INITIAL STUDY

101 SOUTH JACKSON AVENUE TOWNHOMES PROJECT

FILE NOS. C19-027, H19-031, AND T19-028

Prepared for: City of San José

Prepared by: Circlepoint
April 2022

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1 Project Description

Project Title	101 South Jackson Avenue Townhomes
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File Numbers:	C19-027, H19-031 andT19-028
Project Location:	101 South Jackson Avenue, San José, CA
Project Applicant	Habitat for Humanity East Bay/Silicon Valley 2619 Broadway, Oakland, CA 94612
Property APN	481-22-067
General Plan Land Use Designation:	Residential Neighborhood (RN)
Zoning:	R-1-8 Single-Family Residence Zoning District
Council District	District 5
Habitat Plan Designation	Urban-Suburban
Project-Related Approvals and Permits	Conventional Rezoning, Conventional Subdivision Map, and Site Development Permit

This Initial Study provides a project-level CEQA analysis for the development of 14 new two-story townhomes and a conventional rezoning of the project site from R-1-8 (single-family residence) to MUN (Mixed Use Neighborhood) Zoning District on a single parcel (APN 481-22-067) and the connection of Woodset Court to Woodset Drive through the parcel. The applicant was granted a permit by the City to demolish the single-story house and detached garage that was on the site because it posed a health and safety hazard.

1.1 Project Location and Setting

Existing Setting

The project site, which consists of a single parcel (APN 481-22-067) located at 101 South Jackson Avenue (project site), is in the north-eastern portion of the City of San José (City), Santa Clara County, California (**Figure 1**). The project site contains a single-story house and a detached garage on the side of the project site closest to South Jackson Avenue. The applicant has been granted a permit by the City to demolish both structures because they pose a health and safety hazard. The rest of the 0.86-acre project site is undeveloped. The project site is in an urbanized area and is surrounded by residential and commercial uses. Townhomes and single-family residences border the project site to the south and west. Cosmopolitan Evangelical Church is adjacent to the northeast side of the project site. Jackson Avenue borders the project site to the east, with a variety of retail and restaurant uses located across the street. Additionally, Rocketship Fuerza Community Prep—a public transitional kindergarten through 5th grade charter school—is located across Jackson Avenue to the north. Two public roads—Woodset Court to the north and Woodset Drive to the south—dead end on either side of the western portion of the project site.

Existing Land Use Designation and Zoning

The project site is in the R-1-8 – Single Family Residence zoning district (**Figure 2**) and is designated Residential Neighborhood (RN) under the Envision San José 2040 General Plan (General Plan) (**Figure 3**).

1.2 Project Components

The applicant has been granted a permit by the City to demolish the existing structures on the site because they pose a health and safety hazard. The demolishment would occur before the proposed project is scheduled to be approved. The project would entail construction of 14 townhomes including associated site and landscape improvements (**Figure 3** and **Figure 4**). The townhomes would be two stories with a maximum height of approximately 26 feet above ground level (**Figure 5** and **Figure 6**). Of the 14 total townhomes, three would be four-bedroom units, nine would be three-bedroom units, and two would be two-bedroom units.

As shown in **Table 1**, the project would consist of a combination of affordable units (serving 50-120 percent of the area median income [AMI]) and the potential of up to 10 market-rate units. The availability of local government funding will determine the affordability mix and it is the applicant's goal to have a project that is wholly affordable to households earning less than 120 percent of the AMI. For this CEQA analysis, it is conservatively assumed that the project would include 10 market-rate units, two low-income units (defined as 50-80 percent of the AMI), and two moderate income units (80-120 percent AMI). Four of the units would be grouped into two duplexes—one containing two three-bedroom units and the other containing one three-bedroom and one four-bedroom. The remaining units would be located in two five-unit buildings.

Table 1 Unit Affordability

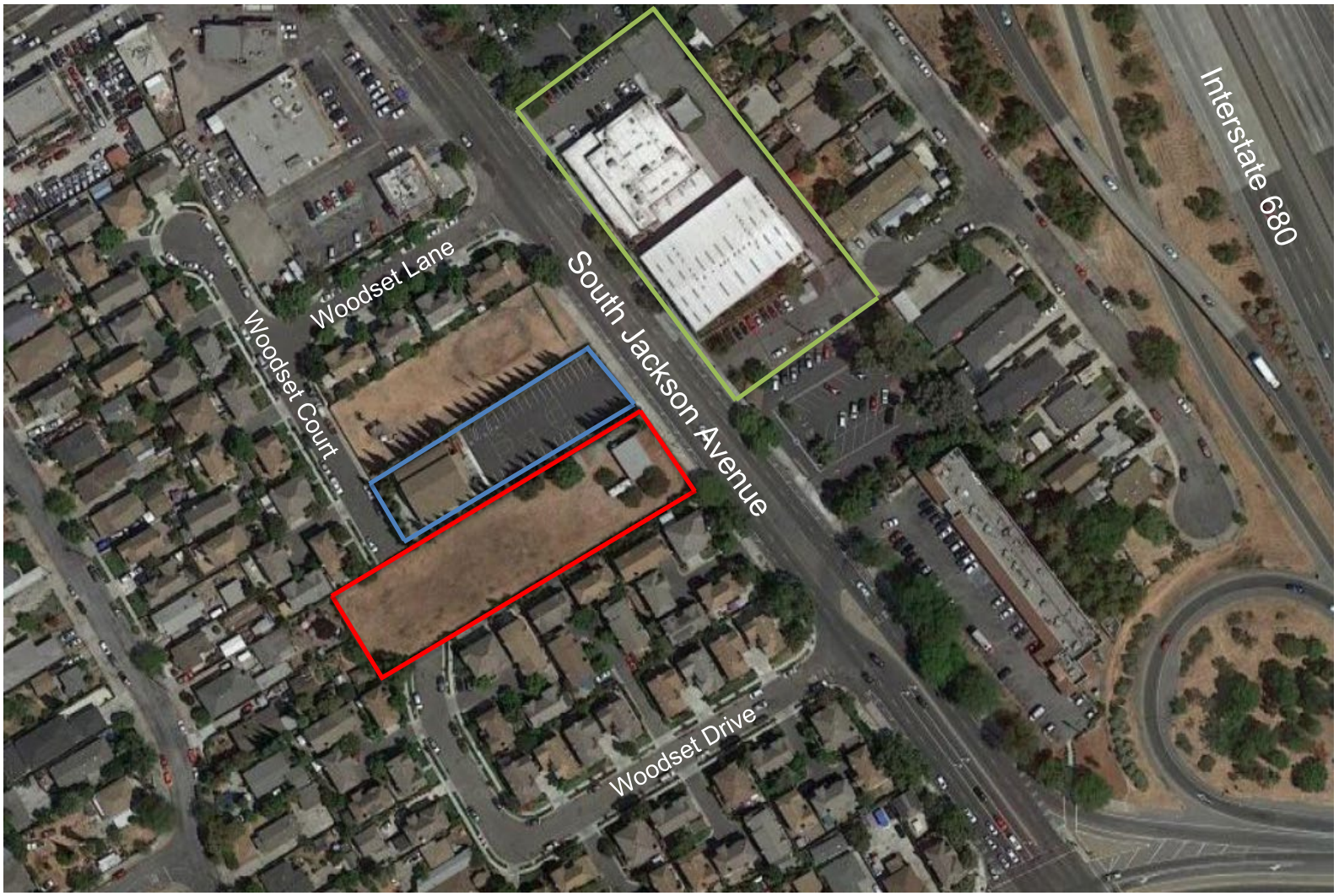
Type of Housing Units	Number of Units
Market Rate	10
Low-Income (50-80 percent of AMI)	2
Moderate-Income (80-120 percent AMI)	2

Source: Habitat for Humanity 2020.

The project would also include the construction of a public street to connect Woodset Court to the north with Woodset Drive to the south across the property. The improved Woodset Drive would be dedicated as a public street. One duplex would be located west of the improved Woodset Drive; the other three buildings would be located on the eastern portion of the project site, between Woodset Drive and South Jackson Avenue. Access to the project would be provided via curbcuts on either site of the improved Woodset Drive, as well as on South Jackson Avenue (see **Appendix A** for Project Plans).

The project would connect to existing water, sewer, and power lines. A total of 26 surface parking spaces would be provided (approximately 1.86 spots per unit). The project is requesting State Density Bonus concessions and waivers for reduced side setback, reduced setback from the public right-of-way, reduced open space requirements, and a tentative map for the proposed subdivision.

Construction would begin in September 2021, and the project is expected to be operational in April 2024. Site work is estimated to take between 9 and 12 months and would involve import of approximately 1,435 cubic yards of fill. Construction of the housing units would last between 15 and 18 months. The total construction period is anticipated to be less than three years. Typical construction equipment would include bulldozers, graders, tractors, generators, and a telescopic handler. No cranes or pile driving equipment would be required. Construction would occur during the construction hours of 7:00 a.m. and 7:00 p.m. as allowed by the San José Municipal Code Section 20.100.450.



Legend

- Project Site
- Cosmopolitan Evangelical Church
- Rocketship Fuerza Community Prep

N

Map Not to Scale

Project Location Map Figure **1**

Source: Google Earth, 2020

Legend

- Main Street Ground Floor Commercial
- Planned Development
- Single-Family Residential (Up to Eight Dwelling Units per Acre)
- Commercial Pedestrian
- Project Site

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Map is not to scale

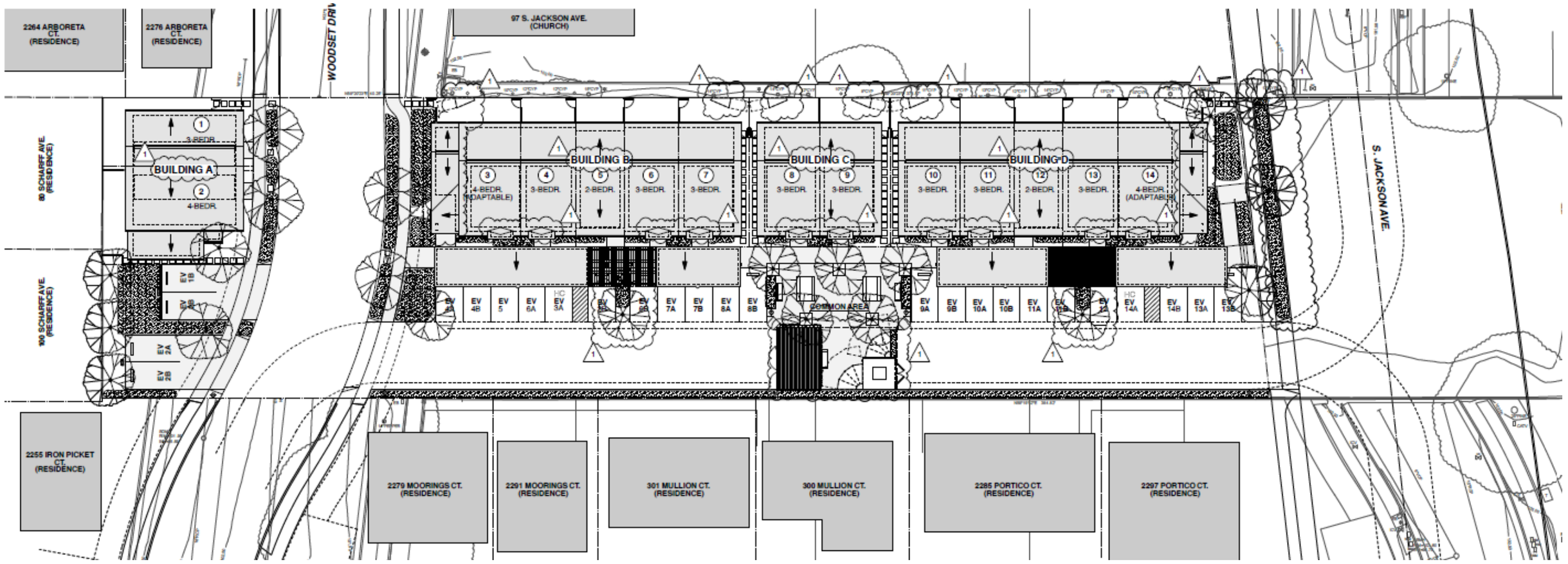
Zoning Map

Figure 2

Source: City of San José, 2020

General Plan Land Use Map Figure 3

Source: City of San José, 2020



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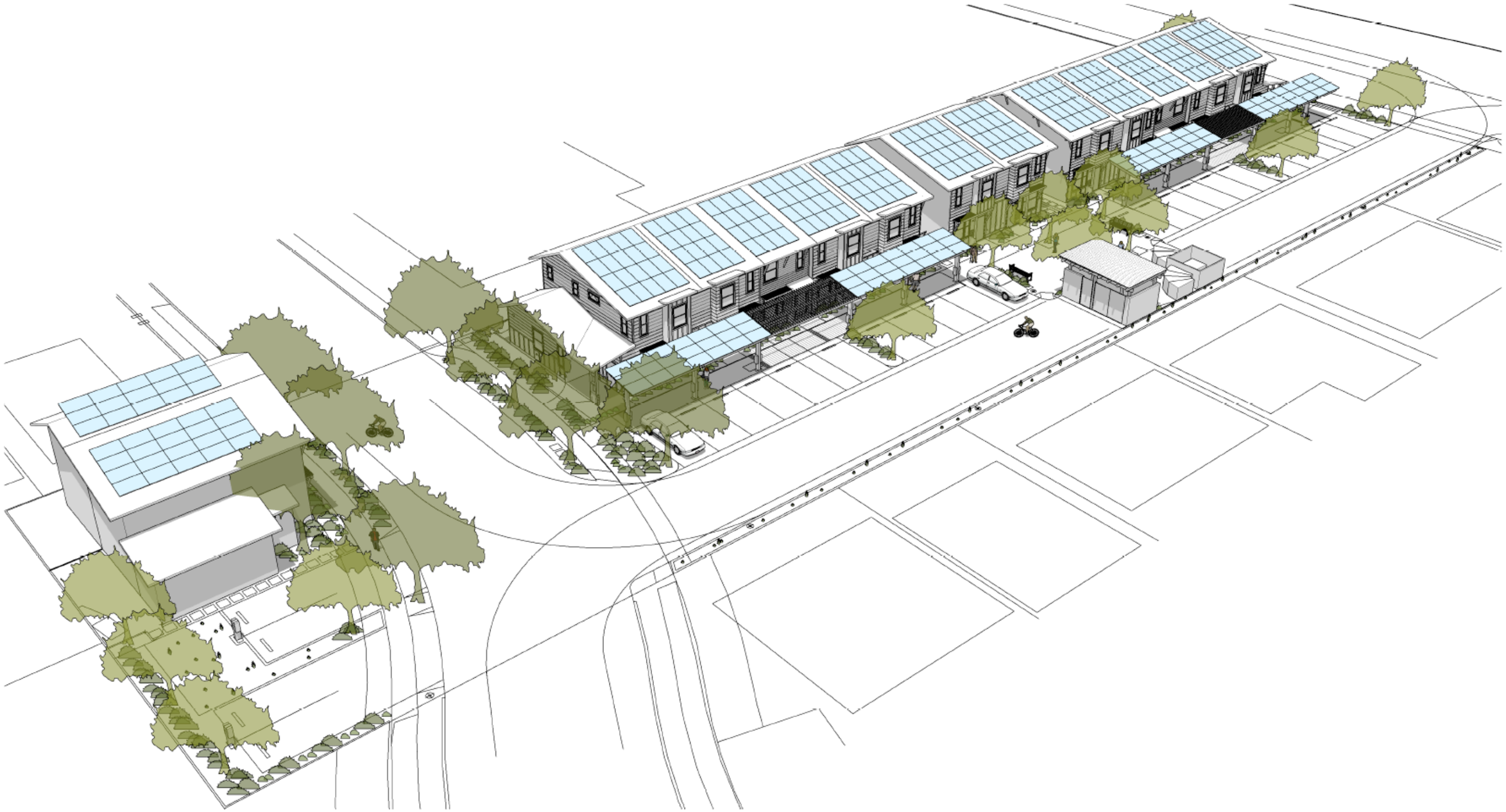
Site Plan Figure **4**

Source: Habitat for Humanity, 2021



Project Rendering Figure **5**

Source: Habitat for Humanity, 2020

SOUTH ELEVATION - BUILDINGS B & D (MIRRORED)
SCALE: 1/4" = 1'-0"

SIDE ELEVATION - BUILDINGS B & D (MIRRORED)

EAST & SOUTH ELEVATIONS - WASTE TRANSFER ENCLOSURE

Project Elevations (1 of 2) Figure **6**

Source: Habitat for Humanity, 2020

EAST ELEVATION - BUILDING A
SCALE: 1/4" = 1'-0"

SOUTH ELEVATION - BUILDING A

SOUTH ELEVATION - BUILDING C

WEST ELEVATION - BUILDING C

Project Elevations (2 of 2) Figure **7**

Source: Habitat for Humanity, 2020

2 Evaluation of Environmental Impacts

This Initial Study evaluates impacts based on the 2019 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 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 a less-than-significant level 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 2.21, Mandatory Findings of Significance**, 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 discussion for each environmental subject includes the following subsections:

- **Environmental Setting** – This subsection 1) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project and 2) describes the existing, physical environmental conditions at the project site and in the surrounding area, as relevant.
- **Checklist and Discussion of Impacts** – This subsection includes a checklist for determining potential impacts and discusses the project's environmental impact as it relates to the checklist questions. For significant impacts, feasible mitigation measures are identified. "Mitigation measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Each impact is numbered using an alphanumeric system that identifies the environmental issue. For example, Impact HAZ-1 denotes the first potentially significant impact discussed in the Hazards and Hazardous Materials section. Mitigation measures are also numbered to correspond to the impact they address. For example, MM NOI-2.3 refers to the third mitigation measure for the second impact in the Noise section.

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.

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

Important Note to the Reader

The California Supreme Court in a December 2015 opinion in California Building Industry Association v. Bay Area Air Quality Management District, 62 Cal. 4th 369 (BIA v. BAAQMD) confirmed that CEQA, with several specific exceptions, is concerned with the impacts of a project on the environment, not the effects the existing environment may have on a project. Therefore, the evaluation of the significance of project impacts under CEQA in the following sections focuses on impacts of the project on the environment, including whether a project may exacerbate existing environmental hazards.

The City of San José (City) has policies that address existing conditions affecting a proposed project, which are also discussed in this Initial Study. This is consistent with one of the primary objectives of CEQA, which is to provide objective information to decision-makers and the public. The CEQA Guidelines and the courts are clear that a CEQA can include information of interest even if such information is not an environmental impact as defined by CEQA.

Therefore, in addition to describing the impacts of the project on the environment, this Initial Study will discuss operational issues as they relate to City policies. Such examples include, but are not limited to, locating a project near sources of air emissions that can pose a health risk, in a floodplain, geologic hazard zone, high noise environment, or on/adjacent to sites involving hazardous substances.

2.1 Aesthetics

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
Except as provided in Public Resources Code Section 21099, Would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☒	☐
b) Substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?	☐	☐	☐	☒
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (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 mountains 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 over much of the hillslopes. Southwest of the City, the Santa Cruz Mountains rise 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.

The project site is in a highly urbanized area surrounded by residential, quasi-public, and commercial land uses. This urbanized site is surrounded by Rocketship Fuerza Community Prep, a public charter school, to the north across South Jackson Avenue and Cosmopolitan Evangelical Church on the adjacent property to the northeast. A residential neighborhood consisting of two-story single-family residences borders the southern and western boundaries of the project. Two public roads—Woodset Court to the

north and Woodset Drive to the south dead end on either side of the western portion of the project site. Northwest of the project, on Alum Rock Avenue, is a City designated Urban Village with a mix of residential and commercial developments.

The project site is developed with an existing building, a detached garage, and associated landscaping along South Jackson Avenue. Ground visibility is poor with vegetation consisting of dense areas of grasses with bushes outlining the property boundaries. Several trees are present at the front of the property near the existing structure. The existing building and detached garage are currently unoccupied; however, the project site is used as an encampment by people experiencing homelessness. As documented in **Appendix B**, on-site disturbances related to the encampment include trash and debris such as broken glass bottles, food containers, bedding, clothing, and toiletries, all of which contribute to the current state of neglect.

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 1,000 feet southeast of the project site at the intersection of East San Antonio Street and the beginning of Capitol Expressway.
- 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 (located 1 mile west of the project site) and Interstate 680 (located 0.1 mile east of the project site).
- 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 3 miles north of the project site.

Light and Glare

Sources of daytime glare can either be a direct source of light or can be an object which 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

City of San José General Plan

Various policies in the General Plan have been adopted for avoiding or mitigating visual and aesthetic impacts resulting from planned development within the City. The project 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-1.11:	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-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
Policy CD-10.3:	Require that development visible from freeways, including U.S. Route 101 (U.S. 101), Interstate 880 (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.

Outdoor Lighting on Private Development (City Council Policy 4-3)

The City's Outdoor Lighting on Private Development Policy promotes energy efficient and partially or fully shielded outdoor lighting on private development to promote adequate light for nighttime activities while benefiting the continued enjoyment of the night sky and continuing operation of the Lick Observatory by reducing light pollution and sky glow.

Impact Discussion

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

Less than Significant. The project site is not located within a Gateway, or Rural Scenic Corridor identified in the City's General Plan. However, the project is located 0.1 mile west of the I-680 Urban Corridor, which contains scenic views of the urban skyline of Downtown San José. The maximum building height of the project would be 26 feet, which is consistent with the surrounding residential development and would not block views of the skyline from the Urban Corridor. Therefore, the project would not substantially damage a scenic vista and this impact would be less than significant.

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

No Impact. There are no State scenic highways in the project vicinity. The nearest designated State scenic highway is State Route 9, approximately 11 miles to the west of the site. Therefore, there would be no impact.

c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

Less than Significant. The project site is located within an urbanized area of the City, and is developed with an existing residential structure, detached garage, paved areas, and landscaping. The existing house and detached garage are both one-story structures. The proposed townhomes would be two stories with a maximum height of approximately 26 feet above ground level. Construction activities on the project site would be visible from the roadways and surrounding businesses and residences. Grading and other construction-related activities would result in short-term aesthetic disturbances. However, these activities would be temporary and would not permanently alter the long-term visual character of the site.

As discussed in the **Environmental Setting**, existing structures on the project site have become dilapidated and the landscaped and paved areas are littered with trash and debris from continual encampment by people experiencing homelessness. The vacant conditions currently encourage

vandalism and unauthorized use of the property, both of which lead to blight. The project would replace existing dilapidated structures and associated landscaping with 14 new townhomes, which would be visually consistent with adjacent residential neighborhoods to the west and south. Furthermore, the project would be consistent with all General Plan regulations and policies related to scenic quality listed in the **Regulatory Setting** above. 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 site is located in an urban area with residential and commercial development and vehicular traffic. Currently, the project site is vacant and does not produce substantial light or glare to the adjacent properties. The proposed project would add new sources of light and glare associated with the 14 new townhomes, such as windows, signs, vehicle headlights, and outdoor light fixtures located along South Jackson Avenue. However, the project would adhere to the Private Outdoor Lighting Policy 4.3 and the Municipal Code, which prevents light pollution that contributes to glare by promoting shielded outdoor lighting and directing new light sources away from existing residential units. All lighting installed as part of the project would conform to General Plan design and lighting policies and would not create a new source of nighttime light that would adversely affect views. With adherence to these policies, project-related increases in light and glare would be minimized. Therefore, this impact would be less than significant.

2.2 Agriculture and Forest Resources

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒
b) Conflict with existing zoning for agricultural use, or 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))?	☐	☐	☐	☒
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

A review of the Department of Conservation's California Important Farmland Finder Interactive Map revealed that the project site is classified as Urban and Built-Up Land, and is not located near any land under the Williamson Act contract.[1] There is no forest land on or near the project site, as the project site is located within and surrounded by urban and built up land.[2] The site is located within the eastern portion of the City, near the City's Urban Growth Boundary (UGB), and would not result in conversion of Farmland to non-agricultural use. The project site's General Plan land use designation is Residential

[1] California Department of Conservation. *California Important Farmland Finder.* Available: https://maps.conservation.ca.gov/DLRP/CIFF/. Accessed: January, 2020.

[2] City of San José Municipal Code. 2018. Available: https://library.municode.com/ca/san_José/codes/code_of_ordinances?nodeId=TIT20ZO_CH20.75PEORZODI. Accessed: July, 2020.

Neighborhood (RN), and the project site is zoned R-1-8 Single-Family Residence (Up to Eight Dwelling Units per Acre).

