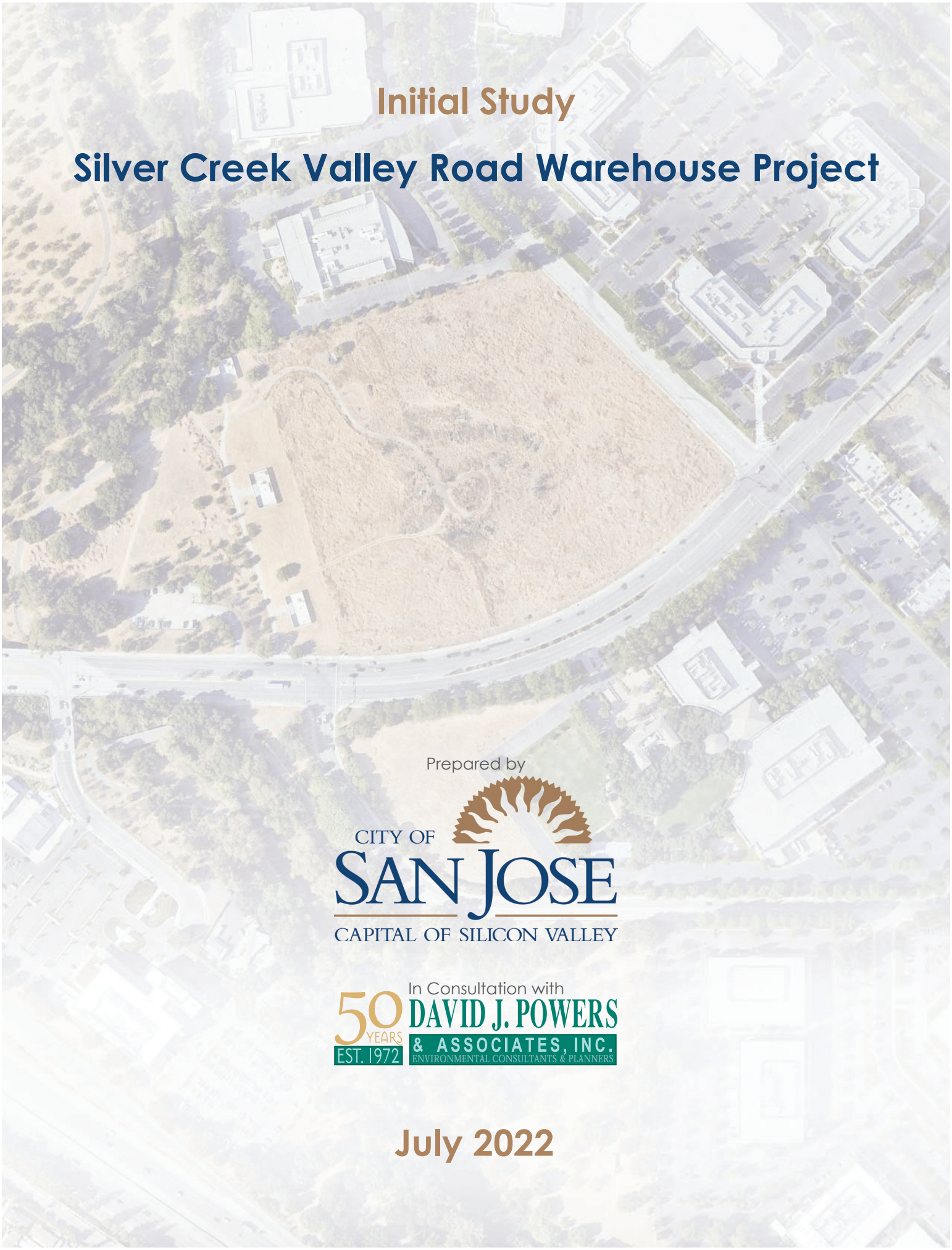
Initial Study

Silver Creek Valley Road Warehouse Project



Prepared by

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

In Consultation with
50 YEARS EST. 1972
DAVID J. POWERS & ASSOCIATES, INC.
ENVIRONMENTAL CONSULTANTS & PLANNERS

July 2022

TABLE OF CONTENTS

TABLE OF CONTENTS

Figures

Photos

Tables

Appendices

SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE INITIAL STUDY

The City of San José, as the Lead Agency, has prepared this Initial Study for the 5977 Silver Creek Valley Road Warehouse Project in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations §15000 et. seq.) and the regulations and policies of the City of San José, California.

The project proposes to construct a 281,873 square foot warehouse building on a vacant project site. This Initial Study evaluates the environmental impacts that might reasonably be anticipated to result from implementation of the proposed project.

1.2 PUBLIC REVIEW PERIOD

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

Cort Hitchens, Planner II
City of San José Planning Building and Code Enforcement
200 East Santa Clara Street
San José, 95113
Cort.Hitchens@sanjoseca.gov

1.3 CONSIDERATION OF THE INITIAL STUDY AND PROJECT

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

1.4 NOTICE OF DETERMINATION

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

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

5977 Silver Creek Valley Road Warehouse Project

2.2 LEAD AGENCY CONTACT

Cort Hitchens
City of San José Planning, Building, and Code Enforcement
Cort.Hitchens@sanjoseca.gov

2.3 PROJECT APPLICANT

Duke Realty
Jason Bernstein
1904 Franklin Street, 8th Floor
Oakland, CA 94612
(451) 298.3325

2.4 PROJECT LOCATION

5977 – 6001 Silver Creek Valley Road (See figures 2.4-1, 2.4-2, and 2.4-3 for Regional, Vicinity, and Aerial Figures)

2.5 ASSESSOR'S PARCEL NUMBERS

679-02-011 & 679-02-012

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

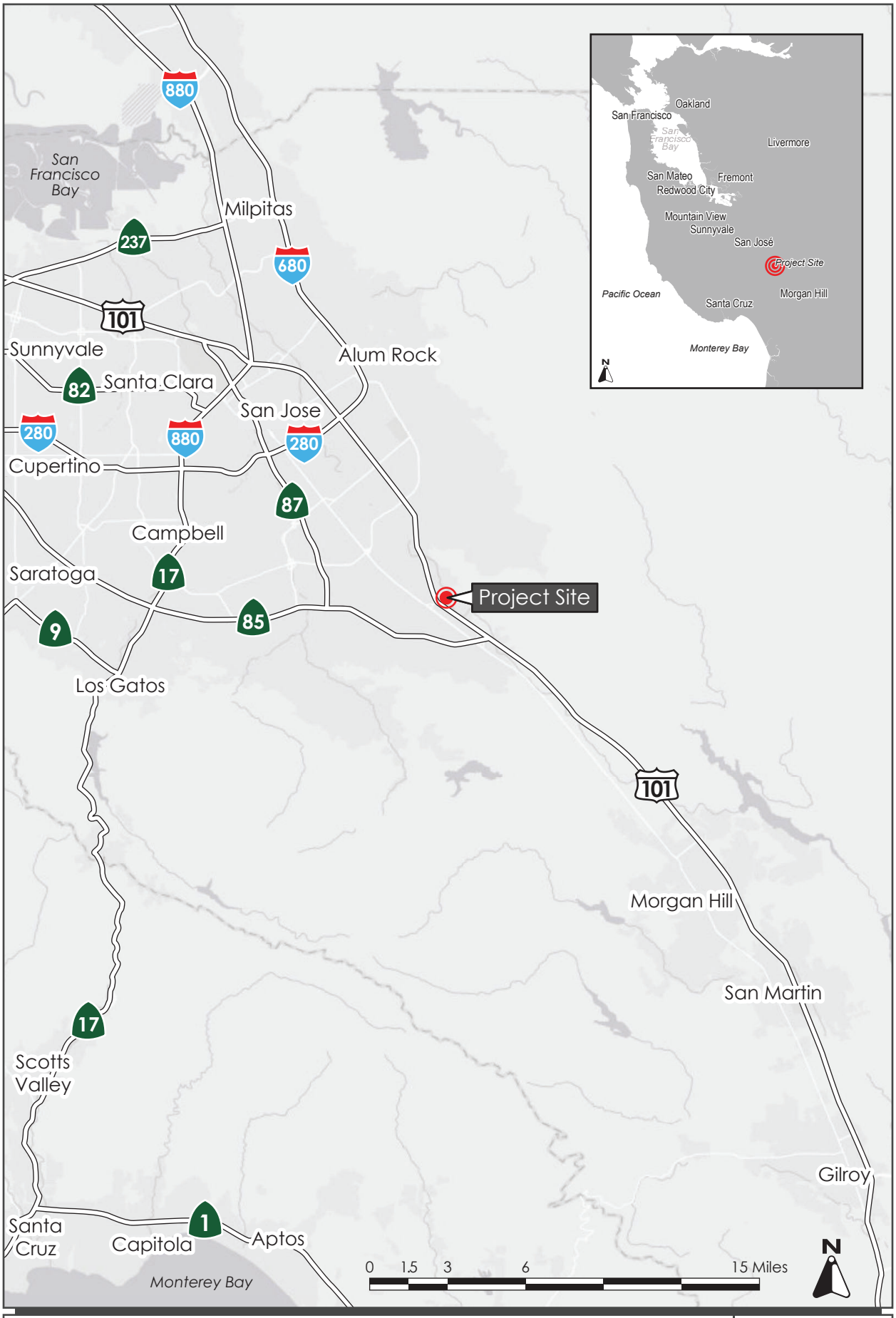
General Plan: Industrial Park (IP)
Zoning: Industrial Park (IP)

