

Various policies in the General Plan have been adopted for the purpose of protecting lives and property from risks associated with wildfire. As the project is not located in the vicinity of any wildland, these policies do not apply.

Impact Discussion

a) Substantially impair an adopted emergency response plan or emergency evacuation plan?

and

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?

and

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?

and

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?

No Impact. The project is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones. No impact would occur.

2.21 Mandatory Findings of Significance

	Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Have the potential to degrade quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☒	☐

	Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
b) 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) Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☒	☐

a) Have the potential to degrade quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

The project site is located in a densely developed area and contains no valuable or sensitive habitats. While trees located on and near the site may provide habitat for nesting birds, **Mitigation Measure BIO-1** described above would ensure that impacts to biological resources would be less than significant. As outlined in **Section 2.5, Cultural Resources**, there is not a possibility of encountering buried cultural resources during construction.

b) 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)?

The existing project site is currently developed with commercial uses, which would be replaced with new residential and commercial uses under the project. The project would have potential impacts to biological resources, noise, and transportation and traffic. Incorporation of mitigation measures would reduce these impacts to a less-than-significant level.

Furthermore, the project is consistent with the land use designation and associated policies outlined in the General Plan. Therefore, the project would be consistent with local planning and this impact would be less than significant.

c) Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

The implementation of the mitigation measures identified herein would reduce all potential impacts to a less-than-significant level. Therefore, the project would thus not result in impacts that would cause substantial adverse effects on human beings, either directly or indirectly.

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