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 designated as urban and built-up land and is not under a Williamson Act contract.[3]

Farmland Mapping and Monitoring Program

The California Resources Agency's Farmland Mapping and Monitoring Program (FMMP) provides maps and data to decision makers to assist them in making informed decisions regarding the planning of the present and future use of California's agricultural land resources. The Santa Clara County Important Farmlands 2016 Map designates the project site as "Urban and Built-up Land."[4]

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 which have been zoned and are devoted to and used for growing and harvesting timer, or for growing and harvesting timber and compatible uses.

City of San José General Plan

Various policies in the General Plan have been adopted for 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:

[3] California Department of Conservation. *Santa Clara County Williamson Act 2015/2016 Map*. Available ftp://ftp.consrv.ca.gov/pub/dlrp/wa/. Accessed January 2020.

[4] California Department of Conservation. *Santa Clara County Important Farmland Map 2016 Map*. Available: https://maps.conservation.ca.gov/dirp/cliff/. Accessed: January 2020.

- 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.

Impact Discussion

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

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

and

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?

and

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. There is no Prime Farmland, Unique Farmland, Farmland of Statewide Importance, or Williamson Act Contracts on the project site, which is identified as "urban/built-up land" on the Santa Clara County Important Farmlands map. Further, no farming operations exist on or near the project site. Therefore, the project would not result in the loss of farmland or conversion of forest land.

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). There are no forest lands on or adjacent to the project site. Therefore, the project would not conflict with existing zoning for forest land or timberland. No impact would occur.

2.3 Air Quality

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

Environmental Setting

The project site is 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 quality studies generally focus on four pollutants, referred to as criteria pollutants, which are most commonly measured and regulated: carbon monoxide (CO), ground level ozone (O_3), nitrogen dioxide (NO_2), and suspended particulate matter (PM).

Regional Climate and Air Pollution in the SFBAAB

The City is located in the southern portion of the SFBAAB, and the proximity to the Pacific Ocean and San Francisco Bay influence the climate in the City and surrounding region. The Santa Cruz Mountains and Diablo Mountain Range on either side of the South Bay restrict air dispersion, and this alignment of the terrain also channels winds from the north to south, carrying pollution from the northern Peninsula toward San José. The annual high temperature is approximately 73°F, while the annual low temperature is approximately 51°F (United States Climate Data 2020). The average temperature is 62°F and the average annual precipitation is 15 inches. Winds play a large role in controlling climate in the area, and annual average winds range between 5 and 10 miles per hour in this region (BAAQMD 2017a).

Air pollutant emissions in the SFBAAB are generated by both 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 (BAAQMD 2017a).

Regulatory Setting

Air Quality Management

The BAAQMD is primarily responsible for assuring that the national and State ambient air quality standards are attained and maintained in the Bay Area. The BAAQMD is also responsible for adopting and enforcing rules and regulations concerning air pollutant sources, issuing permits for stationary sources of air pollutants, inspecting stationary sources of air pollutants, responding to citizen complaints, monitoring ambient air quality and meteorological conditions, awarding grants to reduce motor vehicle emissions, conducting public education campaigns, as well as many other activities. The BAAQMD has jurisdiction over the nine-county Bay Area, including Santa Clara County.

The BAAQMD adopted the 2017 Clean Air Plan (2017 CAP) as an update to the 2010 Clean Air Plan in April 2017. The 2017 CAP provides a regional strategy to protect public health and the climate. Consistent with the greenhouse gas (GHG) reduction targets adopted by the State, the 2017 CAP lays the groundwork for a long-term effort to reduce Bay Area GHG emissions to 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050 (BAAQMD 2017b). To fulfill State O_3 planning requirements, the 2017 control strategy includes all feasible measures to reduce emissions of O_3 precursors—reactive organic gases (ROG) and nitrogen oxides (NO_X)—and reduce transport of O_3 and its precursors to neighboring air basins. The 2017 CAP builds upon and enhances the BAAQMD's efforts to reduce emissions of fine particulate matter and toxic air contaminants (TAC) (BAAQMD 2017b).

Regulatory Agencies

Air Pollutants of Primary Concern

The federal and State Clean Air Acts (CAA) mandate the control and reduction of certain air pollutants. Under the CAAs, the United States Environmental Protection Agency (USEPA), and the CARB have established ambient air quality standards for certain criteria pollutants. The rates and distributions of corresponding air pollutant emissions, as well as by the climatic and topographic influences discussed above, affect ambient air pollutant concentrations. Proximity to major sources is the primary determinant of concentrations of non-reactive pollutants (such as carbon monoxide [CO] and suspended particulate matter). Usually, ambient CO levels closely follow when and where vehicular traffic is distributed. A discussion of the primary criteria pollutants follows.

Ozone

Ozone is a colorless gas with a pungent odor. Most ozone in the atmosphere forms because of the interaction of ultraviolet light with reactive organic gases (ROG) and oxides of nitrogen (NO_X) (USEPA

2016). ROG (defined as any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonate, etc. [CARB 2004]) is primarily composed of non-methane hydrocarbons. NO_X is made of different chemical combinations of nitrogen and oxygen, mainly nitric oxide and nitrogen dioxide. Ozone is a highly reactive molecule that readily combines with many different components of the atmosphere. Consequently, high levels of ozone tend to exist only while high ROG and NO_X levels are present to create the ozone formation process (USEPA 2018). Once ROG, NO_X and other the precursors have been depleted, ozone levels rapidly decline. Because these reactions occur on a regional rather than local scale, ozone is considered a regional pollutant.

Carbon Monoxide

CO is an odorless, colorless gas. CO causes a number of health problems including fatigue, headache, confusion, and dizziness (University of Rochester Medical Center 2020). The incomplete combustion of petroleum fuels in on-road vehicles and at power plants is a major cause of CO. Wood stoves and fireplaces produce CO during the winter (CARB 2020). CO tends to dissipate rapidly into the atmosphere; consequently, violations of the State's CO standard are generally associated with major roadway intersections during peak-hour traffic conditions. Localized CO "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 CO concentration exceeds the National Ambient Air Quality Standards of 35.0 parts per million (ppm) or the State Ambient Air Quality Standards of 20.0 ppm.

Nitrogen Dioxide

Nitrogen dioxide (NO_2) is a by-product of fuel combustion, with the primary source being motor vehicles and industrial boilers and furnaces. The principal form of nitrogen oxide produced by combustion is nitric oxide (NO), but NO reacts rapidly to form NO_2, creating the mixture of NO and NO_2 commonly called NO_X (USEPA 1999). NO_2 is an acute irritant. A relationship between NO_2 and chronic pulmonary fibrosis may exist (Conti, et al. 2018), and an increase in bronchitis in young children may occur at concentrations below 0.3 ppm. NO_2 absorbs blue light and causes a reddish-brown cast to the atmosphere and reduced visibility. It can also contribute to the formation of fine particulate matter and acid rain.

Suspended Particulates

Particulate matter (PM_{10}) is small particulate matter measuring no more than 10 microns in diameter, while particulate matter ($PM_{2.5}$) is fine particulate matter measuring no more than 2.5 microns in diameter (USEPA 2018). Suspended particulates are mostly dust particles, nitrates, and sulfates. They are a by-product of fuel combustion, wind erosion of soil and unpaved roads, and are emitted directly into the atmosphere through these processes. Chemical reactions create suspended particulates in the atmosphere. The characteristics, sources, and potential health effects associated with the small particulates (those between 2.5 and 10 microns in diameter) and fine particulates ($PM_{2.5}$) can be very different. The small particulates generally come from windblown dust and dust kicked up from mobile sources. The fine particulates are associated generally with combustion processes, and form in the atmosphere as a secondary pollutant through chemical reactions. Fine particulate matter 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 (USEPA 2018). More than half of the small and

fine particulate matter inhaled into the lungs remains there and can cause permanent lung damage (American Lung Association 2020). 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 (USEPA 2018).

Lead

Lead is a metal found naturally in the environment, as well as in manufacturing products. The major sources of lead emissions historically have been mobile and industrial sources. Because of the phase-out of leaded gasoline, as discussed below, metal processing currently is the primary source of lead emissions. The highest level of lead in the air is found near lead smelters. Other stationary sources include waste incinerators, utilities, and lead-acid battery manufacturers.

In the early 1970s, the USEPA set national regulations to reduce the lead content in gasoline gradually. In 1975, unleaded gasoline was introduced for motor vehicles equipped with catalytic converters. The USEPA completed the ban prohibiting the use of leaded gasoline in highway vehicles in December 1995. As a result of the USEPA's regulatory efforts to remove lead from gasoline, lead concentrations have declined substantially over the past several decades. The most dramatic reductions in lead emissions occurred prior to 1990 due to the removal of lead from gasoline sold for most highway vehicles. Lead emissions were further reduced substantially between 1990 and 2008, with reductions occurring in the metals industries at least in part because of national emissions standards for hazardous air pollutants (USEPA 2013).

Toxic Air Contaminants

Toxic air contaminants (TAC) are a broad class of compounds known to cause morbidity or mortality (usually because they cause cancer) and include, but are not limited to, the criteria air pollutants. TACs are found in ambient air, especially in urban areas, and are caused by industry, agriculture, fuel combustion, and commercial operations (e.g., dry cleaners). TACs are typically found in low concentrations, even near their source (e.g., diesel particulate matter [DPM] near a freeway). Because chronic exposure can result in adverse health impacts, TACs are regulated at the regional, State, and federal level.

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

Fine particulate matter is a complex mixture of substances that includes elements such as carbon and metals; compounds such as nitrates, organics, and sulfates; and complex mixtures such as diesel exhaust and wood smoke. Long-term and short-term exposure to $PM_{2.5}$ can cause a wide range of health effects. Common stationary sources of TACs and $PM_{2.5}$ include gas stations, dry cleaners, and diesel backup generators. The other, more significant, common source is motor vehicles on roadways and freeways.

Air Emission Thresholds

The BAAQMD's May 2017 CEQA Air Quality Guidelines are used in this analysis to evaluate air quality. **Table 2** shows the significance thresholds for construction and operational-related criteria air pollutant and precursor emissions being used for the purposes of this analysis. These thresholds represent the levels at which a project's individual emissions of criteria air pollutants or precursors would result in a cumulatively considerable contribution to the Basin's existing air quality conditions. For the purposes of this analysis, the project would result in a significant impact if construction or operational emissions would exceed thresholds as shown below.

Table 2 Air Quality Significance Thresholds

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

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.

Source: BAAQMD 2017b.

Clean Air Plan

Regional air quality management districts such as Bay Area Air Quality Management District (BAAQMD) must prepare air quality plans specifying how State air quality standards would be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The 2017 CAP defines an integrated, multi-pollutant control strategy to reduce emissions of particulate matter, TACs, ozone precursors, and greenhouse gases (GHGs). The proposed control strategy is designed to complement efforts to improve air quality and protect the climate that are being implemented by partner agencies at the State, regional, and local scale. The control strategy encompasses 85 individual control measures that describe specific actions to reduce emissions of air and climate pollutants from the full range of emission sources and is based on the following four key priorities:

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

City of San José General Plan

Various policies in the General Plan have been adopted for avoiding or mitigating air quality impacts resulting from planned development within the City. The project would be subject to the air quality goals and policies listed in the General Plan, including the following:

Goal MS-10: Minimize emissions from new development.

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.

Goal MS-11: Minimize exposure of people to air pollution and toxic are contaminants such as ozone, carbon monoxide, lead, and particulate matter.

Policy MS-11.2: For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.

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

Policy MS-11.8: For new projects that generate truck traffic, require signage which reminds drivers that the State truck idling law limits truck idling to five minutes.

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.

The project would also 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 private sector new construction and provides a framework for the implementation of these standards. This policy is intended to enhance the public health, safety, and welfare of City residents, workers, and visitors by fostering practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water and other resources 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. Green building reduces per capita energy use, provides energy from renewable sources, diverts waste from landfills, uses less water, and encourages the use of recycled wastewater. Green building also encourages buildings to be located close to public transportation and services and provide

amenities that encourage walking and bicycling and therefore offer further potential to achieve a healthy, environmentally sustainable City.

Impact Discussion

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

Less than Significant. BAAQMD is the agency primarily responsible for assuring the federal and State ambient air quality standards are maintained in the San Francisco Bay Area. BAAQMD's most recent adopted plan is the 2017 CAP. Determining consistency with the 2017 CAP involves assessing whether applicable control measures in the 2017 CAP are implemented. Implementation of the control measures improves air quality and protects health. The consistency of the project is evaluated against applicable control measures in **Table 3**.

Table 3 Bay Area 2017 CAP Applicable Control Measures

Control Measures	Description	Project Consistency
Transportation Control Measures		
Trip Reduction Programs	Encourage trip reduction policies and programs in local plans, e.g., general and specific plans. Encourage local governments to require mitigation of vehicle travel as part of new development approval, to develop innovative ways to encourage rideshare, transit, cycling, and walking for work trips.	**Consistent:** The paved street and new sidewalk connection of Woodset Court and Woodset Drive would encourage walkability and bicycling in the adjacent neighborhoods. In addition, the project would provide bicycle racks and lockers for year-round storage of bicycles. Providing pedestrian friendly streets is codified under California's 2008 Complete Streets Act.
Bicycle and Pedestrian Access and Facilities	Encourage planning for bicycle and pedestrian facilities in local plans, e.g., general and specific plans, fund bike lanes, routes, paths and bicycle parking facilities.	**Consistent:** The project would incorporate bicycle racks and lockers to encourage bike riding. Additionally, the project would connect Woodset Court and Woodset Drive, thus encouraging walkability and bicycling through adjacent neighborhoods.
Land Use Strategies	Support implementation of Plan Bay Area, maintain and disseminate information on current climate action plans and other local best practices.	**Consistent:** The project would be a compact infill development that would add 14 new townhomes on a site currently developed with a single-family residence. The existing single-family residence on the site is currently vacant and the applicant has been granted a permit by the City to demolish both structures because they pose a health and safety hazard. Therefore, the project would not displace current low-income residents and would be consistent with Plan Bay Area.
Building Control Measures		
Green Building	Identify barriers to effective local implementation of the CalGreen (Title 24) statewide building energy code; develop solutions to improve	**Consistent:** The project would be required to comply with the City's Green Building Ordinance. The Green Building Ordinance requires all Tier 2 projects to receive a minimum

Control Measures	Description	Project Consistency
	implementation/enforcement. Engage with additional partners to target reducing emissions from specific types of buildings.	green building certification of LEED Silver. In addition, the project would include a passive solar layout and active solar roof orientation, light and long-lasting roofs, recycled flooring, low VOC paint, and Energy Star appliances.
Decrease Electricity Demands	Work with local governments to adopt additional energy efficiency policies and programs. Support local government energy efficiency program via best practices, model ordinances, and technical support. Work with partners to develop messaging to decrease electricity demand during peak times.	**Consistent:** The project would include the following green building features: ▪ Heat pumps for HVAC and heat pump water heaters; ▪ Recycled content laminate flooring; ▪ Passive solar layout and active solar roof orientation; ▪ Water saving faucets, toilets, and shower heads; ▪ Energy Star Appliances; and ▪ PV systems sized to provide renewable power for the chargers.
Urban Heat Island Mitigation	Develop and urge adoption of a model ordinance for "cool parking" that promotes the use of cool surface treatments for new parking facilities. Develop and promote adoption of model building code requirements for new construction or reroofing/roofing upgrades for commercial and residential multifamily housing.	**Consistent:** Parking spaces on the project site would be shaded by trees proposed for landscaping. In addition, the project would include light and long-lasting roofs to reduce summer heat gain and reduce winter heat loss. The building orientation would include a passive solar layout and active solar roof orientation.
Waste Management Control Measures		
Recycling and Waste Reduction	Develop or identify and promote model ordinances on communitywide zero waste goals and recycling of construction and demolition materials in commercial and public construction projects.	**Not Applicable.** The project is a multi-family development, not a commercial or public construction project**.**
Water Control Measures		
Support Water Conservation	Develop a list of best practices that reduce water consumption and increase on-site water recycling in new and existing buildings; incorporate into local planning guidance.	**Consistent:** The project would include bay-friendly and native landscaping that promotes efficient water use. The proposed residential units would have Energy Star appliances and low-flow faucets, toilets, and shower heads.
Natural and Working Lands Measures		
Urban Tree Planting	Develop or identify an existing model municipal tree planting ordinance and encourage local governments to adopt such an ordinance. Include tree planting recommendations, the Air District's technical guidance, best management practices for local plans, and CEQA review.	**Consistent:** Project landscaping would include trees around the proposed building with bay-friendly native plants and trees. Additionally, 35 of the 37 existing trees on the project site would remain with implementation of the project.

Source: BAAQMD 2017.

As shown in **Table 3**, the project would be consistent with all relevant control measures included in the 2017 CAP by providing electric vehicle charging spaces, meeting California Green Building Standards, and providing natural light and ventilation. In addition, the project would be consistent with the site's existing land use designation and would not require a general plan amendment. Therefore, the project would not conflict with or obstruct the implementation of an applicable air quality plan and the impact would be less than significant.

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?

Less than Significant. Construction of the project would generate temporary construction emissions (direct emissions) and long-term operational emissions (indirect emissions). Project construction generated temporary air pollutant emissions are associated with fugitive dust (PM_{10} and $PM_{2.5}$) and exhaust emissions from heavy construction vehicles, in addition to ROGs that would be released during the drying phase following application of architectural coatings. Long-term emissions associated with project operation would include emissions from vehicle trips (mobile sources); natural gas and electricity use (energy sources); and landscape maintenance equipment, consumer products and architectural coating associated with on-site development (area sources). Section 3.5.1 of the BAAQMD Guidelines provides preliminary screening to determine less-than-significant levels of construction-related impacts (BAAQMD 2017a). If all screening criteria are met, project construction would result in a less-than significant impact from criteria air pollutant and precursor emissions. The screening level for a "condo/townhouse" land use is 451 dwelling units for operational criteria pollutants and 240 dwelling units for construction related criteria pollutants. However, the project would involve demolition, therefore, it does not meet all screening criteria for construction emissions. Accordingly, emissions associated with the project were quantified using the California Emissions Estimator Model (CalEEMod) version 2016.3.1.

Construction Emissions

Project construction would involve demolition, site preparation, grading, building construction, paving, and architectural coating activities that have the potential to generate air pollutant emissions. Temporary construction emissions from these activities were estimated using CalEEMod version 2016.3.2 (see **Appendix C**), based on parameters that include the duration of construction activity, area of disturbance, and anticipated equipment used during construction. CalEEMod defaults were used to determine construction equipment, while construction phase modeling was based on the schedule information provided by the applicant. Site work which includes demolition, site preparation and grading would begin September 2021 and completed in 9 to 12 months. Vertical construction of the townhomes along with architectural coating followed by paving would begin September 2022 and is anticipated to be fully operational in 2024.

Emissions were modeled assuming demolition of 1,863 square feet of existing on-site structures and importation of 1,435 cubic yards of soil. CalEEMod defaults for acreages graded were used to provide a conservative estimate of emissions from site preparation and grading activities. Additionally, 4,864 square feet of public street would be constructed to connect Woodset Court and Woodset Drive and

was added to CalEEMod. Watering exposed surfaces twice daily was included in construction modeling, as required by the City's Standard Permit Conditions.

Table 4 summarizes the estimated maximum daily emissions ROG, NO_X, PM_{10} and $PM_{2.5}$ during project construction. As shown in **Table 4**, project construction emissions for all criteria pollutants would be below the BAAQMD average daily thresholds of significance and therefore would be less than significant.

Table 4 Project Construction Emissions

	Estimated Emissions					
	ROG	NO_X	CO	PM_{10} (exhaust)	$PM_{2.5}$ (exhaust)	SO_x
Maximum Daily Emissions	1.8	8.1	9.4	0.4	0.4	<0.1
BAAQMD Thresholds (average daily emissions)	54	54	N/A	82	54	N/A
Threshold Exceeded?	No	No	N/A	No	No	N/A

See CalEEMod worksheets in Appendix C.

N/A = not applicable; no BAAQMD threshold for CO or SOX

Source: Rincon, 2020.

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 all projects to implement BMPs consistent with BAAQMD's Basic Construction Mitigation Measures. These measures would be part of standard conditions of approval for project construction.

Standard Permit Conditions

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

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks 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 by using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Minimize idling times either by shutting off equipment when not in use or reducing the maximum idling time to 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 properly 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 at the lead agency to contact regarding dust complaints.

With the implementation of these Standard Permit Conditions, construction air quality impacts would be less than significant.

Operation

The BAAQMD screening level size regarding operational criteria pollutants for the land use category of "condo/townhouse general" is 451 dwelling units. As the project would involve construction of 14 dwelling units, it is well below the screening size and would therefore result in a less than significant impact. Nevertheless, long-term emissions associated with project operation are shown in **Table 5** for informational purposes; emissions would not exceed BAAQMD daily or annual thresholds for any criteria pollutant. 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. Operation air quality impacts would be less than significant.

Table 5 Project Operational Average Daily Emissions

Sources	Average Daily Emissions (lbs/day)					
	ROG	NO_X	CO	PM_{10}	$PM_{2.5}$	SO_x
Area	0.6	<0.1	2.6	0.2	0.3	<0.1
Energy	<0.1	<0.1	<0.1	<0.1	<0.1	<0.1
Mobile	<0.1	0.3	0.8	0.3	<0.1	<0.1
Total Project Emissions	0.7	0.4	3.5	0.5	0.3	<0.1
BAAQMD Thresholds	54	54	N/A	82	54	N/A
Threshold Exceeded?	No	No	N/A	No	No	N/A

Source: Rincon 2020

N/A = not applicable; no BAAQMD threshold for CO or SOX

c) Expose sensitive receptors to substantial pollutant concentrations?

Less than Significant with Mitigation Incorporated. Certain population groups, such as children, the elderly, and people with health problems, are particularly sensitive to air pollution. Per the BAAQMD Guidelines, sensitive receptors are defined as population groups that are more susceptible to exposure to pollutants and examples include health care facilities, retirement homes, school and playground facilities, residential areas, and other places where people reside for long periods of time (BAAQMD 2017a). Sensitive receptors nearest to the proposed project include residences immediately adjacent to the south, west, and northwest and approximately 280 feet east of the site. Rocketship Fuerza Community Prep, a public transitional kindergarten through 5th grade charter school, is located across South Jackson Avenue, approximately 100 feet northeast of the project site.

Carbon Monoxide Hotspots

The BAAQMD recommends comparing project attributes with the following screening criteria as a first step to evaluating whether the project would result in the generation of CO concentrations that would substantially contribute to impacts. The project would result in a less-than-significant localized CO 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 is anticipated to house 45 residents. Based on CalEEMod trip generation estimates for the land use type of "condo/townhouse", there would be approximately 81 vehicle trips to the site per day, 79 average trips for Saturday and 68 average daily trips for Sunday[5]. The project trip generation is far below the screening thresholds listed above. Furthermore, no vehicle queuing is associated with the project's land use type; thus, the concentration of CO emissions would be low and would rapidly disperse. Therefore, the impact of localized CO emissions would be less than significant.

Construction Emissions

To characterize health risk at nearby sensitive receptors, 29 existing residential and 3 educational representative sensitive receptor locations closest to the project site were selected. Existing residential receptors were placed within residential neighborhoods south and west of the project site. Receptors were conservatively placed at both the edge of existing residential structures as well as at the property lines of existing residential parcels (i.e., yards). Realistically, residents at nearby homes would spend a substantial portion of their time indoors, separated from emissions sources by walls and additional setback distances. Therefore, the placement of these residential receptors provides a conservative analysis. Receptors sited at the edge of residential structures were located on the first floor (ground level) and second floor (ground level plus 3 meters), as appropriate. Educational facility receptors were placed at the edges of the Rocketship Fuerza Community Prep School and in the outdoor play area.

Accounting for residential, educational, and grid receptors, this analysis evaluated health risk at 1,614 receptor locations. All emissions sources and receptors, including receptor grid areas, are shown in **Figure 8**.

BAAQMD strongly recommends that impacted communities develop and adopt Community Risk Reduction Plan. The City does not currently have a qualified Community Risk Reduction Plan. In the absence of a qualified Community Risk Reduction Plan for the proposed project, BAAQMD has established the following thresholds of significance for local community risks and hazards associated with TACs and $PM_{2.5}$ for assessing individual project-level impacts at a local level (BAAQMD 2017a):

- Not to exceed an increased cancer risk of >10 in one million

[5] CalEEMod trip generation rates based on Institute of Traffic Engineers 8th Edition for Condo/Townhouse ITE Code 230

- Not to exceed increased non-cancer (i.e., Chronic or Acute) risk of >1.0 Hazard Index
- Not to exceed ambient PM2.5 concentration increase >0.3 µg/m3 annual average
- A project would have a cumulatively considerable impact if the aggregate total of current and proposed TAC sources within a 1,000 feet radius of the project fence line in addition to the proposed project would exceed the following thresholds of significance:
- Not to exceed an increased cancer risk of >100 in one million
- Not to exceed increased non-cancer (i.e., Chronic or Acute) risk of >10 Hazard Index
- Not to exceed ambient $PM_{2.5}$ concentration increase >0.8 µg/m^3 annual average

Neither DPM nor $PM_{2.5}$ is associated with acute health risks (OEHHA 2019); therefore, acute risk was not evaluated.