2.7 HABITAT PLAN DESIGNATION

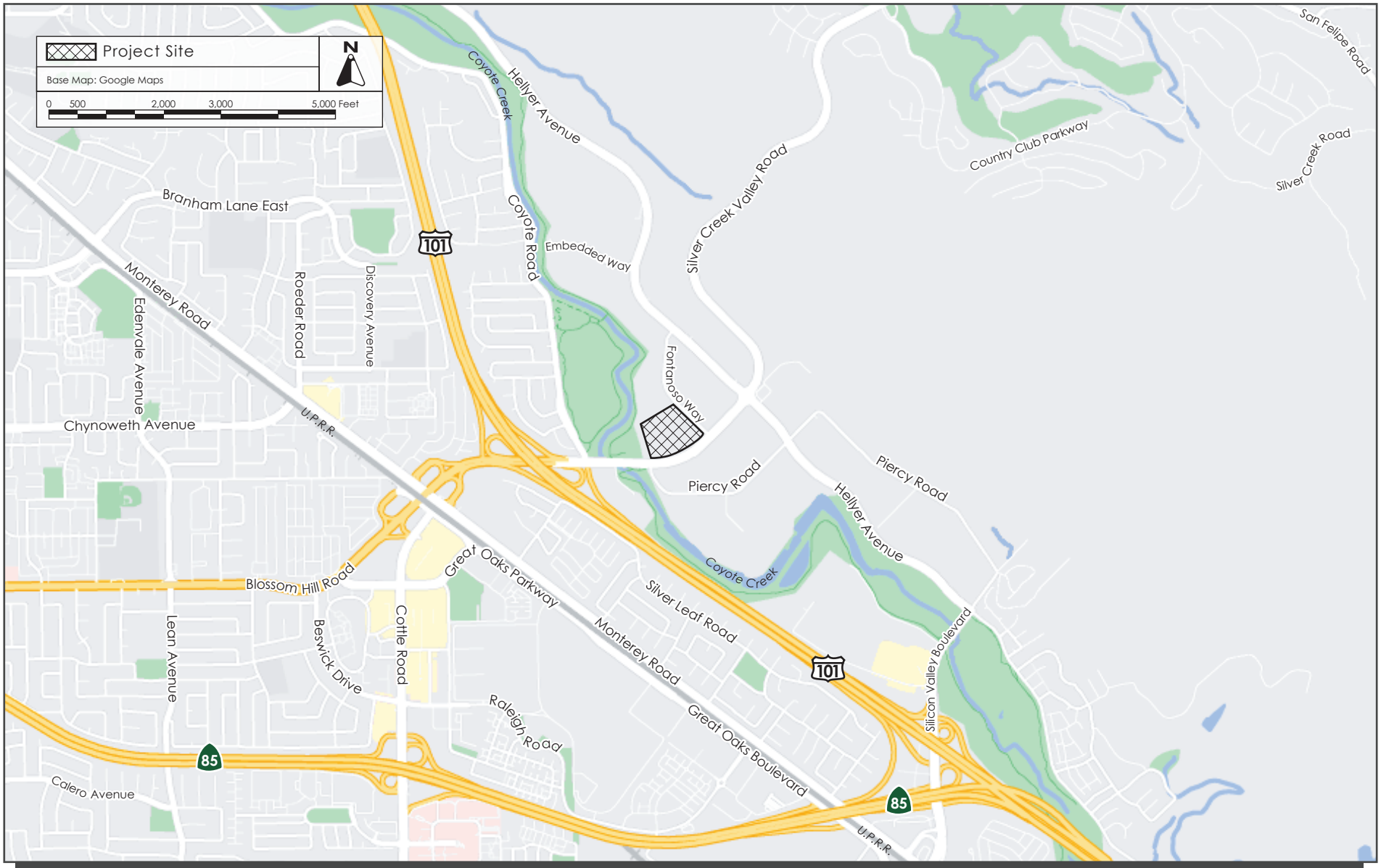
Golf Courses / Urban Parks
Urban - Suburban

2.8 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

Site Development Permit
Grading Permit
Building Permit
Lot Line Adjustment



REGIONAL MAP | FIGURE 2.4-1



VICINITY MAP

FIGURE 2.4-2

AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.4-3

SECTION 3.0 PROJECT DESCRIPTION

3.1 EXISTING SITE

The 15.13-acre (659,110 square foot) project site is comprised of two vacant parcels (APNs 679-02-011 and 679-02-012) located at 5977-6001 Silver Creek Valley Road in San José. The site is designated as Industrial Park (IP) under the Envision San José 2040 General Plan and is zoned Industrial Park District (IP). The site is surrounded by commercial office space and light industrial uses to the north, east and south with a vacant parcel, owned by the City of San José, followed by the Coyote Creek trail forming its western boundary. The existing site features can be seen in Figures 2.4-1, 2.4-2, and 2.4-3 above.

New Edenvale Development Policy Area

The project site is located within the Edenvale Development Policy Area is a planned growth area developed to accomplish four goals:

1. To manage the traffic congestion associated with near term development in the Edenvale Policy Area;
2. Promote General Plan goals for economic development, particularly high technology driven industries;
3. Encourage a citywide reverse commute to jobs at southerly locations in San José and;
4. Provide for transit-oriented, mixed-use residential and commercial development to increase internalization of automobile trips and promote transit ridership

The Policy Area prescribes specific allowances of development of industrial, office, and commercial uses to control traffic conditions and accomplish the goals established.

3.2 PROPOSED PROJECT

The proposed project would develop the vacant site located at 5977 and 6001 Silver Creek Valley Road in San José with industrial uses consistent with the General Plan and zoning district regulations. The project proposes an approximately 281,873 square foot industrial warehouse building, which includes up to 10,000 square feet of office space (including mezzanine), outdoor employee amenity area, up to 40 loading dock doors, up to 54 truck trailer stalls and space for up to 4,000 amps of expandable power. See Figure 3.2-1 for the site plan and Figure 3.2-2 for project elevations.

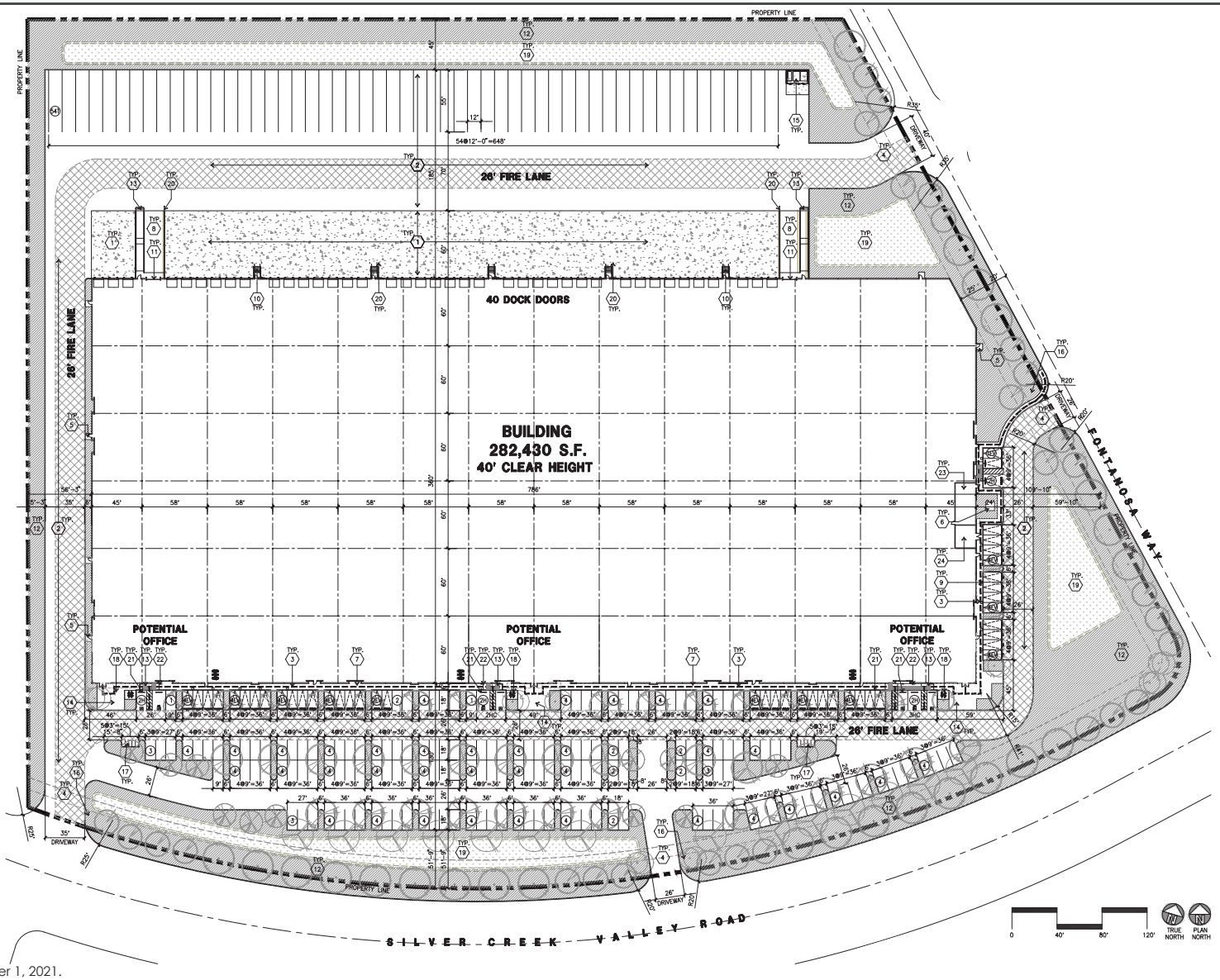
The proposed building would be approximately 50 feet tall and could be split into 100,000 square foot interior areas to provide flexibility of uses for multiple industrial occupants. The facility would have space for up to 195 on site workers.

The project site would be accessible via two driveways on Silver Creek Valley Road and two driveways on Fontanoso Way. These access points would lead into a surface lot with 210 parking spaces. The proposed project would connect to existing utilities located in Silver Creek Valley Road and Fontanoso Way.

The proposed project would be constructed over the course of approximately 13 months. The proposed project would not remove any ordinance sized trees from the project site and would not require soil import during grading or other phases of construction. After construction the site would be replanted with landscape features as depicted in Figure 3.2-3. The proposed project would provide stormwater treatment on site through the use of four lined bioretention features with underdrains.

The proposed project would include energy conservation measures required by Title 24 energy standards including high-efficiency lighting, high-efficiency heating/cooling, thermal insulation, and water conserving plumbing fixtures. The proposed building would also be built in conformance with San José Council Policy 6-32 *Private Section Green Building Policy* and the City's Green Building Measures and include fixtures that would allow for solar panel installation by future site occupants.

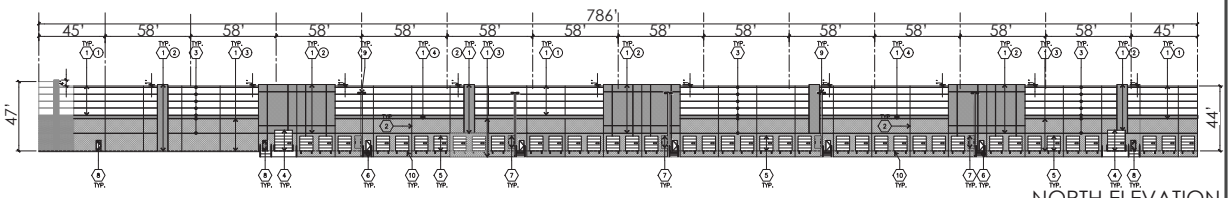
The proposed project would also construct pedestrian improvements to improve the vehicle miles travelled (VMT) metric of the proposed project by including a crosswalk on the west leg of the Silver Creek Valley Road at the Fontanoso Way intersection, extending the Class IV protected bike lanes along Silver Creek Valley Road beyond the project frontage westward to the northeast corner of the US-101 Off-Ramp-Coyote Road/Silver Creek Valley Road intersection, and extending the existing raised median island along northbound Silver Creek Valley Road at the Silver Creek Valley/Hellyer Avenue intersection.



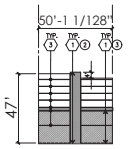
Source: HPA, Inc., October 1, 2021.

PROJECT PLANS

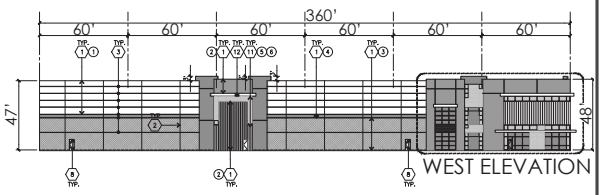
FIGURE 3.2-1



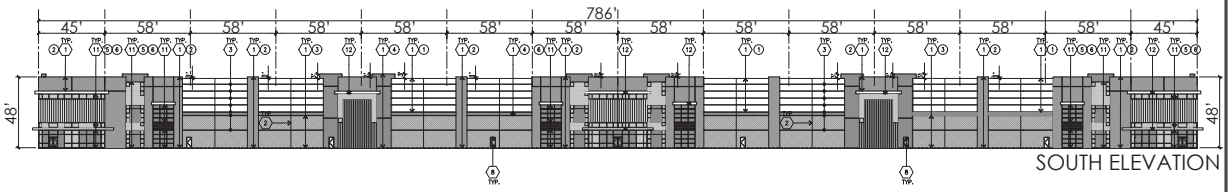
NORTH ELEVATION



NORTH EAST ELEVATION



WEST ELEVATION



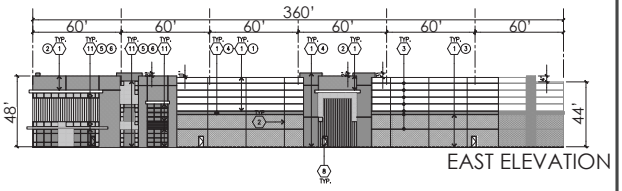
SOUTH ELEVATION

KEYNOTES - ELEVATIONS

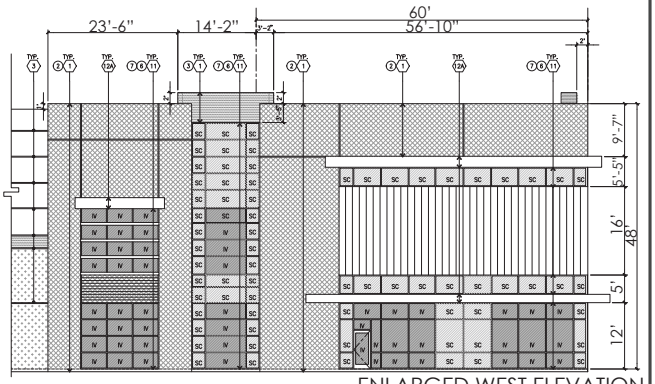
1. CONCRETE TILT-UP PANEL (PAINTED). FINISH GRADE VARIES. SEE "C" DRAWINGS. WATERPROOF ALL WALLS WHERE EXTERIOR GRADE IS HIGHER THAN FINISH FLOOR AND EXPOSED TO THE WEATHER. WATERPROOFING TO BE PROTECTED WITH PROTECTION BOARD AND A MIN. OF 6" OF GRAVEL. PROVIDE TRENCH DRAIN AT BOTTOM AND DAYLIGHT TO CURB OR TAKE TO STORM DRAIN. NOT REQUIRED AT DOCK HIGH CONDITION OR AT RAMP WALLS.
2. PANEL JOINT.
3. PANEL REVEAL. ALL REVEALS TO HAVE A MAX. OF 3/8" CHAMFER. REVEAL COLOR TO MATCH ADJACENT BUILDING FIELD COLOR. U.N.O.
4. OVERHEAD DOOR @ DRIVE THRU. PROVIDE COMPLETE WEATHER-STRIPPING PROTECTION ALL AROUND.
5. OVERHEAD DOOR @ DOCK HIGH. PROVIDE COMPLETE WEATHER-STRIPPING PROTECTION ALL AROUND.
6. NOT USED
7. METAL LOUVER. PAINT TO MATCH BUILDING COLOR.
8. HOLLOW METAL DOORS. PROVIDE COMPLETE WEATHER STRIPING ALL AROUND DOOR. PROVIDE FOR RAIN DIVERTER ABOVE DOOR.
9. EXTERIOR DOWNSPOUT WITH OVERFLOW SCUPPERS.
10. DOCK BUMPER.
11. ALUMINUM STOREFRONT FRAMING WITH TEMPERED GLAZING.
12. METAL TUBE STEEL CANOPY.

ELEVATION COLOR LEGEND/SCHED.

1. CONCRETE TILT-UP PANEL. COLOR : SW 6231 ROCK CANDY
2. CONCRETE TILT-UP PANEL. COLOR : SW 7064 PASSIVE
3. CONCRETE TILT-UP PANEL. COLOR : SW 0077 CLASSIC FRENCH GRAY
4. CONCRETE TILT-UP PANEL. COLOR : SW 7674 PEPPERCORN
5. GLAZING COLOR : BLUE REFLECTIVE GLAZING
6. MULLIONS COLOR : CLEAR ANODIZED ALUMINUM
7. CANOPY MATERIAL : SHERWIN-WILLIAMS SW 6231 ROCK CANDY
8. DOOR COLORS : MATCH BUILDING COLOR