Map of Sources and Receptors Figure **8**

Source: Rincon, 2020

Maximum cancer risks are presented in **Table 6**. The Maximally Exposed Individual (MEI) is the modeled receptor experiencing the highest incremental excess cancer risk under the total exposure duration. While not the MEI, **Table 6** also presents the maximally exposed educational receptor located at Rocketship Fuerza Community Prep School. The MEI was determined to be located at the backyard (northern) property line of a residence located adjacent to the project site along Portico Court to the south. The maximally exposed educational receptor was determined to be at the southern corner of the Rocketship Fuerza Community Prep School at the point nearest the project site. Both the MEI and maximally exposed educational receptor are indicated in **Figure 8**.

The model outputs and summary form are available in **Appendix C**. As shown in **Table 6**, incremental excess cancer risks resulting from construction activities would exceed BAAQMD thresholds without mitigation.

Table 6 Unmitigated Health Risks Associated with Construction Activity

Scenario	Excess Cancer Risk per million)	Chronic Health Risk[1]	$PM_{2.5}$ µg/m^3 annual average
Maximally Exposed Individual (MEI)	616	0.32	1.64
BAAQMD Significance Threshold	>10	>1	>0.3
Threshold Exceeded?	**Yes**	**No**	**Yes**
Maximally Exposed Educational Receptor	22.5	0	0.06
BAAQMD Significance Threshold	>10	>1	>0.3
Threshold Exceeded?	**Yes**	**No**	**No**

Source: Rincon 2020

[1]Noncancer health impacts are determined by dividing the airborne concentration at the receptor by the appropriate Reference Exposure Level (REL) for that substance. A REL is defined as the concentration at which no adverse noncancer health effects are anticipated. Because noncancer health impacts are assessed as the ratio of airborne concentration versus the REL, the resulting hazard index is unitless. For HARP model outputs, see **Appendix C**.

µg/m3 = micrograms per cubic meter; BAAQMD = Bay Area Air Quality Management District

As shown in **Table 6**, the chronic hazard index at the MEI and maximally exposed educational receptor is less than one. However, incremental excess cancer risk due to DPM exposure during the three-year exposure duration at both the MEI and the maximally exposed educational receptor exceeds the project-level significance threshold of 10 in one million. Additionally, ground-level $PM_{2.5}$ concentrations at the MEI exceed the project-level significance threshold of 0.3 µg/m^3. It should be noted that the analysis is considered conservative as CalEEMod defaults for construction equipment, hours of use, and emission rates were used. Nonetheless, the health risk to nearby residents due to project construction would be potentially significant without mitigation.

In addition, the BAAQMD recommends that the cumulative impact of a project be assessed by evaluating current and proposed substantial sources of TACs, including roadways and stationary sources, within a 1,000-foot radius of the identified MEI (BAAQMD 2017a). Existing potential sources within 1,000 feet of the MEI include Interstate 680 (I-680), Alum Rock Avenue, Jackson Avenue, Capitol

Expressway, and one permitted stationary source, a gas station located approximately 830 feet northeast of the MEI. Cumulative risk impacts to the MEI from these sources were estimated as described below following BAAQMD's *CEQA Air Quality Guidelines* (BAAQMD 2017a).

Stationary Sources

In order to analyze existing stationary sources, the BAAQMD's Stationary Source Screening Analysis Tool was used to assess associated health risks at the project site. Per BAAQMD methodology, a 1,000-foot radius was drawn around the project site, and stationary sources within the perimeter were considered. A list of all stationary sources within 1,000-feet of the site is shown in **Table 7**.

Table 7 Cumulative Health Risks Associated with Unmitigated Construction Activity

Scenario	Excess Cancer Risk (per million)	Chronic Health Risk[1]	$PM_{2.5}$ µg/m^3 annual average
Maximally Exposed Individual (MEI)			
Unmitigated Project Construction	616.0	0.32	1.64
Highways (I-680)[2]	32.4	--[5]	0.64
Major Streets (South Jackson Avenue, Capitol Expressway, Alum Rock Avenue)[3]	3.3	--[5]	0.08
Exxon Gas Station (Facility ID 112326)[4]	1.1	0.005	0.0
Cumulative Total	652.8	0.325	2.36
BAAQMD Significance Threshold	>100	>10	>0.8
Threshold Exceeded?	**Yes**	**No**	**Yes**
Maximally Exposed Educational Receptor			
Unmitigated Project Construction	22.5	0.01	0.06
Highways (I-680)[2]	33.8	--[5]	0.67
Major Streets (South Jackson Avenue, Capitol Expressway, Alum Rock Avenue)[3]	3.5	--[5]	0.09
Exxon Gas Station (Facility ID 112326)[4]	1.1	0.005	0.0
Cumulative Total	60.9	0.015	0.82
BAAQMD Significance Threshold	>100	>10	>0.8
Threshold Exceeded?	**No**	**No**	**Yes**

[1]Noncancer health impacts are determined by dividing the airborne concentration at the receptor by the appropriate Reference Exposure Level (REL) for that substance. A REL is defined as the concentration at which no adverse noncancer health effects are anticipated. Because noncancer health impacts are assessed as the ratio of airborne concentration versus the REL, the resulting hazard index is unitless.

[2]Based on health risk raster data for Highways provided by BAAQMD (BAAQMD 2019a).

[3]Based on health risk raster data for Major Streets provided by BAAQMD (BAAQMD 2019b).

[4]To provide a conservative analysis, the permitted stationary source was not adjusted based on distance using BAAQMD's multiplier tool.

[5]BAAQMD Highway and Major Streets raster files do not provide a chronic health risk value for these sources. For model outputs, stationary, and roadway source screening calculations, see **Appendix C.**

Source: Rincon 2020

In addition to the Standard Permit Conditions required for all construction activities pursuant to City of San José General Plan Policy MS-13.1, as discussed under threshold **(b)** above, **Mitigation Measures AQ-1** and **AQ-2** below would be required to reduce health risks to nearby sensitive receptors associated with DPM exposure from construction activities and cumulative sources.

Implementation of **Mitigation Measure AQ-1** and **Mitigation Measure AQ-2** would reduce this impact to a less-than-significant level.

Mitigation Measure AQ-1

The project applicant shall select equipment during construction to minimize emissions. The project applicant shall submit a Construction Management Plan to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval, prior to issuance of any grading and building permits. The Construction Management Plan shall demonstrate that the off-road equipment used onsite to construct the project would achieve a fleet-wide average 85-percent reduction in $PM_{2.5}$ exhaust emissions or more than the unmitigated cumulative total of 2.36 $\mu g/m^3$. Options to achieve this reduction could include, but are not limited to, the following:

- All mobile diesel-powered off-road equipment larger than 25 horsepower and operating on the site for more than two days shall meet U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent.
- All equipment shall include California Air Resources Board (CARB)-certified Level 3 diesel particulate filters or alternatively-fueled equipment (i.e., non-diesel).
- All equipment shall use added exhaust muffling and filtering devices as needed to meet the exhaust emissions reduction.

Mitigation Measure AQ-2

Prior to the issuance of any grading or building permits, the project applicant shall prepare and implement a Construction Fugitive Dust Mitigation Plan to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval, which shall demonstrate at a minimum a 61 percent reduction in fugitive $PM_{2.5}$ emissions relative to unmitigated conditions. Measures to reduce fugitive $PM_{2.5}$ emissions during construction that may be incorporated into the Construction Fugitive Dust Mitigation Plan include but are not limited to, the following:

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Apply non-toxic soil stabilizers consistent with manufacturer's recommendations to further reduce fugitive $PM_{2.5}$ emissions beyond reductions achieved by site watering.
- Ground cover on disturbed areas shall be replaced as quickly as possible.

- Vehicle speeds on unpaved roads or disturbed areas of the project site shall be limited to 10 miles per hour or less.
- Streets shall be swept once a day and immediately after the period of heaviest vehicular trackout activity if visible soil materials are carried to adjacent roadways.
- Install wheel washers where vehicles enter and exit unpaved roads/disturbed areas onto paved roads or wash off trucks and any equipment leaving the site each trip.
- Suspend earth-moving activities when wind speeds exceed 25 miles per hour
- Post a publicly visible sign with the telephone number and person at the lead agency to contact regarding dust complaints.

The Construction Fugitive Dust Management Plan shall include measures beyond those identified by BAAQMD's Standard Permit Conditions, if needed, in order to demonstrate that the necessary reduction in fugitive $PM_{2.5}$ described in this mitigation measure is achieved. Alternate measures that meet the standards may be substituted for those measures described above.

Table 8 and **Table 9** show the health risks associated with construction after implementation of **Mitigation Measures AQ-1** and **AQ-2**. This impact would be less than significant with mitigation.

Table 8 Construction-Period Health Risks After Mitigation

Scenario	Excess Cancer Risk (per million)	Chronic Health Risk[1]	$PM_{2.5}$ µg/m^3 Annual Average
Maximally Exposed Individual (MEI)	4.6	0.002	0.05
BAAQMD Significance Threshold	>10	>1	>0.3
Threshold Exceeded?	**No**	**No**	**No**
Net Decrease Achieved by Mitigation	611.4	0.32	1.6
Maximally Exposed Educational Receptor	0.2	<0.001	<0.01
BAAQMD Significance Threshold	>10	>1	>0.3
Threshold Exceeded?	**No**	**No**	**No**
Net Decrease Achieved by Mitigation	22.3	0.0	0.05

Source: Rincon 2020

[1]Noncancer health impacts are determined by dividing the airborne concentration at the receptor by the appropriate Reference Exposure Level (REL) for that substance. A REL is defined as the concentration at which no adverse noncancer health effects are anticipated. Because noncancer health impacts are assessed as the ratio of airborne concentration versus the REL, the resulting hazard index is unitless.

For model outputs, see **Appendix C**.

Table 9 Cumulative Construction-Period Health Risks After Mitigation

Source	Excess Cancer Risk (per million)	Chronic Health Risk[1]	$PM_{2.5}$ µg/m^3 Annual Average
Maximally Exposed Individual			
Mitigated Project Construction	4.6	0.002	0.05
Highways (I-680)[2]	32.4	--[5]	0.64
Major Streets (South Jackson Avenue, Capitol Expressway, Alum Rock Avenue)[3]	3.3	--[5]	0.08
Exxon Gas Station (Facility ID 112326)[4]	1.1	0.005	0.0
Cumulative Total	41.4	0.007	0.77
BAAQMD Significance Threshold	>100	>10	>0.8
Threshold Exceeded?	No	No	No
Maximally Exposed Educational Receptor			
Mitigated Project Construction	0.2	<0.001	<0.01
Highways (I-680)[2]	33.8	--[5]	0.67
Major Streets (South Jackson Avenue, Capitol Expressway, Alum Rock Avenue)[3]	3.5	--[5]	0.09
Exxon Gas Station (Facility ID 112326)[4]	1.1	0.005	0.0
Cumulative Total	38.6	0.005	0.76
BAAQMD Significance Threshold	>100	>10	>0.8
Threshold Exceeded?	No	No	No

Source: Rincon 2020

[1]Noncancer health impacts are determined by dividing the airborne concentration at the receptor by the appropriate Reference Exposure Level (REL) for that substance. A REL is defined as the concentration at which no adverse noncancer health effects are anticipated. Because noncancer health impacts are assessed as the ratio of airborne concentration versus the REL, the resulting hazard index is unitless.

[2]Based on health risk raster data for Highways provided by BAAQMD (BAAQMD 2019a).

[3]Based on health risk raster data for Major Streets provided by BAAQMD (BAAQMD 2019b).

[4]To provide a conservative analysis, the permitted stationary source was not adjusted based on distance using BAAQMD's multiplier tool.

[5]BAAQMD Highway and Major Streets raster files do not provide a chronic health risk value for these sources.

For model outputs, stationary, and roadway source screening calculations, see **Appendix C.**

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

Less than Significant. According to the BAAQMD Guidelines, examples of land uses that have the potential to generate considerable odors include, but are not limited to, wastewater treatment plants, landfills, confined animal facilities, composting stations, food manufacturing plants, refineries, and chemical plants (BAAQMD 2017a). Due to the nature of the project (i.e., a townhome development with

parking spaces and the inclusion of a street connection), it would not generate objectionable odors that would affect a substantial number of people because odors would be comparable to those generated by surrounding residential land uses. During construction, oil or diesel fuel odors may be emitted by heavy equipment. However, these odors would be temporary and only experienced during equipment use. Therefore, impacts would be less than significant.

2.4 Biological Resources

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and 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 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 established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	☒
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☒	☐
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan?	☐	☐	☐	☒

Environmental Setting

The project site consists of a single parcel partially developed with a single-story house and a detached garage on the eastern side of the parcel, closest to South Jackson Avenue. The remainder of the project site is undeveloped but heavily disturbed. The site is situated in an urban setting within the City, surrounded by residential and commercial development.

The site does not contain any natural vegetation communities and is characterized by ornamental landscape (lawn and trees). Most of the site consists of a mix of ornamental shrubs, trees, and non-

native annual grasses, but also contains ruderal and weedy plants. Plants that can be found at the project site include:

- Ripgut brome (*Bromus diandrus*)
- Crane's bill geranium (*Geranium mole)*
- Bull mallow (*Malva nicaeensis*)
- Cheeseweed (*Malva parviflora*)
- Mustards (*Brassica* spp.)
- Curly Dock (*Rumex crispus*)
- Pines (*Pinus* spp.)
- Canyon live oak (*Quercus chrysolepis*)
- California fan palm (*Washingtonia filifera*)
- Loquat (*Eriobotrya japonica*)
- Bougainvillea (*Bougainvillea spectabilis*)
- Calla lily (*Zantedeschia aethiopica*)
- Italian Cypress (*Cupressus sempervirens*)
- Brazilian Pepper (*Schinus terebinthifolius*)

Based on the most recent soil survey for Santa Clara Area, California, Western Part (U.S. Department of Agriculture, Natural Resources Conservation Service [USDA, NRCS] 2019), the study area contains one soil map unit: Urbanland-Clear Lake complex, 0 to 2 percent slopes, which occurs in developed disturbed areas and is composed of transported material. This soil type is derived from Alluvium derived from metamorphic and sedimentary rock and/or alluvium derived from metavolcanics. A typical soil profile consists of a silty clay to 66 inches. This soil type is poorly drained and is included on the hydric soils list. They are found in basin floors and have available water storage of 16.3 cm; however, there are no wetland soils present on site. The site has been previously graded and is surrounded by development.

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 and California Native Plant Protection Act

The California Endangered Species Act (CESA) 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 CESA, 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." The California Native Plant Protection Act (CNPPA) 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. Raptors (i.e., eagles, falcons, hawks, and owls) are specifically protected under Fish and Game Code Section 3503.5.

Local

City of San José General Plan

Various policies in the General Plan have been adopted for avoiding or mitigating biological resources impacts 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-4.4: Require that development projects incorporate mitigation measures to avoid and minimize impacts to individuals of special-status species.

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-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-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-6: As a condition of new development, require the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.

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

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

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

Policy MS-21.8: For Capital Improvement Plan or other public development projects, or through the entitlement process for private development projects, require landscaping including the selection and planting of new trees to achieve the following goals:

1. Avoid conflicts with nearby power lines.
2. Avoid potential conflicts between tree roots and developed areas.
3. Avoid use of invasive, non-native trees.
4. Remove existing invasive, non-native trees.

5. Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species.
6. Plant native oak trees and native sycamores on sites which have adequately sized landscape areas, and which historically supported these species.

City of San José Tree Ordinance

The City of San José Tree Removal Controls (San José Municipal Code, Sections 13.31.010 to 13.32.100) serve to protect all trees having a trunk that measures 38 inches or more in circumference at the height of 4.5 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 Habitat Plan/Natural Communities Conservation Plan

The project site is located within the boundaries of the Santa Clara Valley Habitat Plan and designated as Urban Development. The Santa Clara Valley Habitat Plan 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 Habitat Plan is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County.

Methodology

Agency databases and relevant literature were reviewed for baseline information on special status species[6] and other sensitive biological resources occurring or potentially occurring at the project site and in the immediate surrounding area. The following sources were reviewed for background information:

- CDFW California Natural Diversity Data Base (CNDDB) (CDFW 2020a) and Biogeographic Information and Observation System (BIOS) (CDFW 2020b)
- CDFW Special Animals List (CDFW 2019) and Special Vascular Plants, Bryophytes, and Lichens List (CDFW 2020c)
- California Native Plant Society (CNPS) Online Inventory of Rare and Endangered Plants of California (CNPS 2020)
- USFWS Information for Planning and Consultation (IPaC) (USFWS 2020a)

[6] Special status species are those plants and animals that are: 1) listed, proposed for listing, or candidates for listing as Threatened or Endangered by the USFWS and NMFS under the FESA; 2) listed or proposed for listing as Rare, Threatened, or Endangered by the CDFW under the CESA; 3) recognized as California Species of Special Concern (CSSC) by the CDFW; 4) afforded protection under MBTA or CFGC; and 5) occurring on Lists 1 and 2 of the CDFW California Rare Plant Rank (CRPR) system.

- USFWS Critical Habitat Portal (USFWS 2020b)
- USFWS National Wetlands Inventory (NWI) (USFWS 2020c)
- USDA Natural Resources Conservation Service (NRCS) Web Soil Survey (NRCS 2020)

The impacts analysis presented in this section is based in part on a biological reconnaissance survey conducted in February 2020, and in part on a review of the literature and databases listed above. The CNDDB (CDFW 2020a) was reviewed for recorded occurrences of special status plant and wildlife taxa in the region prior to conducting a reconnaissance-level field survey. For this review, the search included all occurrences within the United States Geological Survey (USGS) 7.5-minute topographic quadrangle encompassing the project site (San José East), and the eight surrounding quadrangles (Milpitas, San José West, Los Gatos, Santa Teresa Hills, Morgan Hill, Lick Observatory, Mt. Day, and Calaveras Reservoir). Strictly marine, estuarine, and aquatic species were excluded from further analysis given the upland terrestrial nature of the project site. Plant species with specific habitat requirements not present at the site such as vernal pools, alkali or serpentine soils, or higher elevation ranges were also excluded from this analysis. The NWI (USFWS 2020c) and the National Hydrography Datasets (USGS 2020) were reviewed for potential aquatic resources, including jurisdictional waters of the United States or waters of the State.

Impact Discussion

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

Less than Significant with Mitigation Incorporated. There are 42 special status plant species and 49 special status animal species that have been previously documented in the vicinity of the project site. These species were evaluated for the potential; to occur on the project site based on the habitat present and the project site's general condition and location.

Special Status Plants

A total of 42 special status plant species (CDFW 2020a, and CNPS 2020) were found to have a potential to occur in the region. Of these, all were excluded from potentially occurring on the project site based on a lack of suitable habitat conditions on the site or the site being outside of the species' known ranges. The graded site does not contain natural, native vegetation communities and is surrounded by development.

Special Status Wildlife

A total of 49 special status animal species (CDFW 2020a) were identified as potentially occurring in the region. Of these, all were excluded from potentially occurring on the project site based on a lack of suitable habitat conditions on the site and the isolation of the site from any natural habitat region.

The site contains suitable nesting habitat for migratory nesting birds including 37 trees, most of which are located along the northern property boundary. These trees comprise mature pine, canyon oak, Italian cypress, loquat, Mexican fan palm, and various fruit trees. Birds may nest in trees, shrubs, or directly on the ground. Birds that could nest in this type of habitat and were observed on site include Anna's hummingbird (*Calypte anna*), black phoebe (*Sayornis nigricans*), dark-eyed junco (*Junco*

hyemalis), and California towhee (*Melozone crissalis*). Of the 37 trees located on the project site, only two are proposed for removal: a canyon oak tree and a Mexican fan palm.

The single-story house is abandoned and contains broken windows that resident and migratory birds could enter/exit. However, people experiencing homelessness have been reported to live in the abandoned house, so the potential for birds to nest in the house is unlikely due to human presence. One nesting cavity with whitewash was identified at the front of the garage, below the gutters of the roof. Dark-eyed junco and California towhee were seen foraging through trash on the ground between the single-story house and garage.

Additionally, the study area contains suitable nesting habitat for species common to urban areas, including northern mockingbird (*Mimus polyglottos*), American crow (*Corvus brachyrhynchos*), and house finch (*Haemorhous mexicanus*). The nesting season in California generally extends from February 1st through August 31st but can vary based upon annual climatic conditions. Native bird nests are protected by California Fish and Game Code (CFGC) Section 3503. If nesting birds protected by the CFGC are present on-site during construction, direct effects could include injury or mortality from construction activity, or nest abandonment from construction noise, dust, and other activities. The project would be required to implement **Mitigation Measures BIO-1**, **BIO-2**, **BIO-3**, and **BIO-4** below to reduce impacts to nesting migratory birds during construction activities to a less than significant level.

Mitigation Measure BIO-1

- **Avoidance:** 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 15th (inclusive), as amended.

Mitigation Measure BIO-2

- **Nesting Bird Surveys:** If it is not possible to schedule demolition and construction between August 16th 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 immediately adjacent to the construction areas for nests.

Mitigation Measure BIO-3

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

Mitigation Measure BIO-4

- **Reporting:** Prior to any tree removal, or approval of any grading permits (whichever occurs first), the project applicant shall submit the ornithologist's 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, prior to issuance of any grading or building permits.

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 area consists of developed areas and ornamental landscape. There are no riparian habitats or sensitive natural communities in the project area. Therefore, no impacts would occur as a result of project activities.

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?

No Impact. The project area consists of developed areas and ornamental landscape, and no federally protected wetlands are present in the project area. Therefore, no impacts would occur as a result of project activities.

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

No Impact. The project area consists of developed areas and ornamental landscape and do not support wildlife movement. The site is within an urbanized area of the City and is surrounded by existing development. The species most likely to use the site as a wildlife corridor include common terrestrial species found in urban areas; such as northern raccoon (*Procyon lotor*) and Virginia opossum (*Didelphis virginiana*). These species are not likely to be affected by work in or near the project site. Therefore, no impacts to wildlife movement corridors would occur as a result of project activities.

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

Less than Significant. A total of 37 trees are located on site. The majority of the trees are either non-native ornamental plantings, or native species that have likely been planted. These trees include pine, canyon oak, Italian cypress, loquat, Mexican fan palm, and various fruit trees. Of the 37 trees located on the project site, only two are proposed for removal: a multi-trunk canyon oak located along the chain link fence on the north side of the site and a Mexican fan palm located in front of the single-story house.

Tree Replacement

The City of San José Municipal Code Section 13.32, Tree Removal Controls, requires a permit for the removal of any protected tree, among other requirements. Under the City's Tree Removal Controls, protected trees are any tree that are considered a street tree, heritage tree, ordinance-size tree (alive or dead), or any tree located on multifamily, commercial, industrial, or mixed-use property or in a common area. An ordinance-sized tree is considered a single trunk tree with 38 inches or more in circumference, or a multi-trunk tree with combined measurements of each trunk circumference adding up 38 inches or more. The two trees proposed for removal would be replaced according to tree replacement ratios required by the City, as provided in **Table 10** below, as amended.

Table 10 Tree Removal Ratios

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

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 equals two 15-gallon trees. Single-family and two-dwelling properties may be mitigated to a 1:1 ratio.

Source: City of San José 2020

The two trees proposed for removal qualify as protected trees under the municipal code because they are ordinance-sized trees with circumference greater than 38 inches. The Mexican fan palm is a single-trunk tree with circumference of 75 inches and the canyon oak is a multi-trunk tree with a combined circumference of 101 inches (JETT Landscape Architecture and Design Tree Removal Plan 2019). As shown in **Table 10**, the City requires ordinance-size trees on a single-family lot to be replaced with a minimum 15-gallon tree. The species of trees to be planted would be determined in consultation with the City Arborist and staff from 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 satisfaction of the Director of Planning, Building and Code Enforcement or the Director's designee, 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 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.

The trees along South Jackson Avenue, including a Brazilian pepper and sycamore (*Platanus* sp.), are not proposed for removal but are considered street trees. Street trees are those in the public right-of-way between the curb and sidewalk; in some areas, the public right-of-way may be up to 12 feet from the curb. Work in this area to relocate utilities underground may cause damage to street trees if work

occurs in the root zone. The City would require, through standard conditions of approval, adherence to the recommendations in the City of San José Municipal Code Section 13.32.130, Safeguarding Trees During Construction. This includes measures to protecting all trees during construction, including street trees. With implementation of the measures included in the City of San José Municipal Code municipal code, impacts would be less than significant.