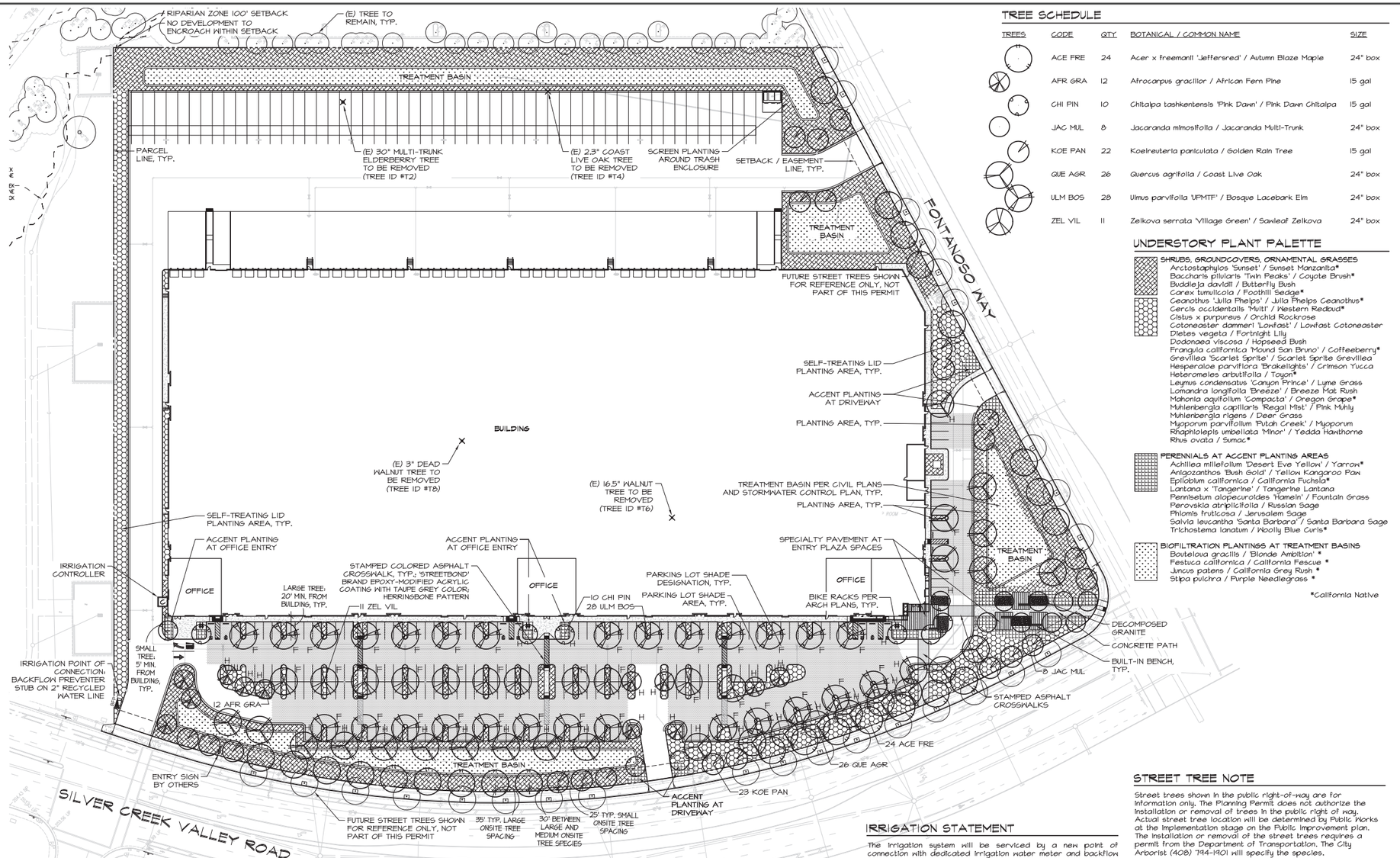
EAST ELEVATION



ENLARGED WEST ELEVATION

Source: HPA, Inc., October 1, 2021.

ELEVATION DIAGRAM | FIGURE 3.2-2



TREE SCHEDULE

TREES	CODE	QTY	BOTANICAL / COMMON NAME	SIZE
	ACE FRE	24	Acer x freemanii 'Jeffersred' / Autumn Blaze Maple	24" box
	AFR GRA	12	Afrocarpus gracilior / African Fern Pine	15 gal
	CHI PIN	10	Chitalpa tashkentensis 'Pink Dawn' / Pink Dawn Chitalpa	15 gal
	JAC MIL	8	Jacaranda mimosifolia / Jacaranda Multi-Trunk	24" box
	KOE PAN	22	Koelreuteria paniculata / Golden Rain Tree	15 gal
	QUE AGR	26	Quercus agrifolia / Coast Live Oak	24" box
	ULM BOS	28	Ulmus parvifolia 'UPMTF' / Bosque Lacebark Elm	24" box
	ZEL VIL	11	Zelkova serrata 'Village Green' / Sawleaf Zelkova	24" box

UNDERSTORY PLANT PALETTE

SHRUBS, GROUNDCOVERS, ORNAMENTAL GRASSES
Arctostaphylos 'Sunset' / Sunset Manzanita*
Baccharis pilularis 'Twin Peaks' / Coyote Brush*
Buddleja davidii / Butterfly Bush
Carex tumulicola / Foothill Sedge*
Ceanothus 'Julia Phelps' / Julia Phelps Ceanothus*
Cercis occidentalis 'Multi' / Western Redbud*
Cistus x purpureus / Orchid Rockrose
Cotoneaster dammeri 'Lowfast' / Lowfast Cotoneaster
Dietes vegeta / Fortnight Lily
Dodonaea viscosa / Hopseed Bush
Frangula californica 'Mound San Bruno' / Coffeeberry*
Grevillea 'Scarlet Sprite' / Scarlet Sprite Grevillea
Hesperaloe parviflora 'Brakelights' / Crimson Yucca
Heteromeles arbutifolia / Toyon*
Leymus condensatus 'Canyon Prince' / Lyme Grass
Lomandra longifolia 'Breeze' / Breeze Mat Rush
Mahonia aquifolium 'Compacta' / Oregon Grape*
Muhlenbergia capillaris 'Regal Mist' / Pink Muhly
Muhlenbergia rigens / Deer Grass
Myoporum parvifolium 'Putah Creek' / Myoporum
Rhaphiolepis umbellata 'Minor' / Yedda Hawthorne
Rhus ovata / Sumac*

PERENNIALS AT ACCENT PLANTING AREAS
Achillea millefolium 'Desert Eve Yellow' / Yarrow*
Anigozanthos 'Bush Gold' / Yellow Kangaroo Paw
Epilobium californica / California Fuchsia*
Lantana x 'Tangerine' / Tangerine Lantana
Pennisetum alopecuroides 'Hameln' / Fountain Grass
Perovskia atriplicifolia / Russian Sage
Phlomis fruticosa / Jerusalem Sage
Salvia leucantha 'Santa Barbara' / Santa Barbara Sage
Trichostema lanatum / Woolly Blue Curls*

BIOFILTRATION PLANTINGS AT TREATMENT BASINS
Bouteloua gracilis / 'Blonde Ambition' *
Festuca californica / California Fescue *
Juncus patens / California Grey Rush *
Stipa pulchra / Purple Needlegrass *

*California Native

SUSTAINABLE SITE DESIGN SUMMARY

SELF-TREATING PLANTING AREA	28,316 SF
BIORETENTION TREATMENT AREA	32,278 SF
TOTAL LID	60,954 SF
TOTAL LANDSCAPE AREA	120,957 SF

LID AREA / LANDSCAPE AREA = 50%

Landscape areas are graded to drain to treatment basins, which will be vegetated with maw-free native biofiltration grasses and irrigated with low precipitation rotary spray heads. Self-treating planting areas do not receive runoff from impervious areas. Both of these approaches combine to provide water quality management via source control. Further green design measures include the plant selections - the entire understory plant palette (shrubs, groundcovers, grasses) are categorized as low-water use plant species, as well as the irrigation system design - the entire understory of shrubs and groundcovers will be irrigated with high efficiency drip irrigation. Plant palette is also comprised of many California native and adapted plant species that offer drought tolerance as well as biodiversity and habitat-friendly landscape.

PARKING LOT SHADE CALCULATIONS

TREE CODE	F= FULL 100%	H= HALF 50%
AFR GRA	0 (107) = 0	9 (353) = 3,177
CHI PIN	0 (491) = 0	4 (246) = 984
QUE AGR	2 (962) = 1,924	15 (481) = 7,215
ULM BOS	27 (962) = 25,974	1 (481) = 481
ZEL VIL	22 (962) = 10,582	0 (481) = 0
	TOTAL 38,480 SF	TOTAL 11,857 SF

PARKING LOT AREA: 75,150 SF
SHADE REQUIRED (MIN. 50%): 37,575 SF

PARKING LOT SHADE PROVIDED: 50,337 SF
PERCENT SHADE: 66%

PLAZA SHADE CALCULATIONS

PLAZA AREA (CONCRETE AND DECOMPOSED GRANITE): 3,130 SF

PLAZA SHADE PROVIDED BY TREES: 2,824 SF
PLAZA SHADE PROVIDED BY CANOPY AT ENTRY: 450 SF

PERCENT SHADE AT PLAZA: 100%

PLANTING STATEMENT

This landscape plan places heavy emphasis on a strong street frontage tree layout as well as enhanced landscaping at drive and pedestrian entries.

The understory plant palette consists of low and medium water use shrubs, ground covers, perennials, and ornamental grasses that are considered low maintenance, long-lived, and hardy. Choice of plants is guided by considerations of solar exposure and climate conditions of the site. Plant species vary in form, texture and color. Treatment basins will be planted with a biofiltration native grass blend sod selected for stormwater treatment.

All planted areas shall be properly amended, compacted and finish graded prior to planting. A pre-emergent herbicide will be installed in all shrub and groundcover planting areas to control weeds. All landscape areas (except sod areas) will be top dressed with a 3-inch depth of bark mulch.

Shrubs and ground covers will be no less than 1-gallon size. Trees will be no less than 15 gallon size. Plant materials shall be spaced to provide substantial cover, but also to allow adequate room to mature into their natural form and ultimate size without required pruning.

PROJECT TREE CALCULATION

TOTAL TREE QUANTITY: 141
EVERGREEN TREES: 38 (27%)
24" BOX TREES: 97 (68%)

IRRIGATION STATEMENT

The irrigation system will be serviced by a new point of connection with dedicated irrigation water meter and backflow preventer. The irrigation design will consist of low volume point source drip irrigation to all shrub/groundcover areas, low precipitation overhead rotary spray in treatment basins, and surface bubblers at all trees. The overall irrigation system will be designed with a smart irrigation controller. A weather sensor will be used to automatically adjust duration of application in accordance with recent weather conditions based on evapotranspiration.

Maximum water allowance will be determined by State code. To also be consistent with the planting design, the irrigation design shall incorporate hydrozones by locating plants of different water needs into groups for ease of water application.

TREE REMOVAL SUMMARY

Tree ID	COMMON NAME	DBH	Tree Replacement Ratio
T2	ELDERBERRY	30"	5:1
T4	LIVE OAK	2.3"	1:1
T6	WALNUT	16.5"	4:1
T8	WALNUT	3"	1:1

Minimum required new trees per City Ordinance: 11 15-gallon trees
Proposed new trees: 97 24"-box trees
44 15-gallon trees
141 total trees

STREET TREE NOTE

Street trees shown in the public right-of-way are for information only. The Planning Permit does not authorize the installation or removal of trees in the public right of way. Actual street tree location will be determined by Public Works at the implementation stage on the Public Improvement plan. The installation or removal of the street trees requires a permit from the Department of Transportation. The City Arborist (408) 794-1901 will specify the species.

CITY OF SAN JOSE NOTES

All landscape areas shall be maintained in perpetuity, and all dead materials replaced with viable plant materials in conformance with an approved permit.

The following volumes of non-compacted soil shall be designated to allow trees to reach their maturity: 700 cubic feet for small trees, 1,400 cubic feet for medium trees, 2,100 cubic feet for large trees. Soil volumes may be achieved through a combination of measures including structural soil systems, soil cells, or continuous trenches.

All tree canopies shall be maintained with the following minimum clearances: 14' in and around service and loading areas and driveways, 12' in parking lots, 8' for other trees.

Include 3 inches of composted, non-floatable mulch in areas between stormwater treatment plantings and side slopes.

0' 80' 40' 160'

NORTH

Source: Yamasaki Landscape Architecture, June 28, 2022.

PRELIMINARY PLANTING PLAN

FIGURE 3.2-3

SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND IMPACT DISCUSSION

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

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

The discussion for each environmental subject includes the following subsections:

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

4.1 AESTHETICS

4.1.1 Environmental Setting

4.1.1.1 *Regulatory Framework*

State

Streets and Highway Code Sections 260 through 263

The California Scenic Highway Program (Streets and Highway Code, Sections 260 through 263) is managed by the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. There are no state-designated scenic highways in San José. Interstate 280 from the San Mateo County line to State Route (SR) 17, which includes segments in San José, is an eligible, but not officially designated, State Scenic Highway.[1]

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

Local

Envision San José 2040 General Plan

The Envision San José 2040 General Plan contains the following policies which are specific to aesthetics and applicable to the proposed project:

Envision San José 2040 Relevant Aesthetics Policies

Policy	Description
VN-1.9	Cluster parking, make use of shared parking facilities, and minimize the visual impact of surface parking lots to the degree possible to promote pedestrian and bicycle activity and to improve the City's aesthetic environment.
CD-1.17	Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.

[1] California Department of Transportation. "Scenic Highways." Accessed December 6, 2021. https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways.

CD-1.18 Encourage the placement of loading docks and other utility uses within parking structures or at other locations that minimize their visibility and reduce their potential to detract from pedestrian activity.

CD-1.19 Encourage the location of new and relocation of existing utility structures into underground vaults or within structures to minimize their visibility and reduce their potential to detract from pedestrian activity. When above-ground or outside placement is necessary, screen utilities with art or landscaping.

CD-1.20 Determine appropriate on-site locations and facilities for signage at the development review stage to attractively and effectively integrate signage, including pedestrian-oriented signage, into the overall site and building design.

CD-1.22 Include adequate, drought-tolerant landscaped areas in development and require provisions for ongoing landscape maintenance.

CD-1.25 Apply Riparian Corridor Goals and Policies of the General Plan when reviewing development adjacent to creeks.

- Development adjacent to creekside areas should incorporate compatible design and landscaping, including appropriate setbacks and plant species that are native to the area or are compatible with native species.
- Development should maximize visual and physical access to creeks from the public right-of-way while protecting the natural ecosystem. Consider whether designs could incorporate linear parks along creeks or accommodate them in the future.

4.1.1.2 *Existing Conditions*

Existing On-site Setting

The project site is a vacant site primarily occupied by grasses and small shrubs. Near the center of the site there are a few scattered trees (described further in 4.4 Biological Resources) and a few piles of debris including rusted car frames, wood debris, and piles of broken concrete. No natural scenic resources, such as rock outcroppings, are present on-site or in the project area. Pictures of the project site can be seen in Photo Diagram 1 below.

Existing Surrounding Setting

The area surrounding the project site is currently occupied by office buildings ranging from one to three stories in height. These structures are located to the north, east and southeast of the project site. Directly south of the site and to the west, the project site is bounded by open space recreational areas associated with the Coyote Creek Trail. The surrounding area can be seen in Photo Diagram 2 below.

Scenic Views

Based on the City's General Plan, views of hillside areas (including the foothills of the Diablo Range and the Santa Cruz Mountains, Silver Creek Hills, and Santa Teresa Hills) and the downtown skyline are scenic features in the San José area. The project site and surrounding areas are relatively flat and prominent viewpoints from the site, other than buildings, are limited. The project area has minimal to no scenic views of the Diablo foothills to the east, Santa Cruz Mountains to the west, or the Silver

Creek hills to the southeast; however, the Coyote Ridge in the East foothills to the east of the project site can be seen from the site beyond the office buildings.[2]

Light and Glare

Sources of light and glare are abundant in the urban environment of the project site and project area, including but not limited to streetlights, parking lot lights, security lights, vehicular headlights, internal building lights, and reflective building surfaces and windows.

[2] City of San José. Envision 2040 General Plan. June 2011.

Southeast Corner of Site Looking North

Southwest Corner of Site Looking Northeast

East Side of Site Looking West

East Side of Site Looking Southwest

PHOTO DIAGRAM 1: ON-SITE PHOTOS

Southeast Corner of Site Looking Northeast

Southeast Corner of Site Looking East

South Side of Site Looking South

Intersection of Silver Creek Valley Road and Fontanoso Way Looking Northeast

PHOTO DIAGRAM 2: OFF-SITE PHOTOS

4.1.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Except as provided in Public Resources Code Section 21099, would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☒	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings?[3] 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?	☐	☐	☒	☐

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

The construction of the proposed project would create an approximately 50-foot-tall warehouse structure occupying most of the vacant lot, which would obstruct some views of the hills east of the project site from publicly available areas, such as the Coyote Creek trail or sidewalks near the project site. These scenic vistas would still be visible from most areas around the project site with construction of the project. The proposed project would be consistent with other development in the area and would not diminish scenic views or damage any scenic resources in the project area. Therefore, implementation of the project would not result in a significant impact on a scenic vista. **(Less than Significant Impact)**

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

The proposed project is located approximately 10.5 miles northeast of the nearest segment of scenic highway SR 9 in southern Santa Clara County. Therefore, implementation of the proposed project would not damage any scenic resources, such as trees, rock outcroppings, and historic buildings within a state scenic highway. **(No Significant Impact)**

[3] Public views are those that are experienced from publicly accessible vantage points.

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

The project site is currently vacant but is located within an urbanized area that consists of primarily commercial land uses. Although the City's Zoning Ordinance does not include regulations governing scenic quality, the proposed project would comply with Title 20 Zoning of the City's Municipal Code and would be subject to a design review process conducted as part of the development permit review process to ensure that it conforms with all adopted design guidelines and other relevant policies and ordinances. The project would also result in a building of similar height, color, and design to existing structures in the project's vicinity. For these reasons, the proposed project would not conflict with applicable zoning and other regulations governing scenic quality. **(Less than Significant Impact)**

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

The proposed project would construct an approximately 50-foot warehouse structure which would result in more visible nighttime lighting than currently exists on-site. The proposed project would include internal building lights, and external building and security lights. Exterior lighting on the site would be similar to the exterior lighting present on surrounding industrial properties and would comply with City Council 4-3 *Outdoor Lighting on Private Developments.* Additionally, the project would comply with City Council Policy 6-34 *Riparian Corridor Protection and Bird-Safe Design* to limit lighting, glare, and reflection from the project.