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?

No Impact. The Habitat Plan for the region promotes the protection and recovery of natural resources, including endangered species, while accommodating the permitting process for planned development in Santa Clara County. The Habitat Plan includes Greenline/Urban Growth Boundaries to focus development and preserve valuable open space resources. Areas outside the boundary are intended to remain permanently rural in character and to contribute to the establishment of a permanent green belt along the City's eastern and southern edges. The project site is located within an urban development boundary and not in open space areas defined in the Habitat Plan. In addition, the project would be required to pay applicable development fees and abide by applicable conditions as stated in the Standard Permit Condition below. Therefore, the project would be consistent with the Habitat Plan and no impact would occur.

Standard Permit Condition:

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

2.5 Cultural Resources

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

Environmental Setting

This section is based on a Cultural Resource Assessment conducted by Rincon Consultants, Inc. in March 2020 (**Appendix H**) and a DPR form prepared by Urban Programmers in April 2018 (**Appendix B**).

Area of Potential Effects

The Area of Potential Effects (APE) for a project is defined in 36 Code of Federal Regulations (CFR) 800.16(d) as the "geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such property exists." The APE of the project is confined to the boundaries of the parcel at 101 South Jackson Avenue. The vertical APE for the project extends from a maximum of 5 feet below existing grade, to account for required construction-related excavation to 38 feet above ground to account for the project's maximum height. The APE is located in an urbanized are and is surrounded by residential and commercial uses. Townhomes and single-family residences border the project site to the south and west. The Cosmopolitan Evangelical Church is adjacent to the northeast side of the project site. Jackson Avenue borders the project site to the east, with a variety of retail and restaurant uses located across the street. Additionally, Rocketship Fuerza Community Prep is located across Jackson Avenue to the north. Two public roads—Woodset Court to the north and Woodset Drive to the south—dead end on either side of the western portion of the project site.

Regulatory Setting

Federal

The National Historic Preservation Act established the National Register of Historic Places (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, paleontological, and historical sites are protected by a wide variety of policies and regulations under the California Public Resources Code. Under the Public Resources Code, the State Historical Resources Commission is responsible for oversight of the California Register of Historical Resources (California Register) and designation of State Historical Landmarks and Historical Points of Interest. Key provisions of the Public Resources Code that provide protection to cultural and paleontological resources are outlined below.

- California Public Resources Code Sections 5097.9–5097.991 protects 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 Public Resources Code Section 5097.5 prohibits “knowing and willful” excavation, removal, destruction, injury, and defacement of any paleontological feature on public lands (lands under State, county, city, district, or public authority jurisdiction, or the jurisdiction of a public corporation), except where the agency with jurisdiction has granted permission.

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. In general, 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 criteria for listing on the California Register including the following:

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 also 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.

Treatment options for unique archaeological resources include preservation in place in an undisturbed state; excavation and curation or study in place without excavation and curation (if the study finds that the artifacts would not meet one or more of the criteria for defining a "unique archaeological resource").

Paleontological Resources

Treatment of paleontological resources under CEQA is generally similar to treatment of cultural resources, requiring evaluation of resources in a project's area of potential affect, assessment of

potential impacts on significant or unique resources, and development of mitigation measures for potentially significant impacts, which may include monitoring combined with data recovery and/or avoidance.

Native American Burials

California law protects Native American burials, 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

City of San José General Plan

Various policies in the General Plan have been adopted for 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.

Municipal Code – Historic Preservation Ordinance

The City's Historic Preservation Ordinance, contained in Chapter 13.48 of the Municipal Code, is designed to identify, protect, and encourage the preservation of significant resources and foster civic pride in the City's cultural resources. Section 13.48.020 of the Municipal Code defines structures of historical value based on the following criteria:

1) 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;
2) Identification as, or association with, a distinctive, significant or important work or vestige:
   a) Of an architectural style, design or method of construction;
   b) Of a master architect, builder, artist or craftsman;
   c) Of high artistic merit;
   d) The totality of which comprises a distinctive, significant or important work or vestige whose component parts may lack the same attributes;
   e) 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
   f) That the construction materials or engineering methods used in the proposed landmark are unusual or significant of uniquely effective.

The factor of age alone does not necessarily confer a special historical, architectural, cultural, aesthetic, or engineering significance, value or interest upon a structure or site, but it may have such effect if a more distinctive, significant or important example thereof no longer exists.

Impact Discussion

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

No Impact. A search of the California Historical Resources Information System (CHRIS) was conducted by Rincon on January 29, 2020 to identify all previously recorded cultural resources as well as previously conducted cultural resources studies within the project site and a half-mile radius surrounding it. The CHRIS search included a review of the National Register of Historic Places (NRHP), the California Register of Historical Resources (CRHR), the Office of Historic Preservation Historic Properties Directory, the California Inventory of Historic Resources, and the Archaeological Determinations of Eligibility list. The CHRIS search identified 37 cultural resource studies conducted previously within a half mile radius of the site. Of these studies, only one encompasses the APE, but did not involve any fieldwork on the current APE.

The existing structure on site was evaluated in April 2018 for potential eligibility as a historical resource (see **Appendix H**). Based on this evaluation, it was determined that the property does not qualify for listing in the California Register of Historic Resources because it does not meet any of the four criteria and has lost important aspects of integrity due to poor upkeep. Therefore, no impact would occur.

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

***Less than Significant*.** Based on the records search and pedestrian survey results (see **Appendix H**) no known prehistoric or historic period archaeological resources were identified within the APE. The Sacred Lands File search results were negative, and no Native American tribes provided information regarding archaeological resources. Additionally, the CHRIS records search indicated that the project site exhibits a relatively low sensitivity for containing intact, subsurface archaeological deposits. Therefore, with implementation of the following Standard Permit Condition, this impact would be less than significant.

Standard Permit Condition

Subsurface Cultural Resources. If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist in consultation with a Native American Tribal representative registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall examine the find. The archaeologist in consultation with the Tribal representative 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 is currently developed, and no known cultural resources are located at the project site. Although unlikely, it is possible that unmarked burials may be unearthed during project construction. In the event that human remains are discovered during construction, the project applicant would be required to implement the Standard Permit Condition outlined below. Implementation of the Standard Permit Condition Below would reduce this impact to a less-than-significant level.

Standard Permit Condition

Human Remains. If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the

qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

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

2.6 Energy

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	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

Electricity and Natural Gas

In 2018, California used 285,488 gigawatt-hours (GWh) of electricity, of which 31 percent were from renewable resources (CEC 2020a). California also consumed approximately 12,638 million U.S. therms (MMthm) of natural gas in 2018.

In February 2019, the City of San José launched San José Clean Energy (SJCE), a community choice aggregate program providing carbon-free electricity to municipal customers, residents and businesses in the City of San José. 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 (City of San José 2018). Electricity supplies, including those delivered to San José by PG&E, are regulated by the California Energy Commission (CEC). **Table 11** shows the electricity consumption by sector and total for PG&E. Natural gas for the project site would be provided by PG&E. **Table 12** shows PG&E's total natural gas consumption for its service area as well as consumption by sector. 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 11 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 2020

Notes: All usage expressed in GWh (CEC 2018a)

Table 12 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 2020

Notes: All usage expressed in MMthm (CEC 2018b)

Gasoline for Motor Vehicle Trips

In 2018, approximately 28 percent of the State's energy consumption was used for transportation activities (United States Energy Information Administration [EIA] 2019). 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 (CEC 2020b).

Regulatory Setting

State of California

Renewable Energy Standards

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

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

Building Codes

At the State level, the Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6, of the California Code of Regulations, was established in 1978 in response to a legislative mandate to reduce California's energy consumption. These energy efficiency standards are updated approximately every three years; the 2013 standards have been adopted and became effective July 1, 2014. The 2016 Code will be published on or before July 1, 2016 and will go into effect on January 1, 2017. 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 that establishes mandatory green building standards for all buildings in California. In 2013, the code was subsequently updated. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality.

Regional

Silicon Valley Energy Watch

The City of San José is a partner, along with PG&E and Ecology Action, in the Silicon Valley Energy Watch program. This program is designed to assist municipal governments, non-profits, small businesses, community organizations, professionals, and residents in Santa Clara County take advantage of cost-saving, energy-efficient technologies. The program offers free energy audits, targeted retrofits, technical assistance, education, and training.

City of San José

The Environmental Leadership Chapter (Chapter Three in 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. The Measure Sustainability subsection discusses energy conservation and renewable energy use Goals, Policies, and Actions, summarized below (City of San José 2011a):

Goal MS-2: Energy Conservation and Renewable Energy Use. Maximize the use of green building practices in new and existing development to maximize energy efficiency and conservation and to maximize the use of renewable energy sources.

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

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

Policy MS-14.3: Consistent with the California Public Utilities Commission's California Long Term Energy Efficiency Strategic Plan, as revised, and when technological advances make it feasible, require all new residential and commercial construction to be designed for zero net energy use.

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.

Climate Smart San José

The San José City Council adopted 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.

City Reach Code for Building Efficiency

In September 2019, San José City Council approved a building reach code ordinance that encourages building electrification and energy efficiency, requires solar-readiness on nonresidential buildings, and requires electric vehicle (EV) readiness and EV equipment installation. This building code is more advanced that building codes required by the State. Additionally, in October 2019, San José City Council approved an ordinance prohibiting natural gas infrastructure in new detached accessory dwelling units, single-family, and low-rise multi-family buildings that would supplement the reach code ordinance.

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

At the local level, the City sets green building standards for municipal development. All projects are required to submit a Leadership in Energy and Environmental Design (LEED),[7] GreenPoint,[8] or Build It Green checklist with the development proposal. The Private Sector Green Building Policy requires Applicable Projects to achieve minimum green building performance levels using the Council-adopted reference standards defined by Council Policy 6-32 and shown in **Table 13** below.

Table 13 Private Sector Green Building Requirements

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

Source: City of San José 2019b

[7] Created by the U.S. Green Building Council, LEED is a certification system that assigns points for green building measures based on a 110-point rating scale.

[8] Created by Build It Green, GreenPoint is a certification system that assigns points for green building measures based on a 381-point scale for multi-family developments and 341-point scale for single-family developments.

Methodology

The project's construction and operational energy usage were estimated using the California Emissions Estimator Model (CalEEMod), version 2016.3.2. CalEEMod uses project-specific information, including the project's land uses, square footages for different uses (e.g., condo/townhouse), and location, to estimate a project's construction and operational emissions and energy consumption. Consumption factors were drawn from CalEEMod for project natural gas and electricity consumption. Energy demand for off-road construction equipment is based on anticipated equipment, usage hours, horsepower, load factors, and construction phase duration provided by the CalEEMod output, as well as Exhaust and Crankcase Emission Factors for Nonroad Compression Ignition Engines.

Operational energy demand considers transportation-based fuel consumption as well as electricity and natural gas consumption associated with the project. Transportation fuel demand for operation of the project was estimated based on the annual vehicle miles travelled (VMT) generated after project buildout provided by the CalEEMod output. Electricity and natural gas consumption were also based on CalEEMod outputs and compared to existing consumption in the PG&E service areas.

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 demolition of existing structures, site preparation and grading, including hauling material off-site, pavement and asphalt installation, building construction, architectural coating, and landscaping and hardscaping.

The total consumption of gasoline and diesel fuel during project construction was estimated using the assumptions and factors from CalEEMod. **Table 14** summarizes the estimated construction energy consumption for the project. Diesel fuel consumption, including construction equipment operation, hauling trips, and vendor trips, would consume an estimated 44,536 gallons of fuel over the project construction period. Worker trips would consume an estimated 4,422 gallons of petroleum fuel during project construction.

Table 14 Estimated Fuel Consumption during Construction

Fuel Type	Gallons of Fuel	MMBtu[4]
Diesel Fuel (Construction Equipment)[1]	42,592	5,429
Diesel Fuel (Hauling & Vendor Trips)[2]	1,944	248
Other Petroleum Fuel (Worker Trips)[3]	4,422	485
Total	**48,958**	**6,162**

Source: Rincon 2020

[1]Fuel demand rate for construction equipment is derived from the total hours of operation, the equipment's horse power, the equipment's load factor, and the equipment's fuel usage per horse power per hour of operation, which are all taken from CalEEMod outputs (see Attachment 2), and from compression-ignition engine brake-specific fuel consumptions factors for engines between 0 to 100 horsepower and greater than 100 horsepower (United States Environmental Protection Agency [USEPA] 2018a). Fuel consumed for all construction equipment is assumed to be diesel fuel.

[2]Fuel demand rate for hauling and vendor trips (cut material imports) is derived from hauling and vendor trip number, hauling and vendor trip length, and hauling and vendor vehicle class from "Trips and VMT" Table contained in Section 3.0, Construction Detail, of the CalEEMod results (see Attachment 2). The fuel economy for hauling and vendor trip vehicles is derived from the United States Department of Transportation (DOT), Bureau of Transportation Statistics (DOT 2018). Fuel consumed for all hauling trucks is assumed to be diesel fuel.

[3]The fuel economy for worker trip vehicles is derived from DOT National Transportation Statistics (24 mpg) (DOT 2018). Fuel consumed for all worker trips is assumed to be gasoline fuel.

[4]CaRFG CA-GREET 2.0 fuel specification of 109,786 Btu/gallon used to identify conversion rate for fuel energy consumption for worker trips specified above. Low-sulfur Diesel CA-GREET 2.0 fuel specification of 127,464 Btu/gallon used to identify conversion rate for fuel energy consumption for construction equipment and hauling and vendor trips specified above (California Air Resources Board [CARB] 2015). Totals may not add up due to rounding.

The construction energy estimates represent a conservative estimate as the construction equipment used in each phase of construction was assumed to be operating every day of construction. Construction equipment would be maintained to all applicable standards as required by the United States Environmental Protection Agency (USEPA) Construction Equipment Fuel Efficiency Standard, and construction activity and associated fuel consumption and energy use would be temporary and typical for construction sites (USEPA 2018b). 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, and the construction-phase impact related to energy consumption would be less than significant.

Operational Energy Demand

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. The project's estimated number of average daily trips from CalEEMod is used to determine the energy consumption associated with fuel use from project operation. According to the CalEEMod calculations, the project would result in 126,201 annual vehicle miles travelled (VMT). **Table 15** shows the estimated

total annual fuel consumption of the project using the estimated VMT with the assumed vehicles for project operation.

Table 15 Estimated Project Annual Transportation Energy Consumption

Vehicle Type[1]	Percent of Vehicle Trips[2]	Annual Vehicle Miles Traveled[3]	Average Fuel Economy (miles/gallon)[4]	Total Annual Fuel Consumption (gallons)	Total Fuel Consumption (MMBtu)[5]
Passenger Cars	61.5	77,607	24.0	3,234	355
Light/Medium Trucks	32.2	40,603	17.4	2,334	256
Heavy Trucks/Other	5.8	7,328	7.4	990	126
Motorcycles	0.5	662	43.9	15	2
Total	**100.0**	**126,201**	–	**6,573**	**739**

Source: Rincon 2020

[1]Vehicle classes provided in CalEEMod do not correspond exactly to vehicle classes in DOT fuel consumption data, except for motorcycles. Therefore, it was assumed that passenger cars correspond to the light-duty, short-base vehicle class, light/medium trucks correspond to the light-duty long-base vehicle class, and heavy trucks/other correspond to the single unit, 2-axle 6-tire or more class.

[2]Percent of vehicle trips from Table 4.4 "Fleet Mix" in Air Quality and Greenhouse Gas Emissions Study, CalEEMod output (see Attachment 2).

[3]Mitigated annual VMT found in Table 4.2 "Trip Summary Information" in Air Quality and Greenhouse Gas Emissions Study CalEEMod output (see Attachment 2).

[4]Average Fuel Economy (DOT 2018)

[5]CaRFG fuel specification of 109,786 Btu/gallon used to identify conversion rate for fuel energy consumption for passenger cars, light/medium trucks, and motorcycle vehicle classes. Low-sulfur Diesel CA-GREET 2.0 fuel specification of 127,464 Btu/gallon used to identify conversion rate for fuel energy consumption of the heavy trucks/other vehicle class (CARB 2015).

Note: Totals may not add up due to rounding.

As shown in **Table 15**, the project would consume an estimated 6,573 gallons of fuel, or 739 MMBtu, each year for transportation uses from the operation. Operation of the project would consume approximately 0.04 GWh of electricity per year (electricity use provided in the CalEEMod output of **Appendix C**). The project's electricity demand would be served by SJCE, which provides carbon-free energy, allowing customers to choose between a 45 percent or a 100 percent renewable energy portfolio. The project's natural gas demand would be serviced by PG&E, which provided approximately 4,795 MMthm per year in 2018. Estimated natural gas consumption for the project would be approximately 0.001 MMthm per year, which would be less than 0.01 percent of PG&E's current natural gas demand (natural gas use provided in the CalEEMod output of **Appendix C**).

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.

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. Therefore, 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 under subsection a, 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 of San José GHG Reduction Strategy or "Climate Smart San José" 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 GHG Reduction Strategy was adopted as an appendix to the Envision San José 2040 General Plan and as such contains mandatory measures and amendments that apply to the City (City of San José 2011a). Therefore, the energy efficiency measures contained in the GHG Reduction Strategy contained in the 2040 General Plan are required and would be adhered to with project implementation.

Table 16 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 16**, 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 GHG Reduction Strategy or the 2040 General Plan's energy performance and efficiency strategies and would not conflict with or obstruct the State plan for renewable energy. Impacts would be less than significant.

Table 16 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 Renewable Portfolio Standard.
2.1 Densify our city to accommodate our future neighbors	**Consistent** The project would involve infill development that would densify the site and would not promote urban sprawl. Six VTA bus stops along routes 23, 70, and Rapid 522, and the Alum Rock light rail station along the Blue Line are located within 0.25 mile of the project site. With viable alternative transportation options, people have mobility options that may lead to less driving to the project site.
2.2 Make homes efficient and affordable for our residents	**Consistent** The project would be required to comply with San José's Municipal Code Title 24, which mandates the implementation of the Building Energy Efficiency Standards and CALGreen requirements of CCR Title 24. Additionally, the project would include two (defined as 50-80 percent of the area median income (AMI)), and two moderate income units (80-120 percent AMI), ensuring that these homes are available, efficient and affordable to local residents.
2.3 Create clean, personalized mobility choices	**Consistent** Six VTA bus stops along routes 23, 70, and Rapid 522, and the Alum Rock light rail station along the Blue Line are located within 0.25 mile of the project site. Additionally, there are Class 2 bike lanes along both sides of South Jackson Avenue that would allow for connectivity to and from the project site. With these viable alternative transportation options, people would have mobility options that may lead to less driving to the project site. Additionally, the project would provide two short-term and one long-term bicycle parking spaces.

Source: City of San José 2018

2.7 Geology and Soils

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
Would the project:				
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☐	☒
ii) Strong seismic ground shaking?	☐	☐	☒	☐
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
iv) Landslides?	☐	☐	☐	☒
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
c) Be located on 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 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	☐	☐	☒	☐
e) Have soils incapable of adequately supporting the use of septic tanks or alternative 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 geologic feature?	☐	☐	☒	☐

Environmental Setting

Rockridge Geotechnical prepared a Geotechnical Investigation Report for the project site in July 2019 (**Appendix D**) 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 marine and nonmarine Pleistocene-Holocene sedimentary rocks.[9] The entire parcel is composed of Urbanland-Clear Lake complex, 0 to 2 percent slope. The soil profile for Urbanland Clear Lake complex is silty clay.[10] The soil profile for Urbanland-Newpark complex is silty clay loam in the near-surface horizons, atop fine sandy loam in the lower horizons. Groundwater depth at the project site varies from approximately 6 to 12 feet below ground surface.

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[11], and no active faults have been mapped on the project site. However, there are several active faults located nearby capable of generating ground shaking at the project site, including Calaveras Fault (5.28 miles), Hayward Fault (6.83 miles), San Andreas (14.91 miles), Greenville Fault (19.26 miles), and Mount Diablo Fault (26.1 miles).[12]

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 Envision San José 2040 General Plan EIR (General Plan EIR) Figure 3.6-1 (Geologic and Seismic Hazards), the project site is 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

[9] Department of Conservation. 2010. *Geologic Map of California.* Available: http://maps.conservation.ca.gov/cgs/gmc/. Accessed: January 2020.

[10] Resources Conservation Service. *Web Soil Survey. Physical Soil Properties – Santa Clara Area, California Western Part*. Available: https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx. Accessed: January 2020.

[11] California Department of Conservation. *Geological Hazard Zones Map*. Available: https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf. Accessed: January 2020.

[12] 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: January 2020.

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.[13]

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.

Regulatory Setting

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

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.

[13] Santa Clara County. 2012. *Santa Clara County Geologic Hazard Zones*. Available: https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf. Accessed: January 2020.

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 and to issue appropriate maps. The maps are distributed to all affected cities, counties, and State agencies for their use in planning and controlling construction. Local agencies must regulate most development projects within the zones. Projects include all land divisions and most structures for human occupancy. Single-family wood-frame and steel-frame dwellings up to two stories not part of a development of four units or more are exempt. However, local agencies can be more restrictive than State law requires. 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 (CBC)

The Building Standards Commission is authorized by California Building Standards Law (1953) (Health and Safety Cody sections 18901 through 18949.6) to administer the process related to the adoption, approval, publication, and implementation of California's building codes. These building codes serve as the basis for the design and construction of buildings in California including within the City. The State of California establishes and updates building standards and every local agency enforcing building regulations, must adopt the provisions of the California Building Code (in Title 24, California Code of Regulations) within 180 days of its publication. Currently, the 2019 California Building Code 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 Municipal Code includes the City adopted 2019 California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes under ordinance No. 28166 (2019). These regulations are based upon the 2019 California Building Code and 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 City's Municipal Code. Requirements for grading and excavation permits and erosion control are included in Chapter 17.10 (Building Code, Part 6 Excavation and Grading).

Geologic hazards regulations in Chapter 17.10 of the Municipal Code 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) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:

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

No Impact. The project site is not located within an Alquist-Priolo Earthquake Fault Zone and no known active faults cross the project site. The nearest fault is the Calaveras Fault, which is located approximately five miles to the east. Therefore, no impact related to fault rupture 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

To avoid or minimize potential damage from seismic shaking, project construction shall use standard engineering and seismic safety design techniques. Complete building design and construction at the site in conformance with the recommendations of an approved geotechnical investigation. The geotechnical investigation report shall be reviewed and approved by the Department of Public Works as part of the building permit review and entitlement 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.

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) Result in substantial soil erosion or the loss of topsoil?

Less than Significant. Project construction would involve ground disturbing activities such as excavation, grading, and trenching. Such activities would expose soils and increase the potential for soil erosion from wind or stormwater runoff. As discussed in **Section 2.10, Hydrology and Water Quality**, the project would be subject to the City's National Pollutant Discharge Elimination System (NPDES) General Permit, urban runoff policies, and the Grading Ordinance erosion control measures. In addition, the project would be required to comply with the Standard Permit Conditions listed below to reduce soil erosion. This impact would be less than significant.

Standard Permit Condition

- Schedule all excavation and grading work in dry weather months or weatherize construction sites.
- Cover stockpiles and excavated soils with secured tarps or plastic sheeting.
- Install ditches to divert runoff around excavations and graded areas if necessary.
- Construct the project in accordance with standard engineering practices in the California Building Code, as adopted by the City. Obtain a grading permit from the Department of Public Works prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

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 2.7, 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. Therefore, this impact would be less than significant.

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

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.[14] With implementation of the standards set forth in the most recently

[14] 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.

approved CBC, along with compliance with City's Geologic Hazards Ordinance[15], the potential risks associated with expansive soils would be less-than-significant.

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. Therefore, no impact would occur.

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

Less than Significant. No known paleontological resources have been recorded at the project site or within the vicinity. Further, the project site is surrounded by residential development and adjacent to a church and an elementary school. Although not anticipated, construction activities associated with the project could significantly impact paleontological resources, if they are encountered. Implementation of the standard permit condition outlined below would avoid or reduce impacts to paleontological resources.