There are no residential uses in the vicinity of the site, therefore the project would not result in substantial light or glare affecting residences. The proposed project would be subject to the City's design review process prior to the issuance of development permits to ensure that it is consistent with General Plan policies and the City's Design Guidelines. Compliance with the City Design Guidelines, City policies, and regulations would protect the night sky and control the amount of light shining on streets and sidewalks. Therefore, the proposed project would not adversely affect day or nighttime views in the area from lighting or glare. **(Less than Significant Impact)**

4.2 AGRICULTURE AND FORESTRY RESOURCES

4.2.1 Environmental Setting

4.2.1.1 *Regulatory Framework*

State

Farmland Mapping and Monitoring Program

The California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) assesses the location, quality, and quantity of agricultural land and conversion of these lands over time. Agricultural land is rated according to soil quality and irrigation status. The best quality land is identified as Prime Farmland. In CEQA analyses, the FMMP classifications and published county maps are used, in part, to identify whether agricultural resources that could be affected are present on-site or in the project area.[4]

California Land Conservation Act

The California Land Conservation Act (Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space uses. In return, landowners receive lower property tax assessments. In CEQA analyses, identification of properties that are under a Williamson Act contract is used to also identify sites that may contain agricultural resources or are zoned for agricultural uses.[5]

Fire and Resource Assessment Program

The California Department of Forestry and Fire Protection (CAL FIRE) identifies forest land, timberland, and lands zoned for timberland production that can (or do) support forestry resources.[6] Programs such as CAL FIRE's Fire and Resource Assessment Program and are used to identify whether forest land, timberland, or timberland production areas that could be affected are located on or adjacent to a project site.[7]

4.2.1.2 *Existing Conditions*

The project site is vacant land not under a current Williamson Act contract and is classified as *Other Land* on the California Important Farmland Finder, which includes land not included in any other mapping category.

[4] California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed December 6, 2021. https://maps.conservation.ca.gov/DLRP/CIFF/.
[5] California Department of Conservation. "Williamson Act." http://www.conservation.ca.gov/dlrp/lca.
[6] Forest Land is land that can support 10 percent native tree cover and allows for management of forest resources (California Public Resources Code Section 12220(g)); Timberland is land not owned by the federal government or designated as experimental forest land that is available for, and capable of, growing trees to produce lumber and other products, including Christmas trees (California Public Resources Code Section 4526); and Timberland Production is land used for growing and harvesting timber and compatible uses (Government Code Section 51104(g)).
[7] California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed December 6, 2021. http://frap.fire.ca.gov/.

Common examples of land classified as *Other Land* include low density rural developments; brush, timber, wetland, and riparian areas not suitable for livestock grazing; confined livestock, poultry or aquaculture facilities; strip mines, borrow pits; and water bodies smaller than forty acres. This designation also includes vacant and nonagricultural land surrounded on all sides by urban development and greater than 40 acres.[8]

Under the Fire and Resources Assessment Program provided by Cal Fire, the project site is not designated as forestland and does not contain forest resources.[9]

4.2.2 Impact Discussion

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

[8] California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed December 6, 2021. https://maps.conservation.ca.gov/DLRP/CIFF/.
[9] California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed December 6, 2021. http://frap.fire.ca.gov/.

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

There are no agricultural resources located on-site including, Prime Farmland; Unique Farmland; or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency.[10] The project would have no impact on agricultural resources. **(No Impact)**

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

The project site is not subject to a Williamson Act contract. The site is located within the Industrial Park District zoning district and would not conflict with any agricultural zoning. **(No Impact)**

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

The project site is zoned Industrial Park District and is identified as *Other Land* on the California Department of Conservation database of agriculturally related data. The project site is not zoned for forestland, timberland, or timberland zoned Timberland Production. The project would not conflict with existing zoning for forest land, timberland, or timberland zoned Timberland Production, and would not result in impacts to these resources. **(No Impact)**

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

The project site does not contain significant trees and does not contain land uses that could serve as forest land. Therefore, the project would not result in the conversion of forest land to non-forest uses. **(No Impact)**

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

The project site is vacant and does not contain land uses that could serve as agricultural or forest land. Therefore, the project would not result in the conversion of agricultural, Farmland or forest land to non-agricultural or non-forest uses. **(No Impact)**

[10] Department of Conservation. California Important Farmland Finder. Accessed December 7, 2021. https://maps.conservation.ca.gov/DLRP/CIFF/.

4.3 AIR QUALITY

The information in this section is based in part on the 5977 & 6001 Silver Creek Valley Road Project Air Quality Assessment prepared by Kimley Horn in February 2022. This report is available in Appendix A of this document.

4.3.1 Environmental Setting

4.3.1.1 *Background Information*

Criteria Pollutants

Air quality in the Bay Area is assessed related to six common air pollutants (referred to as criteria pollutants), including ground-level ozone (O_3), nitrogen oxides (NO_x), particulate matter (PM), carbon monoxide (CO), sulfur oxides (SO_x), and lead.[11] Criteria pollutants are regulated because they result in health effects. An overview of the sources of criteria pollutants and their associated health are summarized in Table 4.3-1. The most commonly regulated criteria pollutants in the Bay Area are discussed further below.

Table 4.3-1: Health Effects of Air Pollutants

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

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

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

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

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

Toxic Air Contaminants

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

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs. Diesel exhaust is a complex mixture of gases, vapors, and fine particles. Medium- and heavy-duty diesel trucks represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (most susceptible to injury).[12] Chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the California Air Resources Board (CARB).

Sensitive Receptors

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

4.3.1.2 *Regulatory Framework*

Federal and State

Clean Air Act

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

[12] California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed December 6, 2021. https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health.

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

Risk Reduction Plan

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

Regional

2017 Clean Air Plan

The Bay Area Air Quality Management District (BAAQMD) is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how state and federal air quality standards will be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The 2017 CAP focuses on two related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 CAP describes how BAAQMD will continue its progress toward attaining state and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities. To protect the climate, the 2017 CAP includes control measures designed to reduce emissions of methane and other super-greenhouse gases (GHGs) that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.[13]

CEQA Air Quality Guidelines

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

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

Community Air Risk Evaluation Program

Under the Community Air Risk Evaluation (CARE) program, BAAQMD has identified areas with high TAC emissions, and sensitive populations that could be affected by them, and uses this information to establish policies and programs to reduce TAC emissions and exposures. Impacted communities identified to date are located in Concord, Richmond/San Pablo, San José, eastern San Francisco, western Alameda County, Vallejo, San Rafael, and Pittsburg/Antioch. The main objectives of the program are to:

- Evaluate health risks associated with exposure to TACs from stationary and mobile sources;
- Assess potential exposures to sensitive receptors and identify impacted communities;
- Prioritize TAC reduction measures for significant sources in impacted communities; and
- Develop and implement mitigation measures to improve air quality in impacted communities.

Local

Envision San José 2040 General Plan

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

Envision San José 2040 Relevant Air Quality Policies

Policy	Description
MS-4.1	Promote the use of building materials that maintain healthful indoor air quality in an effort to reduce irritation and exposure to toxins and allergens for building occupants.
MS-4.2	Encourage construction and pre-occupancy practices to improve indoor air quality upon occupancy of the structure.
MS-4.3	Develop and implement policies and ordinances to promote the use of building materials, furniture and paint that maintain healthful indoor air quality and to discourage the use of materials that degrade indoor air quality
MS-4.4	Develop and implement policies and ordinances to promote beneficial construction and pre-occupancy practices such as sealing of the HVAC system during construction, air flush-outs prior to occupancy, and/or air quality testing and corrections prior to occupancy
MS-10.1	Assess projected air emissions from new development in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.
MS-10.2	Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.
MS-10.7	Encourage regional and statewide air pollutant emission reduction through energy conservation to improve air quality.

MS-11.2	For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.
MS-11.3	Review projects generating significant heavy duty truck traffic to designate truck routes that minimize exposure of sensitive receptors to TACs and particulate matter.
MS-11.8	For new projects that generate truck traffic, require signage which reminds drivers that the State truck idling law limits truck idling to five minutes.
MS-13.4	Adopt and periodically update dust, particulate, and exhaust control standard measures for demolition and grading activities to include on project plans as conditions of approval based upon construction mitigation measures in the BAAQMD CEQA Guidelines.
MS-13.5	Prevent silt loading on roadways that generates particulate matter air pollution by prohibiting unpaved or unprotected access to public roadways from construction sites

4.3.1.3 *Existing Conditions*

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

Sensitive Receptors

Sensitive populations are more susceptible to the effects of air pollution than the general population. Sensitive receptors in proximity to localized sources of toxics are of particular concern. Land uses considered sensitive receptors include residences, schools, playgrounds, childcare centers, long-term health care facilities, rehabilitation centers, convalescent centers, and retirement homes.

The project site is located on an undeveloped site within an urban area in City of San José. The surrounding land uses are predominantly commercial and industrial, with some residences to the west and south. The southern boundary of the site is Silver Creek Valley Road. Sensitive receptors are located approximately 140 feet west of the site's western property line at the Coyote Creek Trail, approximately 635 feet southwest of the site's southern property line at a Single-family residence, approximately 1,175 feet west at a Single-family residential community, and approximately 2,100 feet east at a Family Community Church.

4.3.2 Impact Discussion

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

4.3.2.1 *Significance Thresholds*

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of San José has considered the air quality thresholds updated by BAAQMD in May 2017 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin and conservative in terms of the assessment of health effects. The BAAQMD CEQA Air Quality thresholds used in this analysis are identified in Table 4.3-2 below. In developing thresholds of significance for air pollutants, BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable and contribute to unhealthy air. BAAQMD's thresholds are set to be protective of human health and are designed to allow the air basin to achieve the state and federal ambient air quality standards. If a project makes a less than cumulatively considerable contribution to the criteria air pollutants for which the basin is in nonattainment, the project will not have significant adverse health effects.

Table 4.3-2: Air Quality Significance Thresholds			
Criteria Air Pollutant	***Construction Thresholds***	***Operational Thresholds***	
	Average Daily Emissions (lbs./day)	**Average Daily Emissions (lbs./day)**	**Annual Average Emissions (tons/yr.)**
ROG	54	54	10
NO_x	54	54	10
PM_{10}	82 (Exhaust)	82	15
$PM_{2.5}$	54 (Exhaust)	54	10
CO	Not Applicable	9.0 ppm (8-hr. average) or 20.0 ppm (1-hr. average)	
Fugitive Dust	Construction Dust Ordinance or Other Best Management Practices	Not Applicable	
Health Risks and Hazards	**Single Sources Within 1,000-foot Zone of Influence**	**Combined Sources (Cumulative from all Sources Within 1,000-foot Zone of Influence)**	
Excess Cancer Risk	> 10.0 per one million	> 100 per one million	
Hazard Index	>1.0	>10.0	
Incremental Annual $PM_{2.5}$ >0.3	> 0.3µg/m^3	> 0.8µg/m3	
Note: ROG = reactive organic gases, NOx = nitrogen oxides, PM10 = course particulate matter or particulates with an aerodynamic diameter of 10 micrometers (µm) or less, PM2.5 = fine particulate matter or particulates with an aerodynamic diameter of 2.5µm or less.			

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

Construction Criteria Pollutant Emissions

The proposed project would require the operation of construction equipment, therefore the California Emissions Estimator Model (CalEEMod) was used to estimate emissions from on-site construction activity, construction vehicle trips, and evaporative emissions. The project land use types and size, and anticipated construction schedule were input to CalEEMod. The model was used to predict emissions from the proposed project's construction traffic, which includes worker travel, vendor trucks, and haul trucks. The CalEEMod model output along with construction inputs and EMission FACtor (EMFAC2017) vehicle emissions modeling outputs are included in Appendix A.

The construction activities associated with the project are estimated to last approximately 13 months, beginning in January 2023 and concluding at the end of January 2024. Project site preparation would consist of grading, paving, and trenching activities and is anticipated to begin in January 2023 and last approximately five days. Project grading and construction is anticipated to begin in January 2023 and last approximately 12 months. Paving and Architectural Coating were modeled to be completed January 2024. Average daily emissions were calculated for each year of construction by dividing the annual construction emissions by the number of active workdays during that year. Table 4.3-3 shows the average daily construction emissions of ROG, NO_x, PM_{10} exhaust, and $PM_{2.5}$ exhaust during construction of the project.

Table 4.3-3 Construction-Related Emissions						
Construction Year	**Pollutant (maximum pounds per day)**					
	ROG	**NO_X**	**Exhaust**		**Fugitive Dust[1]**	
			PM_{10}	**$PM_{2.5}$**	**PM_{10}**	**$PM_{2.5}$**
2023	37.15	34.55	1.43	1.31	19.81	10.14
2024	36.65	10.83	0.53	0.50	0.60	0.16
Maximum	37.15	34.55	1.43	1.31	19.81	10.14
Significance Threshold	*54*	*54*	*82*	*54*	*BMPs*	*BMPs*
Exceed Threshold?	No	No	No	No	N/A	N/A

Source: Kimley Horn. 5977 & 6001 Silver Creek Valley Road Project Air Quality Assessment. February 2022.
[1] The BAAQMD recommends the implementation of all Basic Construction Mitigation Measures, whether or not construction-related emissions exceed applicable significance thresholds. Implementation of Basic Construction Mitigation measures are considered to mitigate fugitive dust emissions to be less than significant.

As shown in Table 4.3-3 above, the proposed project would not exceed significance thresholds for ROG, NO_X, PM_{10} exhaust, and $PM_{2.5}$ exhaust during construction. Therefore, project construction would have a less than significant criteria pollutant emissions impact and would not conflict with or obstruct implementation of the Bay Area 2017 CAP. **(Less than Significant Impact)**

Operational Criteria Pollutant Emissions

Operational criteria pollutant emissions associated with the project would be typically generated from mobile sources (burning of fossil fuels in cars); energy sources (cooling and heating); and area sources (landscape equipment and cleaning products). Operational pollutant emissions modeled for the proposed project are displayed in the Table 4.3-4 below.

Table 4.3-4 Operation-Related Emissions						
Emissions Source	**Pollutant (maximum pounds per day)**					
	ROG	**NO_X**	**Exhaust**		**Fugitive Dust[1]**	
			PM_{10}	**$PM_{2.5}$**	**PM_{10}**	**$PM_{2.5}$**
Area	6.96	0.00	0.00	0.00	0.00	0.00
Energy	0.06	0.53	0.04	0.04	0.00	0.00
Mobile	0.82	21.50	0.21	0.20	6.75	1.82
Total Project Emissions	7.84	22.03	0.25	0.24	6.75	1.82
Significance Threshold	*54*	*54*	*82*	*54*	*N/A*	*N/A*
Exceed Threshold?	No	No	No	No	N/A	N/A

Source: Kimley Horn. 5977 & 6001 Silver Creek Valley Road Project Air Quality Assessment. February 2022.
[1] The BAAQMD recommends the implementation of all Basic Construction Mitigation Measures, whether or not construction-related emissions exceed applicable significance thresholds. Implementation of Basic Construction Mitigation measures are considered to mitigate fugitive dust emissions to be less than significant.

As shown in Table 4.3-4, the proposed project would not exceed significance thresholds for ROG, NO_X, PM_{10} exhaust, and $PM_{2.5}$ exhaust during operations. Therefore, the project would have a less than significant criteria pollutant emissions impact and would not conflict with or obstruct implementation of the Bay Area 2017 CAP. **(Less than Significant Impact)**

BAAQMD 2017 CAP

The proposed project would not conflict with the 2017 CAP because it would not exceed BAAQMD CEQA Air Quality significance thresholds for ROG, NO_X, PM_{10} exhaust, and $PM_{2.5}$ exhaust during operations (as discussed above in Table 4.3-4). Because the project would not exceed the BAAQMD thresholds, the project is not required to incorporate project-specific control measures listed in the 2017 CAP. Further, implementation of the project would not inhibit BAAQMD or partner agencies from continuing progress toward attaining State and federal air quality standards and eliminating health-risk disparities from exposure to air pollution among Bay Area communities, as described within the 2017 CAP. Although the proposed project would not be required to incorporate project-specific measures, the proposed project would be consistent with many of the control measures as seen in Table 4.3-5 below. The project would comply with the 2017 Clean Air Plan. **(Less than Significant Impact)**

Table 4.3-5 Project Consistency with Applicable Clean Air Plan Control Measures

Control Measure	Project Consistency
Stationary Source Control Measures	
SS21: New Source Review of Toxic Air Contaminants	**Consistent**. The project would not include uses that would generate new sources of TAC that would impact nearby sensitive receptors. The building design accommodates interior uses such as e-commerce, warehousing, assembly, fabrication, wholesaling, related office and similar uses that are not heavy industrial or would exhaust TACs.
SS25: Coatings, Solvents, Lubricants, Sealants and Adhesives	**Consistent**. The project would comply with Regulation 8, Rule 3: Architectural Coatings, which would dictate the ROG content of paint available for use during construction.
SS26: Surface Prep and Cleaning Solvent	
SS29: Asphaltic Concrete	**Consistent**. Paving activities associated with the project would be required to utilize asphalt that does not exceed BAAQMD emission standards in Regulation 8, Rule 15.
SS30: Residential Fan Type Furnaces	**Consistent**. BAAQMD is the responsible party for implementation of this regulation. The project would use the latest central furnaces that comply with the applicable regulations. The project would not conflict with BAAQMD's implementation of that measure.
SS31: General Particulate Matter Emissions Limitation	**Consistent**. This control measure is implemented by the BAAQMD through Regulation 6, Rule 1. This Rule Limits the quantity of particulate matter in the atmosphere by controlling emission rates, concentration, visible emissions and opacity. The project would be required to comply with applicable BAAQMD rules.
SS32: Emergency Back-up Generators	**Consistent**. Use of back-up generators by the project is currently not anticipated. However, if emergency generators were to be installed they would be required to meet the BAAQMD's emissions standards for back-up generators.
SS33: Commercial Cooking Equipment	**Consistent**. The project does not include the potential development of restaurant facilities. However, if any kitchen facilities or restaurants are proposed by future occupants and they install a charbroiler, a catalytic oxidizer system must also be installed pursuant to BAAQMD Rule 6-2.