Standard Permit Condition

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

[15] The following excerpt is taken from Appendix G, 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.*"

2.8 Greenhouse Gas Emissions

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	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

Unlike emissions of criteria and toxic air pollutants, which have local or regional impacts, GHG emissions have a broader, global impact. Global warming associated with the "greenhouse effect" is a process whereby GHGs accumulating in the atmosphere contribute to an increase in the temperature of the earth's atmosphere. The most common GHGs contributing to global warming and associated climate change are carbon dioxide (CO_2) perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6), methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6). Emissions of GHGs contributing to global climate change are attributable to a variety of natural processes and human activities. Emissions of GHGs by human activities are associated with the transportation, industrial and manufacturing, utility, residential, commercial, and agricultural sectors. The project site is currently occupied by a vacant single-story home with a detached garage. Operation of the existing residence of the project site could generate GHGs; however, to provide a conservative estimation of GHG emissions for the project site, this analysis assumed that the project site currently produces zero GHG emissions.

Applicable Regulations

State

Assembly Bill 32 and CEQA

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

A Scoping Plan for AB 32 was adopted by CARB in December 2008. It contains the State's main strategies to reduce GHGs from business-as-usual emissions projected in 2020 back down to 1990 levels. Business-as-usual (BAU) is the projected emissions in 2020, including increases in emissions caused by growth, without any GHG reduction measures. The Scoping Plan has a range of GHG reduction actions, including direct regulations, alternative compliance mechanisms, monetary and non-monetary incentives, voluntary actions, and market-based mechanisms such as a cap-and-trade system. Per AB 32, the Scoping Plan must be updated every five years to evaluate the mix of AB 32 policies to ensure that California is on track to achieve the 2020 GHG reduction goal. The first update to the Scoping Plan was approved by CARB in May 2014. Additional State law and regulations related to the reduction of GHG emissions includes Senate Bill (SB) 375, the Sustainable Communities and Climate Protection Act, the State's Renewables Portfolio Standard for Energy Standard (SB 2X) and fleet-wide passenger car standards (Pavley Regulations).

The California Natural Resources Agency, as required under State law (Public Resources Code Section 21083.05) has amended the State Guidelines to address the analysis and mitigation of GHG emissions. In these changes to the Guidelines, Lead Agencies, such as the City, retain discretion to determine the significance of impacts from GHG emissions based upon individual circumstances. Neither CEQA nor the Guidelines provide a specific methodology for analysis of GHGs and under the amendments to the Guidelines, a Lead Agency may describe, calculate, or estimate GHG emissions resulting from a project and use a model and/or qualitative analysis or performance-based standards to assess impacts.

Senate Bill 375

Senate Bill (SB) 375 was enacted to expand the efforts of AB 32 by controlling indirect GHG emissions caused by urban sprawl. SB 375 provides incentives for local governments and applicants to implement new conscientiously planned growth patterns. This includes incentives for creating attractive, walkable, and sustainable communities and revitalizing existing communities. The legislation also allows applicants to bypass certain environmental reviews under CEQA if they build projects consistent with the new sustainable community strategies. Development of more alternative transportation options that would reduce vehicle trips and miles traveled, along with traffic congestion, would be encouraged. SB 375 enhances CARB's ability to reach the AB 32 goals by directing the agency in developing regional GHG emission reduction targets to be achieved from the transportation sector for 2020 and 2035. CARB works with the metropolitan planning organizations (e.g., Association of Bay Area Governments [ABAG] and Metropolitan Transportation Commission [MTC]) to align their regional transportation, housing, and land use plans to reduce vehicle miles traveled and demonstrate the region's ability to attain its GHG reduction targets. A similar process is used to reduce transportation emissions of ozone precursor pollutants in the Bay Area.

SB 350 Renewable Portfolio Standards

In September 2015, the California Legislature passed SB 350, which increases the State's Renewables Portfolio Standard (RPS) for content of electrical generation from the 33 percent target for 2020 to a 50 percent renewables target by 2030.

Executive Order EO-B-30-15 (2015) and SB 32 GHG Reduction Targets

In April 2015, Governor Brown signed Executive Order which extended the goals of AB 32, setting a greenhouse gas emissions target at 40 percent of 1990 levels by 2030. On September 8, 2016, Governor Brown signed SB 32, which legislatively established the GHG reduction target of 40 percent of 1990 levels by 2030. In November 2017, CARB issued *California's 2017 Climate Change Scoping Plan*. While the State is on track to exceed the AB 32 scoping plan 2020 targets, this plan is an update to reflect the enacted SB 32 reduction target.

The new Scoping Plan establishes a strategy that will reduce GHG emissions in California to meet the 2030 target (note that the AB 32 Scoping Plan only addressed 2020 targets and a long-term goal). Key features of this plan are:

- Cap and Trade program places a firm limit on 80 percent of the State's emissions;
- Achieving a 50-percent Renewable Portfolio Standard by 2030 (currently at about 29 percent statewide
- Increase energy efficiency in existing buildings
- Develop fuels with an 18-percent reduction in carbon intensity;
- Develop more high-density, transit-oriented housing;
- Develop walkable and bikeable communities
- Greatly increase the number of electric vehicles on the road and reduce oil demand in half
- Increase zero-emissions transit so that 100 percent of new buses are zero emissions;
- Reduce freight-related emissions by transitioning to zero emissions where feasible and near-zero emissions with renewable fuels everywhere else; and
- Reduce "super pollutants" by reducing methane and hydrofluorocarbons or HFCs by 40 percent.

In the updated Scoping Plan, CARB recommends statewide targets of no more than 6 metric tons CO_{2e} per capita by 2030 and no more than 2 metric tons CO_{2e} per capita by 2050. The statewide per capita targets account for all emissions sectors in the State, statewide population forecasts, and the statewide reductions necessary to achieve the 2030 statewide target under SB 32 and the longer-term State emissions reduction goal of 80 percent below 1990 levels by 2050.

Regional

BAAQMD CEQA Guidelines and 2010 Bay Area Clean Air Plan

BAAQMD identifies thresholds of significance for operational GHG emissions from land-use development projects in its guidelines (BAAQMD 2017a). These guidelines include recommended significance thresholds, assessment methodologies, and mitigation strategies for GHG emissions. Under the Guidelines, if a project would result in operational-related GHG emissions of 1,100 metric tons (MT) (also called the "bright line" threshold), or 4.6 metric tons per service population of carbon dioxide equivalents (CO_{2e}) per year or more, it would make a cumulatively considerable contribution to GHG emissions and result in a cumulatively significant impact to global climate change.[16] In jurisdictions

[16] The term "service population" refers to the total number of energy consumers for a project (i.e., the total number of residents and employees).

where a qualified Greenhouse Gas Reduction Strategy has been reviewed under CEQA and adopted by decision-makers, compliance with the Greenhouse Gas Reduction Strategy would reduce a project's contribution to cumulative GHG emission impacts to a less than significant level. The Guidelines also outline a methodology for estimating GHGs.

The Clean Air Plan is a multi-pollutant plan that addresses GHG emissions along with other air emissions in the San Francisco Bay Area Air Basin. One of the key objectives in the Clean Air Plan is climate protection. The Clean Air Plan includes emission control measures in five categories: Stationary Source Measures, Mobile Source Measures, Transportation Control Measures, Land Use and Local Impact Measures, and Energy and Climate Measures. Consistency of a project with current control measures is one measure of its consistency with the Clean Air Plan. The current Clean Air Plan also includes performance objectives, consistent with the State's climate protection goals under AB 32 and SB 375, designed to reduce emissions of GHGs to 1990 levels by 2020 and 40 percent below 1990 levels by 2035.

Post-2020 Impact Thresholds

Development of the project would occur beyond 2020, so the project would not be covered under the City's Greenhouse Gas Reduction Plan and therefore a threshold that addresses a future target is appropriate. CARB has completed a Scoping Plan, which will be utilized by BAAQMD to establish the 2030 GHG efficiency threshold. BAAQMD has yet to publish a quantified GHG efficiency threshold for 2030. The City has developed updated GHG thresholds reflecting statewide goals beyond 2020. GHG emissions resulting from operation of the project at maximum build out have been compared to a bright-line threshold consistent with State goals detailed in SB 32 EO B-30-15 and EO S-3-05 to reduce GHG emissions by 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050 respectively. Though BAAQMD has not published a quantified threshold for 2030 yet, this assessment uses a bright-line threshold of 660 MTCO2e/year, which is 40 percent below 2020 bright-line threshold of 1,100 MT CO2e. This was calculated for 2030 based on the GHG reduction goals of SB32 EO B-30-15. The service population metric of 2.6 is calculated for 2030 based on the 1990 inventory and the projected 2030 statewide population and employment levels.[17] The 2030 bright-line threshold is a 40 percent reduction of the 2020 1,100 MT CO_{2e}/year threshold.

Local

City of San José General Plan

The General Plan includes strategies, policies, and action items that are incorporated in the City's GHG Reduction Strategy to help reduce GHG emissions.[18] Multiple policies and actions in the General Plan have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings. The GHG Reduction Strategy is intended to meet the mandates outlined in the CEQA Statue and Guidelines Section 15183.5, which specifically addresses

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

[18] City of San José, 2011. *Greenhouse Gas Reduction Strategy for the City Of San José*. Updated 2015.

Greenhouse Gas Reduction Plans, as well as the BAAQMD requirements for Qualified GHG Reduction Strategies.

The City's GHG Reduction Strategy identifies GHG emissions reduction measures to be implemented by development projects as part of three categories: built environment and energy, land use and transportation, and recycling and waste reduction. Some measures are mandatory for all proposed development projects and others are voluntary and could be incorporated as mitigation measures for proposed projects, at the City's discretion.

The primary test for consistency with the City's GHG Reduction Strategy is conformance with the General Plan Land Use/Transportation Diagram and supporting policies. CEQA clearance for development proposals are required to address the consistency of individual projects with the goals and policies in the General Plan designed to reduce GHG emissions. Compliance with the mandatory measures and voluntary measures (if required by the City) would ensure an individual project's consistency with the GHG Reduction Strategy. Projects that are consistent with the GHG Reduction Strategy would have a less than significant impact related to GHG emissions through 2020 and would not conflict with targets in the currently adopted Climate Change Scoping Plan through 2020.

The environmental impacts of the GHG Reduction Strategy were analyzed in the General Plan EIR. Beyond 2020, the emission reductions in the GHG Reduction Strategy are not large enough to meet the City's identified 3.04 metric tons (MT) CO_{2e} (carbon dioxide equivalent)/SP (Substantial Progress) efficiency metric for 2035. An additional reduction of 5,392,000 MT CO_{2e} per year would be required for the projected service population to meet the City's target for 2035.[19]

Achieving the substantial communitywide GHG emissions reductions needed beyond 2020 cannot be done alone with the measures identified in the GHG Reduction Strategy adopted by the City Council in 2015. The General Plan EIR disclosed that it will require an aggressive multiple-pronged approach that includes policy decisions and additional emission controls at the federal and State level, new and substantially advanced technologies, and substantial behavioral changes to reduce single occupant vehicle trips—especially to and from workplaces. Future policy and regulatory decisions by other agencies (such as CARB, California Public Utilities Commission, California Energy Commission, Metropolitan Transportation Commission, and BAAQMD) and technological advances are outside the City's control, and therefore could not be relied upon as feasible mitigation strategies at the time of the latest revisions to the GHG Reduction Strategy. Thus, the City Council adopted overriding considerations for the identified cumulative impact for the 2020 to 2035 timeframe.

The General Plan includes an implementation program for monitoring, reporting progress on, and updating the GHG Reduction Strategy over time as new technologies or practical measures are identified. Implementation of future updates is called for in General Plan Policies IP-3.7 and IP-17.2 and

[19] As described in General Plan EIR, the 2035 efficiency target above, reflects a straight line 40 percent emissions reduction compared to the projected citywide emissions (10.90 MT CO_{2e}) for San José in 2020. It was developed prior to issuance of Executive Order (EO) S-30-15 in April 2015, which calls for a statewide reduction target of 40 percent by 2030 (five years earlier) to keep on track with the more aggressive target of 80 percent reduction by 2050. The necessary information to estimate a second mid-term or interim efficiency target (e.g., statewide emissions, population and employment in 2030) is being developed by CARB.

embodied in the GHG Reduction Strategy. The City recognizes that additional strategies, policies and programs, to supplement those currently identified, will ultimately be required to meet the mid-term 2035 reduction target of 40 percent below 1990 levels in the GHG Reduction Strategy and the target of 80 percent below 1990 emission levels by 2050.

City of San José Municipal Code

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

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

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

This policy establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. This policy is intended to enhance the public health, safety and welfare of residents, workers, and visitors by fostering practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water and other resources in the City. The green building standards required by this policy are intended to advance GHG reduction and other sustainability strategies outlined in the City's Green Vision. Green building reduces per capita energy use, provides energy from renewable sources, diverts waste from landfills, uses less water and encourages the use of recycled wastewater. Green building also encourages buildings to be located close to public transportation and services and provide amenities that encourage walking and bicycling and therefore offer further potential to achieve a healthy, environmentally sustainable City.

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.[20]

San José's Reach Code

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

[20] The City is currently in the process of completing an update to the GHG Reduction Strategy which will expand on Climate Smart San José, in response to Senate Bill 32, which required GHG emissions to be reduced by 40 percent below 1990 levels by 2030.

Impact Discussion

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

Construction

Less than Significant. Project-related construction emissions would be temporary. Therefore, construction-related GHG emissions were amortized over a 50-year period to determine the annual construction-related GHG emissions over the life of the project. As shown in **Table 17**, project construction would result in an average of approximately 8.5 MT of CO_2e per year. GHG emissions associated with construction were calculated to be 424.4 MT of CO_2e for the three-year construction period.

Table 17 Combined Annual Emissions of GHGs

Construction	Project Emissions (MT/yr CO2e)
2021	119.3
2022	158.2
2023	146.9
Total	424.4
Total Amortized over 50 Years	8.5

Source: Rincon 2020

See **Appendix C** for CalEEMod worksheets. Values are rounded to the nearest tenth.

Neither the City nor BAAQMD have established a quantitative threshold or standard for determining whether a project's construction-related GHG emissions are significant. However, the project would be required to comply with the City's Construction and Demolition Diversion Program, which ensures that at least 75 percent of the construction waste is diverted from landfills. Per General Plan Policy MS-13.1, the project would also implement all basic BAAQMD BMPs (listed as Standard Permit Conditions in **Section 2.3, Air Quality**) to reduce short-term construction-related diesel emissions. As a result, construction-period GHG emissions would be less than significant.

Operation

Operational emissions include area sources (consumer products, landscape maintenance equipment, and painting), energy use (electricity and natural gas), solid waste, electricity to deliver water, and transportation emissions and are shown in **Table 18**.

To meet the emission reduction target of 40 percent below the 1990 level by 2030 the BAAQMD threshold has been adjusted based on the project's operational year of 2024. To be consistent with SB 32, the project would need to emit no more than 660 MT CO_2e to be on trajectory to meet the 2030 reduction established by SB 32. As shown in **Table 18**, total emissions associated with the project are estimated to be approximately 96 MT of CO_2e per year. Therefore, total GHG emissions associated with the project would not exceed the 660 MT of CO_2e per year adjusted threshold of significance and would not conflict with SB 32. Therefore, this impact would be less than significant.

Table 18 Annual GHG Emissions

Emission Source	Commercial Building
Construction	8.5
Operational	
Area	0.7
Energy	12.5
Solid Waste	3.2
Water	1.3
Mobile	
CO_2 and CH_4	60.1
N_2O	9.6
Total	**95.9**
BAAQMD Threshold (*Adjusted for SB 32*)	660
Exceeds Threshold?	No

Source: Rincon 2020

See **Appendix C** for CalEEMod worksheets. Values are rounded to the nearest tenth

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

Less than Significant. The City has adopted a GHG Reduction Strategy as a supplement to the Envision San José 2040 General Plan and recently adopted the Climate Smart San José, which offers GHG reduction strategies related to energy and mobility. The GHG reduction strategy includes mandatory measures for all projects and others that are voluntary and that could be incorporated as mitigation measures for proposed projects, at the discretion of the City. **Table 19** shows that the project would be consistent with the goals, targets, and policies of Plan Bay Area 2040, the City of San José GHG Reduction Strategy, and the Climate Smart San José.

Table 19 GHG Reduction Policy Consistency Analysis

Goals, Targets, and Policies	Project Consistency Analysis
Plan Bay Area 2040	
Plan for housing sufficient to house 100% of the Bay Area's future workers and residents from all income levels, without displacing current low-income residents.	**Consistent** The project would be a compact infill development that would add 14 new townhomes on a site currently developed with a single-family residence. As discussed in **Section 2.3, Air Quality**, the project would not add substantial additional residents or employees. The existing single-family residence on the site is currently vacant and permitted by the City to be demolished. Therefore, the project would not displace current low-income residents.
Preserve agriculture and open space by planning	**Consistent**

Goals, Targets, and Policies	Project Consistency Analysis
direct development within urban footprint	The project is a compact infill development located within a dense urban area of San José and is not on or adjacent to any agricultural land.
City of San José GHG Reduction Strategy	
Compliance with the City Green Building Ordinance	**Consistent** The project would be required to comply with the City's Green Building Ordinance. The Green Building Ordinance requires all Tier 2 projects, such as the project, to receive a minimum green building certification of LEED Silver.
New construction must be developed as green buildings.	**Consistent** The project would include the following green building features: ▪ Heat pumps for HVAC and heat pump water heaters. ▪ Recycled content laminate flooring ▪ Bicycle racks and lockers ▪ Passive solar layout and active solar roof orientation ▪ Pre-wired parking spaces for EV capability ▪ PV systems sized to provide renewable power for the chargers
Increased density of development	**Consistent** The project would be a compact infill development, based on CAPCOA guidelines (2010), and would include the construction of 14 townhomes. Therefore, the project would have a net increase in units on site and replace older buildings by demolition of the existing structure subject to the Green Building Codes.
Climate Smart San José	
Complete Streets	**Consistent** The paved street connection of Woodset Court and Woodset Drive would encourage walkability and bicycling in the adjacent neighborhoods. Providing pedestrian friendly streets is codified under California's 2008 Complete Streets Act.
Densify land-use to make room for anticipated new residents	**Consistent** The project would replace a single-family residence with new residences at a greater density.
San José Reach Code (Ordinance No. 30311)	
Natural Gas Infrastructure Prohibition and Reach Code Ordinances require low-rise multifamily to code Electric Vehicle Charging Infrastructure (EVCI): Low-rise Multi-family: 10%	**Consistent** The project would comply with Energy Standards, Subchapter 7, Sections 150.0 (a) through (s) which applies to newly constructed low-rise residential buildings. Every parking space would be pre-wired for EVCI capability and photovoltaic systems to provide renewable power for the charging stations will be incorporated on the project site. All units would be all-electric and would not include natural gas.

Source: Plan Bay Area 2040, 2019. City of San José GHG Reduction Strategy, 2019. Climate Smart San José, 2018. San José Reach Code (Ordinance No. 30311), 2019.

As shown in **Table 19**, the project would be consistent with Plan Bay Area 2040, the City of San José GHG Reduction Strategy, City of San José Municipal Code provisions of the 2019 California Green Building Code Standards Code, and the Climate Smart Plan. According to the adjusted BAAQMD GHG significance thresholds, a project's GHG emissions would be less than significant if they are less than 660 MT/year of CO_2e. The estimated net increase in emissions associated with operation of the project would be approximately 96 MT/year CO_2e. Therefore, the project would not conflict with the adjusted BAAQMD GHG threshold and no impact would occur.

2.9 Hazards and Hazardous Materials

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

Environmental Setting

Cornerstone Earth Group prepared a Phase I Environment Site Assessment (ESA) for the project site in January 2020 (**Appendix E**). A review of historical records found that the project site consisted mainly of agricultural land (orchards and row crops) with widely spaced residences. Beginning in the late 1940s, an increase in residential development is apparent in the site vicinity. Historically, the project site does not appear to have been occupied by business that would be associated with the use or storage of hazardous materials.

The Phase I ESA detected several closed cases on the leaking underground storage tank (LUST) database adjacent, and across the street from the project site. Ryland Homes and Mayfair Nurseries, adjacent to the south, are flagged in the LUST database for the removal of diesel and gasoline underground storage

tanks (USTs) in 1991 and 2000. These cases were closed by Santa Clara Valley Water District and appear unlikely to have significantly impacted the project site. The Phase I ESA also identified two Recognized Environmental Conditions (REC), which include the presence or likely presence of hazardous substances on the project site. The Phase I ESA revealed a history of agricultural use on site, and the presence of lead-based paint flaking off structures into soils around the detached garage.

In addition to the Phase I ESA, a Phase II ESA was conducted in May 2020 to evaluate potential impacts to soil quality (**Appendix F**). The findings of the Phase II ESA soil samples are discussed in the **Impact Discussion** section below.

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 Santa Clara County Department of Environment Health (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. DTSC regulates hazardous waste in California primarily under the authority of the federal RCRA and the California Health and Safety Code. The San Francisco Bay Regional Water Quality Control Board (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 CalEPA 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).

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-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.

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?

Construction

Less than Significant. Construction of the proposed project would involve the use of materials that are generally regarded as hazardous, such as gasoline, hydraulic fluids, paint, and other similar materials. Operation of the proposed project would include the use and storage on-site of cleaning supplies in small quantities. No other hazardous materials would be used or stored on-site.

In accordance with federal and State law, the project would be required to disclose hazardous materials handled at reportable amounts. The small quantities of cleaning supplies and materials would not pose a risk to site users or adjacent land uses. 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 during construction and operation 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? and

c) 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. The project site is located within 0.25 mile of the Rocketship Fuerza Community Prep charter school. Paints, oils, absorbents, cleaners, and pesticides for landscaping would be used in relatively small quantities during construction and operation of the project. Therefore, the use of these materials would not create a significant hazard to the public, the environment, or local schools.

Given the age of the existing structure on the project site, it is also possible that asbestos-containing materials (ACMs) or lead-based paint materials are present and could create hazardous conditions during construction. The project would demolish the existing structure which could release asbestos particles and expose construction workers and nearby residents to harmful levels of asbestos. As a result, an asbestos survey must be conducted under the National Emission Standards for Hazardous Air Pollutants (NESHAP) guidelines. The project would be required to remove all potentially friable ACMs prior to building demolition that may disturb the ACMs.

If lead-based paint is still bonded to the building materials, its removal is not required prior to demolition. It will be necessary to follow the requirements outlined by CalOSHA Lead in Construction Standard, Title 8, CCR 1532.1 during demolition activities; these requirements include employee training, employee air monitoring, and dust control. If lead based paint is peeling, flaking, or blistered, it will be removed prior to demolition. It is assumed that such paint will become separated from the building components during demolition activities and must be managed and disposed of as a separate waste stream. Any debris or soil containing lead paint or coating must be disposed of at landfills that are permitted to accept such waste.

The project applicant would be required to implement the following standard permit condition to reduce the potential impacts from the routine transport and disposal of ACMs and lead.

Standard Permit Conditions

- Conduct a visual inspection/pre-demolition survey, and possible sampling in conformance with State and local laws, to determine the presence of asbestos-containing materials (ACMs) and/or lead-based paint (LBP) prior to the demolition of on-site building(s).
- Remove all building materials containing lead-based paint during demolition activities, in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Dispose any debris or soil containing lead-based paint or coatings at landfills that meet acceptance criteria for the type of lead being disposed.
- Remove all potentially friable asbestos containing materials (ACMs) in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. Undertake all demolition activities in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.

- Retain a registered asbestos abatement contractor 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 Bay Area Air Quality Management District (BAAQMD) regulations. Remove materials containing more than one-percent asbestos in accordance with BAAQMD requirements and notifications.
- Implement the following conditions in accordance with Cal/OSHA rules and regulations, to limit impacts to construction workers.
  - Prior to commencement of demolition activities, complete a building survey, including sampling and testing, to identify and quantify building materials containing lead-based paint.
  - During demolition activities, remove all building materials containing lead-based paint in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR, Section 1532.1, including employee training, employee air monitoring and dust control.
  - Dispose any debris or soil containing lead-based paint or coatings at landfills that meet acceptance criteria for the type of waste being disposed.

Given that hazardous materials would be properly used and stored on site, and ACMs and lead would be handled and disposed of according to the above Standard Permit Condition, this impact would be less than significant.

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

Less than Significant. A review of federal, State, and local regulatory agency databases including a search of the lists compiled pursuant to Government Code Section 65962.5 was conducted as part of the Phase I ESA (**Appendix E**). The project site was not identified on any of the relevant lists, but two leaking underground storage tank (LUST) cases were identified on the adjacent property to the south (115 South Jackson Avenue). Several years of remedial activities, including the removal of diesel and gasoline USTs in 1991 and 2000, have reduced hazards associated with this site. Approximately 935 cubic yards of impacted soil have been removed from the affected property and the LUST cases were closed by the Santa Clara Valley Water District in 1995 and 200, respectively. The Phase I ESA concluded that the contamination at 115 South Jackson Avenue was unlikely to have significantly impacted the 101 South Jackson Avenue project site.

In addition to the LUST cases, the Phase I ESA identified potential historical agricultural uses and soil impacted with lead-containing paint from weathering and/or peeling structures on the project site. A Phase II ESA was conducted in May 2020 to collect soil samples to evaluate potential impacts to soil quality (**Appendix F**). The Phase II ESA identified elevated lead in one sample location located near the detached garage, likely as a result of weathering of lead paint on the structure. Soils containing lead would be disposed of safely, in accordance with the Standard Permit Condition described under threshold **(a)** above. The Phase II soil testing did not detect organochlorine pesticides (OCPs) or arsenic above their respective residential environmental screening criteria or (for arsenic) published background concentrations. Therefore, past agricultural uses identified in the Phase I ESA did not result in soil

contamination and the project would not result in a hazard to the public or the environment. This 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 or excessive noise for people residing or working in the project area?

No Impact. The project site is located 2.1 miles northwest of Reid Hillview Airport, and 4.89 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.[21,22] 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. Instead, the project would create a connection between two previously disconnected roadways, Woodset Court and Woodset Drive. With the connection of these roadways, local roadway circulation would improve and would facilitate implementation of emergency response plans and emergency evacuation plans. No impact would occur.

g) Expose people or structures either directly or indirectly, to a significant 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 (CALFIRE), the project site is not located within a Very High Hazard Severity Zone. No impact would occur.[23]

[21] 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 January 2020.

[22] 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 January 2020.

[23] California Department of Forestry and Fire Protection. 2007. *Santa Clara County Fire Hazard Severity Zones in SRA.* Available: https://osfm.fire.ca.gov/media/6766/fhszs_map43.pdf. Accessed: January 2020.

2.10 Hydrology and Water Quality

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
Would the project:				
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality?	☐	☐	☒	☐
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☒	☐
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:	☐	☐	☒	☐
i) Result in substantial erosion or siltation on- or off-site;	☐	☐	☒	☐
ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or 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?	☐	☐	☒	☐
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 approximately 0.37 mile from Lower Silver Creek, which flows north, under the Alum Rock Bridge, and west into Coyote Creek and the San Francisco Bay. This region is part of the Coyote Creek Watershed. Ground water levels were measured during a field investigation at 12.2 and 13.8 feet below ground surface. According to the General Plan EIR, the project site is not located within a dam failure inundation area. All the dams potentially affecting San José fall under the jurisdiction of the

California Division of Safety of Dams (DSOD) and some also fall under Federal Energy Regulatory Commission (FERC) jurisdiction. DSOD inspects each dam on an annual basis to ensure the dam is safe, performing as intended, and not developing problems. All the upstream dams are classified as high hazard dams, because their failure would result in a significant loss of life and property damage.

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.

Regulatory Setting

Federal Emergency Management Agency

The 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 identify flood hazard zones within a community. Firm Maps designate 100-year floodplain zones and delineate other flood hazard areas. A 100-year floodplain zone is the area that has a one in one hundred (1 percent) chance of being flooded in any one year based on historical data. Areas subject to the 1 percent flood are designated as Zone AE, A, AH, or AO on the FEMA flood maps. The project site is in Flood Zone AO, which is defined as an area of 1 percent annual chance shallow floodplain.[24]

National Pollutant Discharge Elimination System (NPDES) Permit Program

The National Pollutant Discharge Elimination System (NPDES) permit program controls sources that discharge pollutants into waters of the United States (e.g., streams, lakes, bays, etc.). For the City, these regulations are implemented at the regional level by the San Francisco Bay RWQCB. The RWQCB is responsible for protecting the quality of surface water and groundwater by issuing and enforcing compliance with the NPDES permits and by preparation and revision of the relevant Regional Water Quality Control Plan, also known as the Basin Plan.

The San Francisco Bay RWQCB also has issued a Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008). Under the Municipal Regional Stormwater NPDES Permit, development 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 one acre or more of impervious surfaces.

In addition to water quality controls, the Regional Municipal NPDES permit has hydromodification[25] controls as defined in the Hydromodification Management Plan. The NPDES permit requires all new and redevelopment projects that create or replace one acre or more of impervious surface to manage

[24] FEMA. 2014. *FEMA Flood Map Service Center*. Available: https://msc.fema.gov/portal/search?AddressQuery=101%20South%20Jackson%20Avenue%20San%20Jose%20CA%20#searchresultsanchor. Accessed March 2020.

[25] 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.

development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks.

Statewide Construction General Permit

The SWRCB has implemented a NPDES General Construction Permit for the State of California. Projects that would disturb more than one 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 best management practices (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.

Groundwater Management Plan

The 2016 Groundwater Management Plan for the Santa Clara and Llagas Subbasins (GWMP) describes the district's groundwater sustainability goals, and the strategies, programs, and activities that support those goals. The Groundwater Management Plan satisfies the objectives of the Sustainable Groundwater Management Act enacted by the State legislature in 2014. The 2016 GWMP covers the Santa Clara and Llagas subbasins, located entirely in Santa Clara County.

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 onsite.

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

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

The City of San José'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 of San José's Post-Construction Hydromodification Management Policy 8-14 requires all new and redevelopment projects that create or replace 1 acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. 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.

Impact Discussion

a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface 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 a Notice of Intent (NOI)[26]

The project would connect to existing sewer and stormwater systems, and (as described below) would not be subject to the NPDES General Construction Permit which would require submittal of a NOI since the project would not disturb over an acre of land. Therefore, the project would not violate waste discharge requirements.

Construction

Construction of the project would include excavation, grading, trenching, and other activities across the project site. Construction activities have the potential to result in runoff that contains sediment and other pollutants (i.e., chemical substances from construction materials and hazardous or toxic materials, such as fuels) that could degrade water quality if not properly controlled. Because project construction would not disturb over 1 acre, the project would not be subject to a NPDES General Construction Permit. As the project does not require a NPDES permit, it is assumed that the project is below the threshold for projects that would substantially degrade water quality.

Under existing conditions, the developed project site contains 3,240 square feet of impervious surface areas and 34,382 square feet of pervious areas. Project construction would replace and create 29,191 square feet of new impervious area. Project construction would reduce the total pervious surface area to 8,431 square feet. As the project would create and 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 Permit and the City's Post-Construction Urban Runoff Policy 6-29. In order to meet these

[26] An NOI for a general permit is notice to the NPDES permitting authority of the operator's intent to be covered under the general permit. An NOI typically contains basic information about the site and the proposed discharge.

requirements, the project would include landscaping that promotes surface infiltration and pervious pavement where possible as a treatment system.

The potential for impacts to groundwater quality during construction is unlikely because excavation depths are only expected to reach a maximum of five feet below ground surface. As stated in the Environmental Setting, the ground water table exists between 12.2 and 13.8 feet below ground surface. Water from construction would be treated using pervious pavement. Additionally, through compliance with the provisions of the Municipal Regional Stormwater Permit (MRP) and the City's Post-Construction Urban Runoff Policy 6-29, impacts to water quality would be considered less than significant.

Pursuant to the Construction General Permit and City requirements, the following Standard Permit Conditions have been included in the project as a condition of project approval to reduce potential construction-related water quality impacts.

Standard Permit Conditions

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

Development of the project would result in the replacement/creation of more than 10,000 square feet of impervious surface area; therefore, the project would be required to comply with the runoff treatment control requirements of the City of San José Post-Construction Urban Runoff Policy 6-29 and Provision C.3 of the MRP.

The MRP requires that post-construction stormwater runoff be treated using numerically sized Low Impact Development (LID) treatment controls, such as biotreatment facilities, unless the project is granted Special Project LID Reduction Credits, which would allow the project to implement non-LID measures for all or a portion of the site depending on the project characteristics. Source control measures proposed include beneficial landscaping, the use of water efficient irrigation systems, pavement sweeping, catch basin cleaning, and storm drain labeling.

With implementation of a Stormwater Control Plan consistent with RWQCB and compliance with the City's regulatory policies pertaining to stormwater runoff, operation of the proposed project would have a less than significant water quality impact.

Operation

The project would not generate wastewater that would impact water quality standards during the operation of the project. The project would accumulate small quantities of heavy metals, oil and grease, as well as an increase in other chemicals by residential motor vehicles. The total amount of runoff generated by the project may increase compared to existing conditions, but stormwater runoff would drain into the treatment areas prior to entering the storm drainage system. Given this, operational stormwater impacts would be less than significant.

b) Substantially decrease 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 located in a confined area of the Santa Clara Subbasin, outside of the Santa Clara Plain and Coyote Valley groundwater recharge areas.[27] Excavation at the project site would reach depths of five feet below the surface and would not encounter the groundwater table, which lies at 12.2 feet below ground surface. The project does not include installation of new groundwater wells or other improvements that would deplete groundwater supplies.

The project site currently contains 3,240 square feet of impervious surfaces and 34,382 square feet of pervious surfaces. The proposed project would increase impervious surface to 29,191 square feet and decrease the pervious surface to 8,431 square feet. The project would include landscaping that promotes stormwater infiltration where possible and would implement a bioretention basin without a liner along South Jackson Avenue. With implementation of these design features, the project would not substantially decrease groundwater recharge on the project site. Therefore, this impact would be less than significant.

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:

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

or

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

or

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 flat, and project implementation would not substantially alter the existing drainage pattern or the course of a stream or river on the site. However, construction would include excavation, grading, trenching and other activities that would result in ground disturbance.

The project has been designed not to increase the rate or amount runoff flow that would exceed the capacity of existing or planned stormwater drainage systems. As described above in **Section 2.10,**

[27] Santa Clara Valley Water District (Valley Water). Groundwater Management Plan. 2016

Hydrology and Water Quality, threshold **(a),** the project would also be required to complete a Stormwater Evaluation Form[28] in compliance with Provision C.3 of the Municipal Regional Stormwater Permit, as the project would replace more than 10,000 square feet of impervious surface. Project implementation would increase impervious surfaces from 3,240 to 29,191 square feet and would reduce the total pervious surface area from 34,382 to 3,240 square feet. Therefore, the project would implement design, source control, and treatment system measures as stipulated in Provision C.3 of the Municipal Regional Stormwater Permit. This would include landscaping that promotes surface infiltration and using bioretention areas and pervious pavement for water treatment. 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?

Less than Significant. The project site is located in Flood Zone AO, which is an area subject to inundation by one-percent-annual-chance shallow flooding. Therefore, the project would require the import of approximately 1,435 cubic yards of fill to meet FEMA base flood elevation (BFE) requirements. The project would also meet the criteria for flood drainage as development assumed under the General Plan.

The project site is located within the dam inundation zone for the Anderson dam. The project site, similar to the surrounding area, would be at risk of flooding as a result of the failure of this dam. As mentioned above, this dam is under the jurisdiction of the California Division of Safety of Dams (DSOD) and the FERC. According to the General Plan, the risks of dam failure are reduced by several regulatory inspection programs and risks to people and property in the San José area are reduced by local hazard mitigation planning. DSOD inspects each dam on an annual basis to ensure the dam is safe, performing as intended, and not developing problems.

The project site is located approximately 30 miles east of the Pacific Ocean and approximately 7 miles south of 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. 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. Finally, the flat topography of the project site and its immediate surroundings reduce the likelihood of mudflows. Based on the above, impacts from flood hazard, tsunami, or seiche would be less than significant.

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

Less than Significant. Construction permits would require compliance with the provisions of the Municipal Regional Stormwater Permit and the City's Post-Construction Urban Runoff Policy 6-29 in order to ensure water quality control standards are met. The project would also comply with the Groundwater Management Plan for the Santa Clara Subbasin. Therefore, this impact would be less than significant.

[28] City of San José Planning Division. StormWater Evaluation Form. Form #120. 6/14/17

2.11 Land Use and Planning

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

Environmental Setting

The project site is located in an urbanized area and is surrounded by Residential Neighborhood, Public/Quasi-Public, and Urban Village land uses. Northwest of the project on Alum Rock Avenue, though not visible from the project site, is the Alum Rock Urban Village, which is intended to provide housing, and commercial uses between King Road and I-680. Existing neighborhoods comprising single-family homes border the project site to the west and south. The Cosmopolitan Evangelical Church is located immediately north of the project site and Rocketship Fuerza Community Prep is located to the east, across South Jackson Avenue.

The project's General Plan land use designation is Residential Neighborhood, and the project is zoned R-1-8 Single-Family Residential (up to eight dwelling units per acre). Per the City's General Plan and Code of Ordinances, the Residential Neighborhood land use designation and R-1-8 Zoning District support single-family residential neighborhoods, including suburban and traditional residential neighborhood. This designation limits new development to infill projects which conform to prevailing existing neighborhood character. New infill development should improve and/or enhance existing neighborhood conditions by bringing infill properties to conformance with the quality and character of surrounding neighborhood.

Regulatory Setting

Santa Clara Valley Habitat Plan

The City is under the jurisdiction of the Santa Clara Valley Habitat Plan (Habitat Plan), a collaborative effort intended to protect and enhance ecological diversity and function within a large section of Santa Clara County, while allowing for currently planned development and growth. The Habitat Plan provides a framework for the protection of natural resources while streamlining and improving the environmental permitting process for both private and public development, including activities such as road, water, and other infrastructure construction and maintenance work. The Habitat Plan is intended to provide environmental benefit by resulting in the creation of several new habitat reserves larger in scale and

more ecologically valuable than the fragmented, piecemeal habitats yielded by mitigating projects on an individual basis.

City of San José General Plan

Various policies in the General Plan have been adopted for 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-1.18: Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent, and to the extent feasible, avoid impacts of headlights on adjacent land uses.

Policy CD-1.24: 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.

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 project would be located in a developed area surrounded by residential land uses. The project would be compatible with the pattern of surrounding land uses and would not physically divide an established community. Instead of dividing an established community, the project would connect new housing to an existing community by joining Woodset Court and Woodset Drive. This connection would improve circulation in the area and contribute to the cohesion of established communities. Therefore, no impact would occur.

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

Less than Significant. The project would be consistent with the existing Residential Neighborhood General Plan land use designation but would require rezoning from R-1-8 (Single-Family Residence) to MUN (Mixed Use Neighborhood) Zoning District.

As discussed above, the project site is also located within the Habitat Plan Area, which allows for planned development and growth while protecting natural resources. The Habitat Plan designates project site as Urban Development, as it is located within the Greenline/Urban boundary. According to the Habitat Plan, indirect impacts of increased nitrogen deposition on natural communities and covered species are anticipated to result from urban development and rural development covered under the plan. Projects that occur within the Habitat Plan area, but do not result in impacts on any natural land cover types are required to pay a nitrogen deposition fee. This fee accounts for indirect impacts from vehicle emissions on sensitive habitats within the Habitat Plan Permit Area. The nitrogen deposition fee applies to all projects that create new vehicle trips and is based on the number of new daily vehicle trips generated by the project and the number of new residential units proposed by the project.

The project has been designed in accordance with applicable City regulations. With approval of the rezoning, the project would be consistent with both the General Plan land use designation and Zoning District. Therefore, this impact would be less than significant.

2.12 Mineral Resources

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

Environmental Setting

According to the General Plan EIR, the Communications Hill area—located approximately five miles south of 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. The Communications Hill area is designated by the State Mining and Geology Board as a regional resource of construction aggregate materials. No other areas of the City are 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 classified as MRZ-1; areas where adequate information indicated that no significant mineral deposits are present or where is it judged that little likelihood exists for their presence. The project site is located approximately five miles away from Communications Hill, the nearest known mineral resource of statewide, regional, or local value, and is not considered an area of mineral resource significance. Given this, implementation of the project would not disturb protected mineral resources. No impact would occur.

2.13 Noise and Vibration

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

Environmental Setting

Noise is defined as sound that is loud, unpleasant, unexpected, or undesired. Noise levels are commonly measured in decibels (dB) using the A-weighted sound pressure level (dBA). The A-weighting scale is an adjustment to the actual sound pressure levels so that they are consistent with the human hearing response, which is most sensitive to frequencies around 4,000 Hertz (Hz) and less sensitive to frequencies around and below 100 Hz (Kinsler, et al. 1999). Decibels are measured on a logarithmic scale that quantifies sound intensity in a manner similar to the Richter scale used to measure earthquake magnitudes. A doubling of the energy of a noise source, such as a doubling of traffic volume, would increase the noise level by 3 dB; similarly, dividing the energy in half would result in a decrease of 3 dB (Crocker 2007).

Human perception of noise has no simple correlation with sound energy: the perception of sound is not linear in terms of dBA or in terms of sound energy. Two sources do not “sound twice as loud” as one source. It is widely accepted that the average healthy ear can barely perceive an increase (or decrease) of up to 3 dBA in noise levels (i.e., twice [or half] the sound energy); that a change of 5 dBA is readily perceptible (eight times the sound energy); and that an increase (or decrease) of 10 dBA sounds twice (or half) as loud (10.5 times the sound energy) (Crocker 2007).

Noise levels may also be reduced by intervening structures; the amount of attenuation provided by this “shielding” depends on the size of the object and the frequencies of the noise levels. Natural terrain

features, such as hills and dense woods, and man-made features, such as buildings and walls, can significantly alter noise levels. Generally, any large structure blocking the line of sight will provide at least a 5-dBA reduction in source noise levels at the receiver (Federal Highway Administration [FHWA] 2011). Structures can substantially reduce occupants' exposure to noise as well. The FHWA's guidelines indicate that modern building construction generally provides an exterior-to-interior noise level reduction of 20 to 35 dBA with closed windows.

The impact of noise is not a function of sound level alone. The time of day when noise occurs, and the duration of the noise are also important. Most noise that lasts for more than a few seconds is variable in its intensity. Consequently, a variety of noise descriptors have been developed. One of the most frequently used noise metrics is the equivalent noise level (L_{eq}); it considers both duration and sound power level. L_{eq} is defined as the single steady A-weighted level equivalent to the same amount of energy as that contained in the actual fluctuating levels over a period of time. Typically, L_{eq} is summed over a one-hour period. L_{max} is the highest root mean squared (RMS) sound pressure level within the sampling period.

Noise that occurs at night tends to be more disturbing than that occurring during the day. Community noise is usually measured using Day-Night Average Level (L_{dn} or DNL), which is the 24-hour average noise level with a +10 dBA penalty for noise occurring during nighttime hours (10:00 p.m. to 7:00 a.m.). Community noise can also be measured using Community Noise Equivalent Level (CNEL), which is the 24-hour average noise level with a +5 dBA penalty for noise occurring from 7:00 p.m. to 10:00 p.m. and a +10 dBA penalty for noise occurring from 10:00 p.m. to 7:00 a.m. (Caltrans 2013a). Noise levels described by L_{dn} and CNEL usually differ by about 1 dBA. Quiet suburban areas typically have CNEL noise levels in the range of 40 to 50 dBA, while areas near arterial streets are in the 50 to 60+ dBA CNEL range.

Vibration

Groundborne vibration of concern in environmental analysis consists of the oscillatory waves that move from a source through the ground to adjacent structures. The number of cycles per second of oscillation makes up the vibration frequency, described in terms of hertz (Hz). The frequency of a vibrating object describes how rapidly it oscillates. The normal frequency range of most groundborne vibration that can be felt by the human body is from a low of less than 1 Hz up to a high of about 200 Hz (Crocker 2007).

While people have varying sensitivities to vibrations at different frequencies, in general they are most sensitive to low-frequency vibration. Vibration in buildings, such as from nearby construction activities, may cause windows, items on shelves, and pictures on walls to rattle. Vibration of building components can also take the form of an audible low-frequency rumbling noise, referred to as groundborne noise. Groundborne noise may result in adverse effects, such as building damage, when the originating vibration spectrum is dominated by frequencies in the upper end of the range (60 to 200 Hz). The primary concern from vibration is that it can be intrusive and annoying to building occupants and vibration-sensitive land uses.

Vibration amplitudes are usually expressed in peak particle velocity (PPV) or RMS vibration velocity. Particle velocity is the velocity at which the ground moves. The PPV and RMS velocity are normally described in inches per second (in/sec). PPV is defined as the greatest magnitude of particle velocity associated with a vibration event.

Sensitive Receptors

Noise exposure goals for various types of land uses reflect the varying noise sensitivities associated with those uses. Noise-sensitive receptors generally include single- and multi-family residences, hotels, motels, schools, libraries, places of worship, hospitals, and nursing homes. Sensitive receptors in the project vicinity include:

- Single-family residences adjacent to the project site to the northwest, southwest, and southeast;
- The Cosmopolitan Evangelical Church adjacent to the project site to the northwest; and
- Rocketship Fuerza Community Prep, a public charter school serving transitional kindergarten to fifth grade students across South Jackson Avenue approximately 100 feet to the northeast of the site.

The nearest residences are located approximately 10 feet from the project site's boundary.

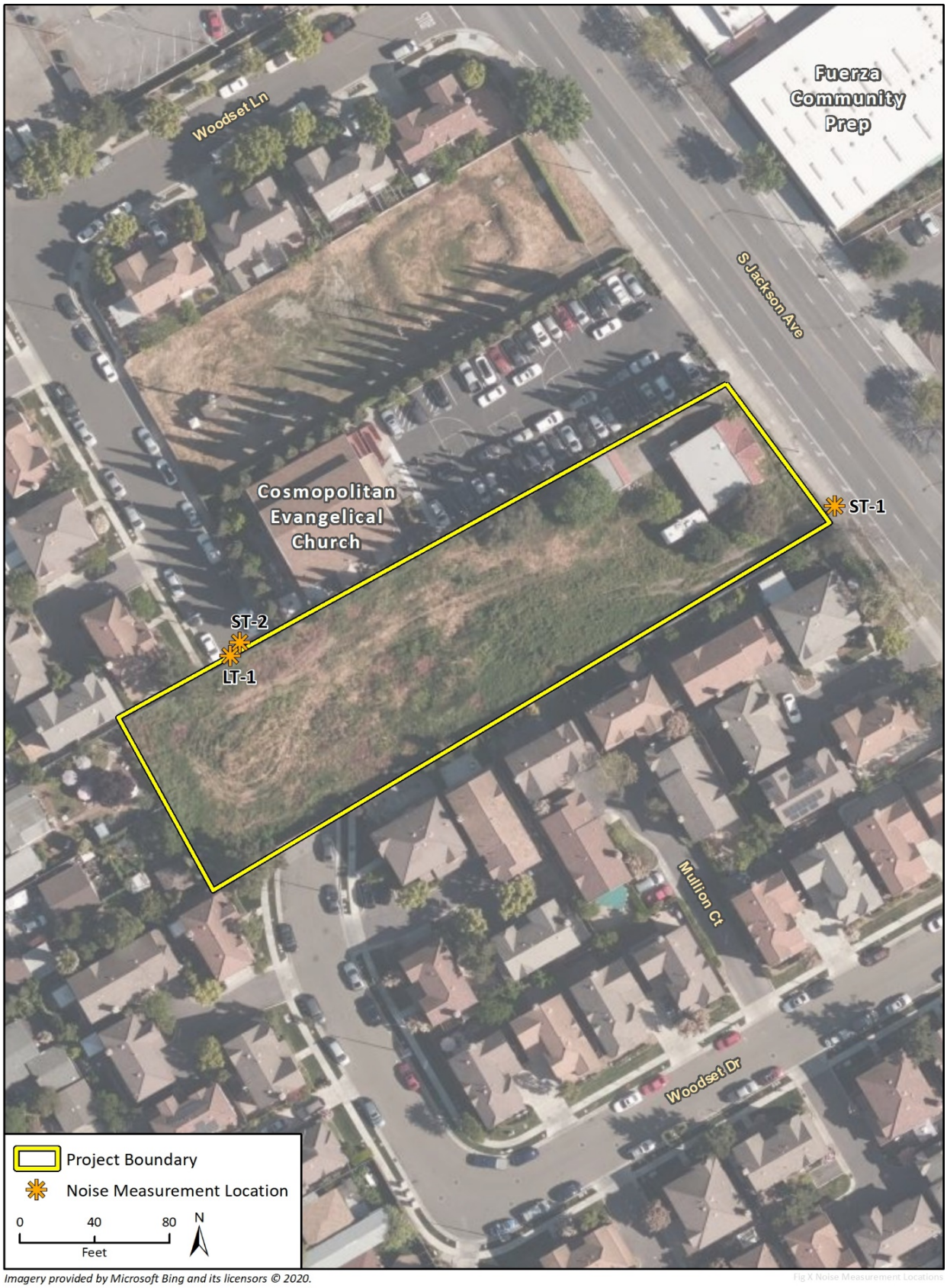
Vibration-sensitive receptors, which are similar to noise-sensitive receptors, include residences and institutional uses, such as schools, churches, and hospitals. No other vibration-sensitive receptors, such as recording studios or medical facilities with sensitive equipment, are located near the project site.

Project Noise Setting

The primary noise source in the project site vicinity is vehicular traffic on South Jackson Avenue, an arterial roadway with four travel lanes and a center turn lane which is adjacent to the project site to the northeast. Ambient noise levels from traffic are generally highest during the daytime and rush hours unless congestion substantially slows speeds.

To characterize ambient sound levels at and near the project site, Extech Model 407780A, ANSI Type 2 integrating sound level meters were used to capture a long-term, 24-hour sound level measurement (LT-1) was conducted on the northwestern boundary of the project site next to Woodset Lane between 9:12 a.m. on February 6, 2020 and the same time on February 7, 2020. In addition, two short-term, 15-minute measurements were taken in the morning of February 6, 2020; one next to South Jackson Avenue (ST-1) and another on Woodset Lane near Arboreta Court (ST-2). These measurement locations are shown in **Figure 9**.

Table 20 summarizes the results of the noise measurements. Detailed sound level measurement data is included in **Appendix G**. As shown in **Table 20**, noise levels during peak-hour traffic range from 54 dBA L_{eq} in the western portion of the project site by Woodset Lane to 71 dBA L_{eq} at the eastern boundary of the site. The weighted 24-hour noise level at the site next to Woodset Lane is 65 dBA L_{dn}.



Noise Measurement Locations Figure 9

Source: Rincon 2020

Table 20 Sound Level Monitoring Results

#	Measurement Location	Sample Date and Times	Approximate Distance to Primary Noise Source	L_{eq} (dBA)	L_{dn} (dBA)
ST-1	Project site boundary facing S. Jackson Avenue	2/6: 8:12 a.m. – 8:27 a.m.	50 feet to centerline of S. Jackson Avenue	71	N/A
ST-2	Woodset Lane, north of project site boundary	2/6: 8:35 a.m. – 8:50 a.m.	330 feet to centerline of S. Jackson Avenue	54	N/A
LT-1	Woodset Lane, north of project site boundary	2/6 to 2/7: 9:12 a.m. – 9:12 a.m.	330 feet to centerline of S. Jackson Avenue	68	65

Source: Rincon 2020

[1] 68 dBA Leq is the maximum hourly equivalent noise level during the 24-hour measurement period, which occurred on February 6, 2020, from 11 a.m. to 12 p.m.

Regulatory Setting

Federal Transit Administration

Recommendations in the FTA's *Transit Noise and Vibration Impact Assessment Manual* (2018) can be used as guidance to determine whether or not a change in traffic would result in a substantial permanent increase in noise. Under the FTA standards, the allowable noise exposure increase is reduced with increasing ambient existing noise exposure, such that higher ambient noise levels have a lower allowable noise exposure increase. **Table 21** shows the significance thresholds for increases in traffic-related noise levels. These standards are applicable to a project's impact on existing sensitive receptors.

Table 21 Significance of Increases in Exposure to Traffic Noise

Existing Noise Exposure (dBA L_{dn} or L_{eq})	Allowable Noise Exposure Increase (dBA L_{dn} or L_{eq})
45-49	7
50-54	5
55-59	3
60-64	2
65-74	1
75+	0

Source: Federal Transit Administration 2018

City of San José Municipal Code

The San José Municipal Code (SJMC) regulates noise generated on properties. For activities on properties in residential zoning districts, SJMC Section 20.30.700 establishes a noise standard of 55 dBA at the property line (San José 2020). The City has previously interpreted this standard as an equivalent noise level (i.e., an average noise level over a certain period), rather than a maximum noise level (L_{max}) representing the loudest noise measured during a certain period (San José 2019). This analysis follows that precedent, applying a noise standard of 55 dBA L_{eq} at the property line facing residences.

Chapter 20.100.450 also limits the hours of construction on sites within 500 feet of a residential land use to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday and does not allow construction at any time on weekends without the issuance of Planning Approval for extended construction hours (San José 2020). The SJMC does not establish quantitative noise limits for demolition or construction activities.

Envision San José 2040 General Plan

The City's General Plan establishes interior and exterior noise thresholds for different land uses and vibration thresholds during demolition and construction. The following are applicable policies to the proposed project (San José 2018):

Goal EC-1: Community Noise Levels and Land Use Compatibility. Minimize the impact of noise on people through noise reduction and suppression techniques, and through appropriate land use policies.

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

Interior Noise Levels: The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL.

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 22**).

Table 22 City of San José Noise and Land Use Compatibility Guidelines

Land Use Category	Noise Exposure Levels (dBA L_{dn})		
	Normally Acceptable	Normally Acceptable	Normally Acceptable
Residential, Hotels and Motels, Hospitals, and Residential Care	50-60	60-75	75<
Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds	50-65	65-80	80<
Schools, Libraries, Museums, Meeting Halls, Churches	50-60	60-75	75<
Office Buildings, Business Commercial, and Professional Offices	50-70	70-80	80<
Sports Arena, Outdoor Spectator Sports	50-70	70-80	80<
Public and Quasi Public Auditoriums, Concert Halls, Amphitheaters	NA	50-70	70<

Source: San José 2018

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 L_{dn} at noise sensitive receptors to increase by 5 dBA L_{dn} or more where the noise levels would remain "Normally Acceptable"; or
- Cause the L_{dn} at noise sensitive receptors to increase by 3 dBA L_{dn} 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 continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or building that are documented to be structurally weakened, a continuous vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction.

Impact Discussion

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

Less than Significant. This analysis covers temporary increases in ambient noise from construction activity, permanent increases from noise generated during operation of the project, and the exposure of new residences to ambient noise.

Temporary Construction Noise

Demolition of the existing on-site residence and detached garage and construction of the project would generate elevated noise levels on a temporary basis in the immediate vicinity of the site. Noise associated with construction is a function of the type of construction equipment, the location and sensitivity of nearby land uses, and the timing and duration of the construction activities. It is estimated that construction would take 9 to 12 months. While all phases of construction would generate noise, the

building construction phase would represent the longest period of noise-generating activity. Pile drivers would not be used during construction of the project.

Construction noise was estimated using the Federal Highway Administration's Roadway Construction Noise Model (RCNM). Noise was modeled based on the type of equipment to be used in each phase of construction and the distance to nearby receptors. As a project-specific construction equipment list is not currently available, an equipment list for the project was generated using CalEEMod, which takes into consideration the project's proposed land use. It is assumed that construction equipment would typically be located around the center of the project site. This is a representative location for estimating equivalent noise levels over a one-hour period. The center of the project site is approximately 60 feet from the nearest residences and the Cosmopolitan Evangelical Church, and 300 feet from the Fuerza Community Prep school.

As shown in **Table 23**, construction noise could reach as high as an estimated 84 dBA L_{eq} at the nearest noise-sensitive receptors during the demolition, grading, and building construction phases.

Table 23 Estimated Construction Noise

Construction Phase	Equipment	Estimated Noise (dBA L_{eq})	
		At 60 feet	At 300 feet
Demolition	Concrete saw, dozer, tractor/backhoe/loader (2)	84	70
Site preparation	Tractor/backhoe/loader, grader	80	66
Grading	Tractor/backhoe/loader (2), dozer, concrete saw, truck	84	70
Building construction	Crane, forklift (2), tractor/backhoe/loader (2)	84	71
Paving	Concrete mixer (2), paver, roller, tractor/loader/backhoe	80	66
Architectural coating	Air compressor	72	58

Source: Rincon 2020

Temporary construction noise reaching 84 dBA L_{eq} would exceed measured daytime ambient noise levels ranging from 54 to 71 dBA L_{eq} on and adjacent to the project site.

Because existing residences would be located within 100 feet of the project site, construction activities would be subject to the regulations of the SJMC Chapter 20.100.450, which are outlined in the following Standard Permit Conditions:

Standard Permit Conditions

Consistent with General Plan Policy EC-1.7 and the Municipal Code, the City will require the applicant to implement the following standard measure to reduce construction-related noise impacts to a less than significant level:

- 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.

General Plan Policy EC-1.7 also states that a project would have a significant impact if it involves substantial noise-generating activities continuing for more than 12 months within 500 feet of a residence. The project would have an anticipated construction schedule of 9 to 12 months. Because construction would not exceed 12 months in duration, it would have a less than significant noise impact in accordance with General Plan policy. Furthermore, the applicant would be required to adhere to the above Standard Permit Conditions, undertaking measures such as installing temporary noise barriers and locating stationary equipment as far as possible from sensitive receptors. This comprehensive set of measures would substantially reduce the exposure of sensitive receptors to construction noise.

Parking Lot Activity

Activity in the proposed parking lot for the townhouses in the southern portion of the project site would generate intermittent noise from parking activities in the 26 proposed spaces. Typical noise sources associated with parking activity include tire squealing, doors slamming, car alarms, horns, and engine

start-ups. Instantaneous noise levels at a distance of 25 feet would approach an estimated 75 dBA from car alarm signals and 70 dBA from slamming doors (Gordon Bricken 1996). However, because parking lot noise would be instantaneous and infrequent, it would not result in hourly equivalent noise levels exceeding the applicable standard of 55 dBA L_{eq} at property lines facing residential uses. Therefore, the impact of parking lot noise would be less than significant.

Heating, Ventilation, and Air Conditioning Equipment

The use of heating, ventilation, and air conditioning (HVAC) equipment would generate noise inside the proposed residences. Each residential unit would have a wall-mounted interior air conditioner/heat pump, without an external condenser unit. Because all proposed HVAC equipment would be indoors, it would not generate substantial noise audible outside the residential units and would not result in a permanent increase in ambient noise levels. Therefore, this equipment would have a less than significant noise impact.

Delivery and Trash Trucks

New residences on the project site would be periodically served by delivery and trash trucks. Idling trucks on the on-site parking lot would generate noise approximately 25 feet from adjacent residences. Idling trucks generate noise levels around 70 dBA at 25 feet from the source for short durations of time (Salter 2014). Because truck activity would be infrequent and State law limits truck idling to five minutes in duration, it would not result in hourly equivalent noise levels exceeding the City's standard of 55 dBA L_{eq} at the property line. Furthermore, on-site truck noise would be similar in nature to existing noise from trucks serving existing residences on surrounding streets. Therefore, noise from delivery and trash trucks would have a less than significant impact.

Traffic Noise

The proposed residences would generate new vehicle trips to and from the project site, which would contribute to traffic noise in the area. This analysis focuses on traffic noise generated on South Jackson Avenue, since this arterial roadway is the primary noise source near the project site. Existing traffic on South Jackson Avenue was counted at 410 cars and four trucks during a 15-minute peak-hour noise measurement conducted on February 6, 2020. Multiplying this count by four, an estimated 1,640 cars and 16 trucks pass by the project site on South Jackson Avenue during a peak hour. Using a standard conversion of peak-hour traffic representing 10 percent of average daily trips, South Jackson Avenue carries an estimated 16,400 cars and 160 trucks on a daily basis.

Additional trips generated by the project were estimated based on rates in the Institute of Transportation Engineers (ITE) Trip Generation Manual, 9th edition. The ITE rate 230 for Residential Condominiums / Townhouses is 0.52 daily trips per dwelling unit. Using this trip rate, the proposed 14 townhouse units would generate about 7 trips per day. These trips would increase existing daily traffic on South Jackson Avenue by approximately 0.04 percent. This nominal increase in traffic volume would not result in a perceptible increase in the exposure of sensitive receptors along the roadway to traffic noise. The additional trips would not approach a doubling of the existing traffic volume, which would be necessary to cause a 3 dBA increase in traffic noise. Therefore, consistent with General Plan Policy EC-1.2, it would not cause an increase of at least 3 dBA L_{dn} at sensitive receptors where noise levels would

equal or exceed the "Normally Acceptable" level. The project would have a less than significant impact from permanent increases in traffic noise.

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

Less than Significant. The use of heavy construction equipment can generate substantial vibration near the source. It is expected that construction would generate temporary vibration from jackhammering to break up existing pavement, bulldozers for earthmoving, trucks loaded with construction materials, and potentially from the use of vibratory rollers to even out the surface of new asphalt on the proposed connection of Woodset Court to Woodset Drive and the on-site parking area. Unlike construction noise, vibration is not averaged over time. Therefore, it is appropriate to estimate vibration levels at the nearest distance to sensitive receptors that equipment could be used, even though this equipment would typically be located farther from receptors. This analysis assumes that vibration-generating equipment would be located as close as 25 feet from sensitive receptors adjacent to the site, which is the reference distance for vibration levels provide by Caltrans. **Table 24** estimates vibration levels from equipment at this distance.

Table 24 Vibration Levels for Construction Equipment

Equipment	PPV (in/sec)
	25 Feet
Vibratory Roller	0.210
Large Bulldozer	0.089
Loaded Trucks	0.076
Jackhammer	0.035

Source: Caltrans 2013b

As shown in **Table 24**, construction activity would generate vibration levels reaching an estimated 0.210 PPV at a distance of 25 feet, if vibratory rollers are used to pave the proposed asphalt driveway on the project site. Vibration-generating equipment would be operated on a transient basis during construction. A vibration level of 0.210 PPV would exceed the City's limit of 0.08 PPV for transient vibration impacts, under General Plan Policy EC-2.3. However, this policy states that the vibration threshold may be exceeded where "there will be virtually no risk of cosmetic damage to sensitive buildings." The Cultural Resources Assessment prepared for the project identifies no historic-era buildings adjacent to the project site (**Appendix H**). Surrounding development consists of more recently constructed buildings that would not be at substantial risk of structural damage from vibration. Even if historic buildings were present near the project site, estimated vibration levels would not exceed the Caltrans' recommended criterion of 0.5 PPV for potential damage of historic and old buildings from transient vibration sources.

A vibration level of 0.210 PPV during the potential use of vibratory rollers also would not exceed 0.25 PPV, Caltrans' recommended criterion for distinctly perceptible vibration from transient sources. As a result, it would not result in substantial annoyance to people of normal sensitivity. In addition,

construction activity that generates loud noises (and therefore vibration) would be limited to daytime hours on weekdays, which would prevent the exposure of sensitive receptors to vibration during evening and nighttime hours and during weekends. Therefore, the impacts of vibration on people and structures 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?

Less than Significant. The nearest airport to the project site is the Reid Hillview Airport, which is approximately two miles southeast of the project site. The San José International Airport is located approximately four miles miles to the west. The project site is outside both Airport Influence Areas and the mapped noise contours of 65 CNEL or higher associated with aircraft departing from and landing at runways (Santa Clara County Airport Land Use Commission 2016). Therefore, the project would not expose people to excessive noise levels from aircraft activity, and this impact would be less than significant.

2.14 Population and Housing

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

Environmental Setting

According to the California Department of Finance, the City's population was estimated to be approximately 1,043,058 with a total of 335,887 housing units for an average number of persons per household of 3.20.[29] With its current development and growth capacity, the City could grow to 840,000 jobs and 430,000 dwelling units in total, supporting a residential population of approximately 1.3 million people.[30]

In 2014, there were approximately 382,200 jobs in San José. The General Plan assumptions, as amended in the first Four-Year Review in 2016, envision a Jobs/Employee Resident ratio of 1.1/1 or 382,000 jobs by 2040.[31] To meet the current and projected housing needs in the City, the Envision San José 2040 General Plan identifies areas for mixed-use and residential development to accommodate 120,000 new dwelling units by 2040.

The jobs/housing balance is the relationship between the number of housing units required as a result of local jobs and the number of residential units available in the City. This relationship is quantified by the jobs/employed resident ratio. When the ratio reaches 1.0, a balance is struck between the supply of local housing and local jobs. The jobs/employed resident ratio is determined by dividing the number of local jobs by the number of employed residents that can be housed in local housing. At the time of preparation of the General Plan FEIR, San José had a higher number of employed residents than jobs

[29] California Department of Finance. *E-1 Population Estimates for Cities, Counties, and the State- January 1, 2018 and 2019.* Available: http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-1/. Accessed: March, 2020.

[30] City of San José. 2020. *City of San José 2014-2023 Housing Element.* Available: https://www.sanjoseca.gov/home/showdocument?id=16031. Accessed: March, 2020.

[31] City of San José. 2016. *Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report and Supplemental Program Environmental Impact Report*. Available: http://www.sanjoseca.gov/DocumentCenter/View/62220

(approximately 0.8 jobs per employed resident) but this trend is projected to reverse with full build-out under the current General Plan.

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)?
and

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

Less than Significant. According to the California Department of Finance, the City's population was estimated to be approximately 1,043,058 with a total of 335,887 housing units, for an average number of persons per household of 3.20. The project would add approximately 45 residents (14 units x 3.20 persons per household). Although implementation of the project would introduce 14 new dwelling units and approximately 45 residents within the City, it would comprise a small portion of the 120,000 net new dwelling units projected though 2040 in the General Plan. Furthermore, the proposed project would not require changes in General Plan land use designation. The project site is completely urbanized and would not require the extension of roads or infrastructure into previously undeveloped areas.

The project site would replace an existing building and detached garage with 14 new dwelling units, resulting in a net gain of 13 housing units. Because the existing dwelling unit is vacant, no people would be displaced as a result of project implementation. Therefore, this impact would be less than significant.

2.15 Public Services

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

Environmental Setting

Fire Protection

The San José Fire Department (SJFD) provides fire protection within the City, and currently hosts 689 sworn personnel.[32] The Department operates 33 active fire stations capable of providing fire protection, fire rescue, and emergency medical services. SJFD's current performance goal is to arrive within eight minutes for 80 percent of Priority 1 incidents, and arrival within 13 minutes for 80 percent of the time for Priority 2 incidents. Priority 1 incidents are those incidents that are determined to require immediate response vehicles using lights and sirens while Priority 2 incidents are incidents that require immediate response; however, response vehicles do not use lights and sirens. For medical emergencies and emerging fires, national best practices recommend that the first fire unit arrive within seven minutes of a 9-1-1 call 90 percent of the time. Currently, neither of these standards are met department-wide, though five individual station areas meet the eight-minute goal. In addition, the General Plan identifies a

[32] Sapien, Jr, Chief Robert. SJFD. Personal Communication. April 2020.

four-minute response time for first engine response, and six minutes for the second engine and first truck/urban search and rescue responses. Currently, no SJFD station meets this response time goal. The SJPD's primary obstacles to meeting response goals include too few stations, traffic congestion high workload rates, and movements of station companies for multi-units.

Police Protection

The San José Police Department SJPD provides police services to the City, and currently employs 1,151 sworn officers and approximately 540 civilian staff members.[33] SJPD's response target, defined as the period from when a call is received until an officer is on the scene, is under six minutes for Priority 1 calls and under 11 minutes for Priority 2 calls. 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. For the 2018-2019 year, SJPD maintained an average 7.1-minute response time for Priority 1 calls and 19.9-minute response time for Priority 2 calls. SJPD operates out of 201 West Mission Street headquarters, located approximately 3.10 miles northeast of the project site.

Schools

The project site is located within the Alum Rock Union Elementary School District (ARUSD). ARUSD operates 25 schools with an average daily attendance of 10,744 students. Of these, the project would be served by San Antonio Elementary School, located at 1721 East San Antonio Street, with current enrollment of 331 students.[34] The project site is located within the East Side Union High School District (ESUHSD). ESUHSD operates 26 schools with an average daily attendance of 21,300 students. The project would be served by Independence High School, located at 617 North Jackson Avenue, with current enrollment of 2,800 students and capacity of 3,200 students.[35]

Parks

The City owns 191 neighborhood/community-serving parks and nine regional parks, making up approximately 3,518 acres of land. These parks include a variety of recreational open spaces including playing fields, gardens, and trails. The closest parks to the project site are Lobue Park and Mayfair Park, which are approximately 1,200 feet west and 1,400 feet south of the project site, respectively.

Library Services

The San José Public Library System serves the residents in the City. The San José Public Library System consists of one main library (Dr. Martin Luther King Jr.) and 24 branch libraries. There are four libraries within a two-mile radius of the project site including Dr. Roberto Cruz Alum Rock Branch. East San José Carnegie Branch, Educational Park Branch, and Hillview Branch.

[33] City of San José. 2019. *Annual Report on City Services 2018-2019*. Available: https://www.sanjoseca.gov/your-government/appointees/city-auditor/services-report. Accessed: June 2020.

[34] Chheng, Kolvira. ARUSD. Personal Communication. July 2020.

[35] Funk, Chris. ESUHSD. Personal Communication. April 2020.

Regulatory Setting

City of San José General Plan

Various policies in the General Plan have been adopted for 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.

Quimby Act – California Code Sections 66475-66478

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

Impact Discussion

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

i. Fire Protection?

Less than Significant. The project site is located within Fire Station 2's first due response area. Fire Station 2 is staffed with nine personnel who operate one engine company, one truck company, and one Battalion Chief. The project site is located approximately 0.9 mile west of the San José Fire Department Station 2. The project would introduce approximately 45 new residents to the area. However, given that the project is relatively small and located within an existing residential service area, the project would not affect ratios, response times, or other performance objectives to such an extent that would necessitate the construction of new expanded SJPD facilities. Further, there are no formal evacuation routes or emergency response

plans near the project site that would be impacted by the project. Therefore, this impact would be less than significant.

ii. Police Protection?

Less than Significant. The SJPD currently serves the project site. Implementation of the project would incrementally increase the demand for SJPD services due to the addition of approximately 45 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.[36] This impact would be less than significant.

iii. Schools?

Less than Significant. Given that the project would introduce approximately 45 new residents to the project site, implementation of the project may increase enrollment at the following schools: San Antonio Elementary School and Independence High School. According to the ARUSD and ESUHSD, this slight increase in enrollment would not require new or expanded school facilities in the immediate future.[37,38] In addition, the project proponent would pay applicable fees required by California Government Code Section 65996. Therefore, this impact would be less than significant.

iv. Parks?

Less than Significant. Future new residents generated by the project would be served by City parks, thus increasing demand on such facilities. As discussed in **Section 2.14 Population and Housing**, the project would add approximately 45 residents. The project would offset the slight increased demand for parkland through compliance with the City's Park Dedication Ordinance and Park Impact Ordinance, required for residential development projects. Fees associated these regulations help to ensure the adequate provision and upkeep of local parks and recreation facilities. Therefore, this impact would be less than significant.

v. Other public facilities?

Less than Significant. New residents associated with the project could increase demand for local public facilities. However, the project is located in a highly developed commercial and retail area, near land that is designated as Urban Village, making it an accessible, walkable, transit-oriented area. Although the project would develop 14 dwelling units and introduce approximately 45 residents within the City, it would compromise a small portion of the 120,000 net new dwelling units projected through 2040 in the General Plan and the project would not substantially increase the population of the City. The project would not affect the performance objectives of the local library system. Implementation of the project would not require new or expanded facilities in the immediate future, and this impact would be less than significant.

[36] Cook, Paul. SJPD. Personal Communication. April 2020.

[37] Chheng, Kolvira. ARUSD. Personal Communication. July 2020.

[38] Funk, Chris. ESUHSD. Personal Communication. April 2020.

2.16 Recreation

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	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 currently maintains and operates 3,486 acres of parkland, which includes 187 neighborhood parks, 9 regional parks, 98 ballfields (baseball, softball, soccer), 6 pools, over 57 miles of trails, 18 community gardens, various civic grounds and 51 community centers.[39] 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 is Jackson Madden Park, located approximately 0.5 mile north of the project site. The second closest park to the project site is Mayfair Park, located approximately 0.6 mile south of the project site.

Regulatory Setting

City of San José General Plan

Various policies in the General Plan have been adopted for 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://sanJosé.granicus.com/MetaViewer.php?meta_id=556557. Accessed May 2019.

Policy PR-1.12: Regularly update and utilize San José's Parkland Dedication Ordinance / Parkland Impact Ordinance to implement quality facilities.

Policy PR-2.4: To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance and Park Impact Ordinance fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a [0.75] mile radius of the project site that generates the funds.

Policy PR-2.5: Spend, as appropriate, Park Dedication Ordinance and Park Impact Ordinance fees for community serving elements (such as soccer fields, dog parks, sport fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the Park Dedication Ordinance and Park Impact Ordinance funds.

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 2.15, Public Services**, describe 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. As described in **Section 2.14, Population and Housing**, the project would introduce approximately 45 new residents in an area that is already planned for residential development. Given the relatively small amount of growth and the fact that the project would generally be consistent with local planning, the residents of proposed development are not anticipated to place a physical burden or result in a substantial increase in demand on existing nearby parks and recreational facilities.

New residential development must provide additional park facilities to prevent deterioration of existing park facilities resulting from increased use. As such, residential development is subject to the City's Park Dedication Ordinance and Park Impact Ordinance 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 Park Dedication Ordinance and Park Impact Ordinance fees, this impact would be less than significant.

2.17 Transportation

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

Environmental Setting

Given the relative size of this residential infill project, a Local Transportation Analysis (LTA), is not required. This analysis uses the City's Vehicle Miles Traveled (VMT) tool to determine whether the project would be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b). All other potential impacts are discussed qualitatively.

Existing Transportation Facilities

Regional and Local Access

Regional access to the project site is provided via Interstate 680 (I-680). Local access to the site is provided by South Jackson Avenue, Alum Rock Avenue, San Antonio Street, and Capitol Expressway. Alum Rock Avenue is designated as a Grand Boulevard within the General Plan. Grand Boulevards are major transportation corridors that connect land uses with major transportation facilities.

Existing transit service to the project area is provided by the Santa Clara Valley Transportation Authority (VTA). Four local bus routes (Routes 22, 23, 70, and 77) and one limited stop bus route (Route 522) provide service in the project area. In addition, the Santa Clara Street/Alum Rock Avenue Bus Rapid Transit (BRT) system operates along the corridor, with BRT buses running in the median lanes on Alum Rock Avenue between 34th Street and Alexander Avenue. The bus stops closest to the project site are located on Jackson Avenue, across the street from the project site near Rocketship Fuerza Community Prep, and just south of the project site, with service by Route 70. The Alum Rock Light Rail station is located 0.9 miles away from the project site near Capitol Expressway.

Bicycle Facilities

Bike lanes are lanes on roadways designated for use by bicycles with special lane markings, pavement legends, and signage. Bike routes are existing streets that accommodate bicycles but are not separate from the existing travel lanes. Bike routes are typically designated only with signage or with painted shared lane markings (sharrows) on a road that indicate to motorists that bicyclists may use the full travel lane. Currently, several roadway segments in the project area provide striped bike lanes including South Jackson Avenue and East San Antonio Street.

Pedestrian Facilities

Pedestrian facilities in the project area consist of sidewalks along streets and crosswalks at intersections. The signalized intersections in the vicinity of the project site all have crosswalks on all or most legs of the intersection. Overall, the existing sidewalk/crosswalk network exhibits good connectivity and provide pedestrians with adequate routes to the project site and nearby transit stops.

Regulatory Setting

Santa Clara County's Congestion Management Program

The Santa Clara Valley Transportation Authority (VTA) oversees the Congestion Management Program (CMP), a program aimed at reducing regional traffic congestion. The relevant State legislation requires that all urbanized counties in California prepare a CMP in order to obtain each county's share of gas tax revenues. The CMP legislation requires that each CMP contain the following five mandatory elements: 1) a system definition and traffic level of service standard element; 2) a transit service and standards element; 3) a trip reduction and transportation demand management element; 4) a land use impact analysis program element; and 5) a capital improvement element. The Santa Clara County CMP includes the five mandated elements and three additional elements, including: a county-wide transportation model and data base element, an annual monitoring and conformance element, and a deficiency plan element. The VTA has review responsibility for proposed development projects that are expected to affect CMP designated intersections.

City of San José Council Policy 5-1

In adherence to State of California Senate Bill 743 (SB 743), the City of San José has adopted a new Transportation Analysis Policy, Council Policy 5-1. The policy replaces its predecessor (Policy 5-3) and establishes the thresholds for transportation impacts under the CEQA based on vehicle miles traveled (VMT) instead of levels of service (LOS). The intent of this change is to shift the focus of transportation analysis under CEQA from vehicle delay and roadway auto capacity to a reduction in vehicle emissions, and the creation of robust multimodal networks that support integrated land uses.

City of San José 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-1.2: Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.

Policy TR-1.4: Through the entitlement process for new development, projects shall be required to fund, or construct needed transportation improvements for all transportation modes, giving first consideration to improvement of biking, walking and transit facilities and services that encourage reduced vehicle travel demand.

Policy TR-2.8: Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.

Policy TR-3.3: As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

Policy TR-8.6: Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive transportation demand management (TDM) program, or developments located near major transit hubs or within Villages and Corridors and other growth areas.

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.

Impact Discussion

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

Less than Significant. Transit, pedestrian, and bicycle circulation are discussed in relation to the project below.

Transit

As stated in the Environmental Setting section, four local bus routes (Routes 22, 23, 70,77) and one limited stop bus route (Route 522) currently serve the project site on weekdays with Route 23 and 522 operating along Alum Rock Avenue. The bus stops closest to the project site are located on South Jackson Avenue, near Rocketship Fuerza Prep, and just south of the project site, operating Route 70. The Alum Rock Light Rail station is located 0.9 mile away from the project site near Capitol Expressway. Due to the convenient locations of transit stops, it is assumed that some residents would utilize the existing transit systems. Therefore, the project would be consistent with transit-related programs and policies, including policies TR-1.2 and TR-3.3 of the City of San José General Plan.

Pedestrians and Bicycles

Pedestrian facilities in the project area consist of sidewalks along streets and crosswalks at intersections. The signalized intersections in the vicinity of the project site all have crosswalks on all or most legs of the intersection. Overall, the existing sidewalk/crosswalk network exhibits good connectivity and provide pedestrians with adequate routes to the project site and nearby transit stops. Bike lanes are lanes on roadways designated for use by bicycles with special lane markings, pavement legends, and signage. Bike routes are existing streets that accommodate bicycles but are not separate from the existing travel lanes. Bike routes are typically designated only with signage or with painted shared lane markings (sharrows) on a road that indicate to motorists that bicyclists may use the full travel lane. Currently, several roadway segments in the project area provide striped bike lanes and bike routes/sharrows.

Bicycle Parking Requirements

The project would provide a total of 14 bicycle parking stalls in the form of bike lockers located near South Jackson Avenue, the improved Woodset Drive, and near the common area located at the center of the project site. Therefore, the project would be consistent with Policy TR-2.8 of the City of San José General Plan, and the impact would be less than significant.

The project would not interfere with any program, plan, ordinance, or policy addressing the circulation system of the project area. Operation of the project would facilitate the use of transit, pedestrian, and bicycle infrastructure without exceeding capacity such that substantial physical deterioration of said infrastructure would occur or be accelerated. Therefore, this impact would be less than significant.

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

Less than Significant. The City has developed the San José VMT Evaluation Tool to streamline the analysis for residential, office, and industrial projects with local traffic. Because the project is relatively small and would not affect existing traffic patterns, the evaluation tool was used to estimate the project VMT and determine whether the project would result in a significant VMT impact.

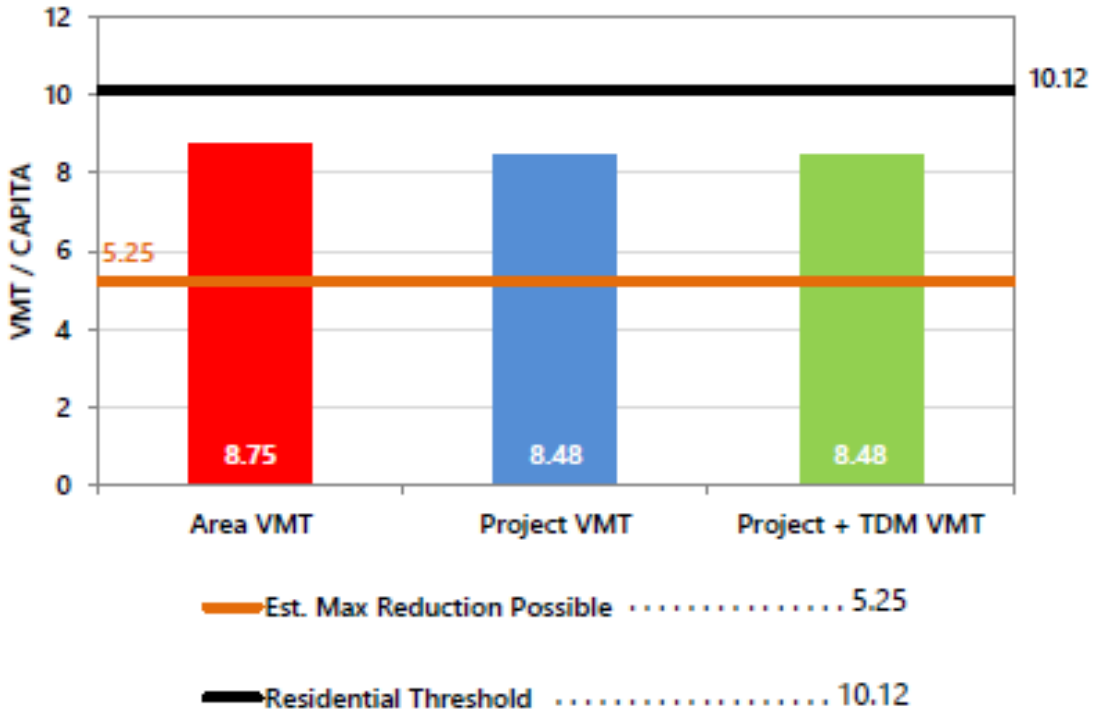
Based on the assessor's parcel number (APN), the evaluation tool identifies the existing average VMT per capita and VMT per employee for the area. The evaluation tool calculates project VMT based on the project location, type of development, project description, and proposed trip reduction measures. 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.

The project-level impact analysis under CEQA uses the VMT metric to evaluate a project's transportation impacts by comparing against the VMT thresholds of significance as established in the Transportation Analysis Policy (Policy 5-1). As shown in **Figure 10** the project is estimated to generate a total of 8.48 VMT per resident, which is below the residential threshold of 10.12. Therefore, this impact would be less than significant.

CITY OF SAN JOSE VEHICLE MILES TRAVELED EVALUATION TOOL SUMMARY REPORT

RESIDENTIAL ONLY

The tool estimates that the project would generate per capita VMT below the City's threshold.



VMT Evaluation Tool Figure **10**

Source: City of San José, 2020

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

Less than Significant. Site access to the project would be provided via driveways on South Jackson Avenue and Woodset Drive that would serve the residences. Both driveways would comply with City of San José Department of Transportation Geometric Design Guidelines, for Standard Driveways. This would provide adequate space for mail drop-off or delivery trucks to access the site and deliver packages or mail without posing hazards due to site layout. Furthermore, the project does not propose any hazardous geometric design features or incompatible uses that would obstruct the vision of exiting drivers in parking areas on the project site. Therefore, this impact would be less than significant.

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 six-foot clearance from the property line along all sides of the buildings. The project would meet the six-foot clearance requirement and the 150-foot fire access requirement. In addition, construction of the project would also involve the connection of Woodset Court to the north with Woodset Drive to the south of the property. The improved Woodset Drive would be dedicated as a public street. One duplex would be located west of the improved Woodset Drive; the other three buildings would be located on the eastern portion of the project site, between Woodset Drive and Jackson Avenue. Access to the project would be provided via curbcuts on either side of the improved Woodset Drive, which would increase the site's accessibility. Therefore, this impact would be less than significant.

2.18 Tribal Cultural Resources

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
Would the project:				
a) Cause a substantial adverse change in the significance of a 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), or	☐	☐	☐	☒
ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☐	☒	☐

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 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. Tribal cultural resources signify the intent to protect resources specifically of cultural value to a tribe.

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

(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. A Sacred Lands File search for the project site was requested from the NAHC on January 24, 2020. The NAHC response on January 28, 2020 indicated that no known Native American cultural resources exist within the project vicinity. 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 vicinity. 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, letters were sent to the following Native American tribes listed on the NAHC contact list on January 29, 2020: Amah Mutsun Tribal Band, Amah Mutsun Tribal Band of Mission San Juan Bautista, Indian Canyon Mutsun Band of Costanoan, Muwekma Ohlone Indian Tribe of the San Francisco Bay Area, North Valley Yokuts Tribe, and The Ohlone Indian Tribe. 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. Follow up calls were conducted on February 10.

Valentin Lopez of the Amah Mutsun Tribal Band replied to say that the project site is outside of his tribal territory and he therefore had no comments on the project. Irenne Zweirlein of the Amah Mutsun Tribal Band of Mission San Juan Bautista recommended the project crew receive cultural resources sensitivity training. Andrew Galvan of the Ohlone Indian Tribe had no comments; however, he requested more information about the pedestrian survey results. These results were explained in a phone message on February 21, 2020. For a full summary of this coordination process, refer to **Appendix G**.

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

Regulatory Setting

Native American Tribal Cultural Resources

On September 25, 2014, Governor Edmund G. Brown signed Assembly Bill 52 (AB 52), 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 "tribal cultural resource", and a list of recommended mitigation measures. AB 52 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. Currently, the City has one tribal representative from the Ohlone Indian Tribe who has requested to be notified of any project that requires and IS/MND or EIR and includes ground disturbance within the City's Downtown area, and the Tamien Nation Tribe who have requested notification of all projects within the City.

Local

City of San José Municipal Code – Historic Preservation Ordinance

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes policies applicable to all development projects in San José. The following policies are specific to cultural resources and are applicable to development on the site:

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.

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)?

No Impact. California Register of Historical Resources or the San José Historic Landmarks Ordinance. According to the Historic Assessment and the Native American Heritage Commission search conducted for the project, no known Native American resources exist on the project site. Therefore, the project would not result in a change in significance of any Native American resources listed or eligible as defined in Public Resources Code section 5020.1(k). No impact would occur.

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. The CHRIS search and NAHC Sacred Land File Search indicated a low potential of identifying paleontological and archaeological resources on-site. As detailed in **Appendix H**, tribal consultation was completed for the project on January 29, 2020 via letter and February 10, 2020 via phone. To date, none of the contacted tribes had raised concerns regarding the potential for undiscovered Native American resources. Furthermore, implementation of Standard Permit Conditions discussed in **Section 2.5, Cultural Resources**, would reduce potential impacts to resources that may be uncovered during construction. With implementation of these Standard Permit Conditions, this impact would be less than significant.

2.19 Utilities and Service Systems

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
Would the project:				
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or 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 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?	☐	☐	☒	☐
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☒	☐
e) Comply with federal, State, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☒	☐

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.[40]

[40] San José Water Company. 2018. *Service Area Address Check*. Available: https://www.sjwater.com/service-area-address-check. Accessed: February, 2020.

Wastewater/Sanitary Sewer System

The project site is serviced by the San José-Santa Clara Regional Wastewater Facility (RWF), which is located in Alviso. The RWF serves eight tributary sewage collection agencies and is administered and operated by the City's Department of Environmental Services. The RWF provides primary, secondary, and tertiary treatment of wastewater and has the capacity to treat 167 million gallons of wastewater a day.[41] The RWF treats an average of 110 million gallons of wastewater per day and serves 1.4 million residents. Sanitary sewer lines in the project area are inspected and maintained by the City's Department of Transportation and rehabilitated and replaced by the Department of Public Works.

There is an existing six-inch sanitary sewer main directly north and south of the site along Woodset Court and Woodset Drive. With the connection of Woodset Court and Woodset Drive, the sanitary sewer main would be extended to serve the project site.

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 currently comprises of 3,240 square feet of impervious surfaces and 34,382 square feet of pervious surfaces.

There is an existing 12-inch storm drain main along Woodset Lane directly north of the project site, a 15-inch storm drain main along Woodset Drive directly south of the project site and an 18-inch storm drain main along South Jackson Avenue approximately 60 feet from the project site. With the connection of Woodset Court and Woodset Drive, the storm drain would be extended to serve the project site.

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. Solid waste generated within the County is landfilled at Guadalupe Mines, Kirby Canyon, Newby Island, Zanker Road Materials Processing Facility and Zanker Road landfills.

The City has an existing contract with Newby Island Sanitary Landfill (NISL) through December 31, 2020 with the option to extend the contract as long as the landfill is open. 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.[42]

[41] City of San José. 2020. *San José-Santa Clara Regional Wastewater Facility*. Available: https://www.sanjoseca.gov/your-government/environment/water-utilities/regional-wastewater-facility. Accessed: February, 2020.

[42] CalRecycle 2020. *Newby Island Sanitary Landfill Facility/Site Summary details.* Available: http://www.calrecycle.ca.gov/SWFacilities/Directory/43-AN-0003/Detail/. Accessed: February, 2020.

Regulatory Setting

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

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

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

Policy IN-3.3: Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.

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

As discussed in **Section 2.10, 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.

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 would be consistent with the existing General Plan land use designations. With rezoning from the R-1-8 Zoning District to MUN Zoning District, the project would also be consistent with local zoning. The General Plan EIR concluded that with the implementation of existing regulations and adopted General Plan policies, any physical impacts resulting from buildout of the General Plan would be less than significant. The project would not require the construction of new or expanded sewer lines downstream of the project. The project would not result in the construction or expansion of existing facilities beyond what was assumed in the General Plan EIR.

Stormwater runoff from the site would continue to be collected by existing City drainage systems. As discussed in **Section 2.10, Hydrology and Water Quality**, implementation of the project would add and replace 29,295 square feet of impervious surfaces. Implementation of the project would decrease the project site's existing pervious surfaces to 8,327 square feet. However, the project would include landscape that promotes surface infiltration where possible. 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 Permit and the City's Post-Construction Urban Runoff Policy 6-29. The project would conform to the associated design, source control, and treatment system requirements of Provision C.3. Therefore, 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. As concluded in the General Plan EIR, there is sufficient water supply to serve the buildout of the General Plan with the implementation of existing regulations and adopted General Plan policies. 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 with the General Plan land use designation for the project site. Development allowed under the General Plan would not exceed the City's allocated capacity at the City's wastewater treatment facility; therefore, implementation of the project would have a less than significant impacts on wastewater treatment capacity. 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 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

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

Environmental Setting

The project site is located in an urbanized area west of I-680, near Alum Rock Avenue. The project site is developed with an existing residential building and a detached garage along South Jackson Avenue.

The California Department of Forestry and Fire Protection 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 very high fire susceptibility. The project site is located within a Non-Very High FHSZ for Local Responsibility and State Responsibility Areas, which extends throughout most of the City.[43]

[43] California Department of Forestry & Fire Protection. *Very High Fire Hazard Severity Zones in LRA.* 2018. Available: https://osfm.fire.ca.gov/media/5935/san_jose.pdf. Accessed: January, 2020.

Regulatory Setting

California Department of Forestry and Fire Protection (CAL FIRE)

The CAL FIRE FHSZ Maps show proposed FHSZ Maps for State Responsibility Area lands and separate draft Very High FHSZ 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.

City of San José General Plan

Various policies in the General Plan have been adopted for protecting lives and property from risks associated with wildfire, including Policy EC-8.4 shown below. As the project is not located near 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?

Less than Significant. The existing Residential Neighborhood, Neighborhood/Community Commercial, and Urban Village land uses surrounding the project preclude factors such as slopes or strong winds from exacerbating wildlife risk. The topography of the surrounding area is generally flat and dense development prevents strong winds. Similarly, post-fire impacts such as drainage changes and landslides would not occur as the project site and its surroundings are highly urbanized and flat and do not have any steep slopes or hillsides that would be susceptible to landslides or flooding. The project would not require the installation or maintenance of infrastructure that may exacerbate fire risk. Further, the project site is not located within a FHSZ.[44] Therefore, this impact would be less than significant.

[44] California Department of Forestry & Fire Protection. *Fire Hazard Severity Zones in SRA.* Available: https://osfm.fire.ca.gov/media/6766/fhszs_map43.pdf. Accessed: January, 2020.

2.21 Mandatory Findings of Significance

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

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

Less than Significant. As described in **Section 2.4, Biological Resources**, the project site would not substantially reduce suitable habitat or threaten a special-status plant or wildlife species. The site is situated in an urban setting within the City, surrounded by residential and commercial development. Although the project site contains suitable nesting habitat for migratory birds, implementation of Mitigation Measures BIO-1, BIO-2, BIO-3, and BIO-4 related to avoidance of nesting season, pre-construction nesting bird surveys, buffer zones, and reporting would protect active bird nests within the disturbance area. As discussed in **Section 2.5, Cultural Resources** and **Section 2.18, Tribal Cultural Resources**, the existing structure on site does not qualify for listing in the California Register of Historic

Resources because it does not meet any of the four criteria and has lost important aspects of integrity due to poor upkeep. Furthermore, a CHRIS records search indicated that the project site exhibits a relatively low sensitivity for containing intact, subsurface archaeological deposits. Standard Permit Conditions discussed in **Section 2.5, Cultural Resources** would minimize any potential impacts to buried historic or prehistoric resources on the project site. Therefore, this impact would be less than significant.

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

Less than Significant with Mitigation Incorporated. A cumulative impact analysis determines whether the project, in combination with other foreseeable projects, would result in a significant cumulative impact, and, if so, whether the project's contribution to the significant cumulative impact would be considerable. The analysis of cumulative impacts can employ one of two methods to establish the impacts of foreseeable projects. A lead agency may (1) select a list of projects, including those outside the control of the agency, or (2) create a summary of projections from an adopted general plan that evaluates the regional conditions contributing to a cumulative impact.

This Initial Study evaluates cumulative impacts using the Envision San José 2040 General Plan EIR (General Plan EIR). The General Plan EIR evaluated future development, as identified in the current General Plan, and concluded that the following significant environmental impacts would occur:

- Generation of GHG emissions beyond those anticipated in the region's Clean Air Plan
- Contribution to GHG emissions exceeding the City's 2035 emission reduction target
- Land use impacts related to an existing jobs/housing imbalance
- Increased localized traffic noise
- Increased roadway congestion

Aesthetic Impacts

The project is not located in the Communications Hill Specific Plan Area or the North Coyote Valley Area and would not contribute to this cumulative impact.

Air Quality

Air quality impacts are, by nature, largely cumulative impacts because no single project is sufficient to result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. Project-level thresholds identified by BAAQMD are the basis for determining whether a project as a cumulatively considerable contribution to existing cumulatively significant air quality impacts. As discussed in **Section 2.3, Air Quality**, neither construction nor operation emission would exceed BAAQMD thresholds for any criteria pollutant for which the Bay Area is in non-attainment.

As shown in **Table 7** in **Section 2.3, Air Quality**, project construction would contribute to a cumulatively considerable health impact related to $PM_{2.5}$ emissions without mitigation. However, implementation of **Mitigation Measures AQ-1** and **AQ-2** would reduce potential impacts by requiring a Construction

Management Plan and a Construction Fugitive Dust Management Plan. Implementation of these measures would reduce $PM_{2.5}$ emissions such that the project would not contribute to a cumulatively considerable air quality impact.

Conversion of Agricultural Land

As discussed in **Section 2.3, Agriculture and Forest Resources**, the project site is identified as "urban/built-up land." Project implementation would not result in the loss of agricultural land and would not contribute to this cumulative impact.

Greenhouse Gas Emissions

The project's contribution to global climate change is discussed in **Section 2.8, Greenhouse Gas Emissions**. Development of the project would incorporate applicable policies of the City's adopted GHG Reduction Strategy. The project would also comply with the City's Construction and Demolition Diversion Program, which ensures that at least 75 percent of the construction waste is diverted from landfills. The project would implement all basic BAAQMD BMPs to reduce short-term construction-related diesel emissions. Therefore, the project's contribution to a cumulative impact to GHG emissions would not be considerable.

Land Use Impacts from a Jobs/Housing Imbalance

The General Plan EIR identified significant cumulative land use impacts from the build-out of the General Plan land use designations in conjunction with other regional development. The General Plan EIR concluded that regional development would create a regional jobs/housing imbalance, as workers unable to live near employment centers would commute long distances from outlying areas with available housing. The project would introduce 14 new housing units but would not contribute any new jobs. Therefore, the project would help to reduce the jobs/housing imbalance impact identified in the General Plan EIR.

Localized Traffic Noise

As discussed in **Section 2.13, Noise and Vibration**, roadway segments near the project site where project traffic would have the greatest impact (highest ratio of project traffic to existing traffic) were analyzed for potential noise increases. The project would add less than 3 dB of traffic noise along the roadway network. Noise generated by new vehicle trips associated with the project would be below the 3-dB threshold established by General Plan Policy EC-1.2. Day-night average (DNL) noise level increases would be anticipated to be similar. This increase would not typically be noticeable and would be below the 3 dBA and 5 dBA DNL thresholds of significance. Therefore, the project's contribution to this cumulative impact would not be considerable.

Degrading Traffic Operations

As discussed in **Section 2.17, Transportation**, the City has developed a VMT Evaluation Tool, in which the Evaluation Tool predicts a projects VMT based on a calculation of the VMT per employee and per capita of said employee within a 0.5 radius surrounding each project site. The project was evaluated

using the VMT Evaluation Tool and was given the score of 8.48 which is below the residential threshold of 10.12. Therefore, the cumulative impact would not be considerable.

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Less than Significant with Mitigation Incorporated. Implementation of the project would not result in any significant unavoidable impacts. Additionally, the implementation of the mitigation measures identified herein would reduce all potential impacts to a less-than-significant level. Therefore, the project would not result in impacts that would cause substantial adverse impacts on human begins, either directly or indirectly.

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