SS34: Wood Smoke	**Consistent**. The project would comply with BAAQMD Regulation 6, Rule 3 and prohibit the construction of wood burning appliances/ fireplaces.
SS36: Particulate Matter from Trackout	**Consistent**. Mud and dirt that may be tracked out onto the nearby public roads during construction activities would be removed promptly by the contractor based on BAAQMD's requirements and City Standard Permit Conditions.
SS37: Particulate Matter from Asphalt Operations	**Consistent**. Paving and roofing activities associated with the project would be required to utilize best management practices to minimize the particulate matter created from the transport and application of road and roofing asphalt.
SS38: Fugitive Dust	**Consistent**. Material stockpiling and track out during grading activities as well as smoke and fumes from paving and roofing asphalt operations would be required to utilize best management practices, such as watering exposed surfaces twice a day, covering haul trucks, keeping vehicle speeds on unpaved roads under 15 mph, to minimize the creation of fugitive dust. See City of San José Standard Permit Conditions for a more detailed list.
SS40: Odors	**Consistent**. The project is an industrial development and is not anticipated to generate odors.
Transportation Control Measures	
TR2: Trip Reduction Programs TR8: Ridesharing and Last-Mile greenhouse gas Connections	**Consistent**. The project would include one of several City suggested Tier 2 multi-modal infrastructure improvements. These improvements could include constructing a crosswalk on the west leg of the Silver Creek Valley Road and Fontanoso Way intersection, installing a Class IV protected bike lanes along Silver Creek Valley Road beyond the project frontage westward connecting to the Coyote Creek Trail, or the removal of one (1) of the existing port-chop islands at the Hellyer Avenue and Silver Creek Valley Road intersection. Bicycle storage for employees and visitors would be provided on site. These TDM Programs would help reduce vehicle miles traveled (VMT) and mobile emissions.
TR9: Bicycle and Pedestrian Access Facilities	**Consistent**. Bicycle facilities in the area include Silver Creek Valley Road, which provide Class II bike lanes with striping to separate the vehicle and bike travel way. The proposed project would include 32 bicycle parking spaces.
TR10: Land Use Strategies	**Consistent**. This measure is a BAAQMD funding tool to maintain and disseminate information on current climate action plans and other local best practices and collaborate with regional partners to identify innovative funding mechanisms to help local governments address air quality and climate change in their general plans. In addition, the proposed project site is located within 625 feet of a transit stop at Silver Creek Valley Road. Therefore, these employment opportunities would be easily accessible via transit, furthering the City's General Plan goals to support a healthy community, reduce traffic congestion and decrease greenhouse gas emissions and energy consumption. The project would not conflict with implementation of this measure.
TR13: Parking Policies	**Consistent**. The proposed project would create approximately 264 new parking spaces (54 trailer spaces and 210 automobile spaces).

	The proposed parking is sufficient, but not over supply, for the proposed uses.
TR19: Medium and Heavy-Duty Trucks	**Consistent**. The project includes a manufacturing and warehousing use that would generate truck trips. Per the transportation analysis prepared for the project, there would be approximately 70 daily truck trips. The project would not conflict with the implementation of this measure.
TR22: Construction, Freight and Farming Equipment	**Consistent**. The project would comply through implementation of the BAAQMD standard condition, which requires construction equipment to be properly maintained.
Energy and Climate Control Measures	
EN1: Decarbonize Electricity Generation	**Consistent**. The project would be constructed in accordance with the latest California Building Code and green building regulations/CalGreen. The proposed development would be constructed in compliance with the City's Council Policy 6-32 and the City's Green Building Ordinance.
EN2: Decrease Electricity Demand	
Buildings Control Measures	
L2: Decarbonize Buildings	**Consistent**. The project would be constructed in accordance with the latest California Building Code and green building regulations/CalGreen. The proposed development would be constructed in compliance with the City's Council Policy 6-32 and the City's Green Building Ordinance.
BL4: Urban Heat Island Mitigation	**Consistent**. The project would include some landscaping.
Natural and Working Lands Control Measures	
NW2: Urban Tree Planting	**Consistent**. The project includes landscaping with native vegetation and trees.
Waste Management Control Measures	
WA1: Landfills	**Consistent**. The waste service provider for the project would be required to meet the AB 341 and SB 939, 1374, and 1383 requirements that require waste service providers to divert and recycle waste. Per Cal Green requirements the project would recycle construction waste.
WA3: Green Waste Diversion	
WA4: Recycling and Waste Reduction	
Water Control Measures	
WR2: Support Water Conservation	**Consistent**. The project would implement water conservation measures and low flow fixtures as required by Title 24, CalGreen, and the City of San Jose's Municipal Code Section 15-11 Water Efficient Landscaping Ordinance, which includes various specifications for plant types, water features, and irrigation design etc.
Source: Kimley Horn. 5977 & 6001 Silver Creek Valley Road Project Air Quality Assessment. February 2022.	

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

The Bay Area is considered a non-attainment area for ground-level O_3 and $PM_{2.5}$ under both the federal Clean Air Act and state Clean Air Act. The proposed project would increase criteria pollutants in the Bay Area, contributing to existing violations of O_3 standards. Per the BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size to, by itself, result in nonattainment of ambient air quality standards. If a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions. As discussed above, the proposed project would not result in any air pollutant emissions exceeding BAAQMD's significance thresholds. As a result, the proposed project would not result in a cumulatively considerable net increase of any criteria pollutant for which the region is in non-attainment. **(Less than Significant Impact)**

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

Particulate Matter and Fugitive Dust

The construction of the proposed project would result in fugitive dust in the form of PM_{10} and $PM_{2.5}$. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying uncovered loads of soils. Unless properly controlled, vehicles leaving the site would deposit mud on local streets, which could be an additional source of airborne dust after it dries. The proposed project would be required to implement the following Standard Permit Condition to reduce fugitive dust on site.

Measures to reduce fugitive dust (i.e., $PM_{2.5}$) emissions from construction are recommended to ensure that health impacts to nearby sensitive receptors are minimized. During any construction period ground disturbance, the applicant shall ensure that the project contractor implements both basic and additional measures to control dust and exhaust. Pursuant to standard permit conditions required by the City, the project applicant will be required to implement the following measures during all phases of construction to control dust and exhaust at the project site.

Standard Permit Condition

Construction-related Air Quality. The following measures shall be implemented 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 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 to contact at the lead agency regarding dust complaints.

The Standard Permit Condition above represents measures that would achieve greater than an 80 percent reduction in on-site fugitive $PM_{2.5}$ emissions based on the CalEEMod output provided in the Air Quality analysis. This condition is consistent with recommendations in the BAAMQD CEQA Guidance for providing "best management practices" to control construction emissions and as noted in Appendix A. Therefore, the fugitive dust produced by the proposed project would be less than significant with implementation of the Standard Permit Condition above.

Construction Toxic Air Contaminants

Temporary project construction activity would generate emissions of DPM from equipment and trucks and also generate dust on a temporary basis that could affect sensitive receptors in the surrounding area.

The Air Quality Assessment (Appendix A) assessed the range of infant and adult exposures to TACs at the residences surrounding the project site. Infant exposure at residences was used as a worst-case assumption because child and adult exposures would be less.

The maximum modeled annual DPM and $PM_{2.5}$ concentrations, which include both the DPM and fugitive $PM_{2.5}$ concentrations, were identified at sensitive receptors to find the maximally exposed individuals (MEI). Results of the model indicated that the total $PM_{2.5}$ concentration and the cancer risk MEI are the Coyote Creek Trail (approximately 140 feet away) and located at the single-family home south of the project site across Silver Creek Valley Road. The location of the MEI is shown in Figure 4.3-1. Table 4.3-6 summarizes the maximum cancer risks, $PM_{2.5}$ concentrations, and health hazard indexes for project related construction activities.

Table 4.3-6 Construction TAC effects			
Exposure Scenario	**Fugitive $PM_{2.5}$ ($\mu g/m^3$)**	**Cancer Risk (per million)**	**Chronic Hazard**
Worker and Trail Exposure	0.024	0.19	0.005
Residential Exposure	0.003	1.06	0.171
BAAQMD Threshold	0.3	10	1.0
Threshold Exceeded?	No	No	No
Source: Kimley Horn. 5977 & 6001 Silver Creek Valley Road Project Air Quality Assessment. February 2022.			

Construction TAC emissions would not exceed the established BAAQMD thresholds for $PM_{2.5,}$ Cancer Risk, or other Hazards. Therefore, the proposed project would result in a less than significant TAC impact.

Operational Toxic Air Contaminants

During operations of the proposed project the truck trips and employee vehicle trips would contribute approximately 582 daily vehicle trips to the surrounding street network. These vehicle trips would contribute particulate matter and TACs into the existing air environment and could have impacts on occupants of buildings and trails nearby. The operational health risks are summarized below in Table 4.3-7.

Table 4.3-7 Operational TAC effects			
Exposure Scenario	**Fugitive $PM_{2.5}$ ($\mu g/m^3$)**	**Cancer Risk (per million)**	**Chronic Hazard**
Worker and Trail Exposure	0.0042	0.02	0.0001
Residential Exposure	0.0099	0.07	0.00002
BAAQMD Threshold	0.3	10	1.0
Threshold Exceeded?	No	No	No
Source: Kimley Horn. 5977 & 6001 Silver Creek Valley Road Project Air Quality Assessment. February 2022.			

The vehicle trips and onsite operations of the proposed project would not individually contribute to a $PM_{2.5}$ or other health risk. Therefore, the proposed project would result in a less than significant impact associated with operational TACs. **(Less than Significant Impact)**

MEIS FOR PROPOSED PROJECT | FIGURE 4.3-1

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

The proposed project would construct an industrial building for light manufacturing and warehouse storage operations. These uses are not commonly expected to create odors and would not result in odor impacts to areas around the site. Additionally, odor creation during construction resulting from operations of the construction vehicles would be temporary and would not adversely affect a significant number of people around the site. Therefore, the proposed project would not result in adverse odor effects for people around the site. **(Less than Significant Impact)**

4.4 BIOLOGICAL RESOURCES

The information in this section is based in part on the Biological Resources Report prepared by Huffman-Broadway Group, Inc. in January 2022. This report is available as Appendix B of this document.

4.4.1 Environmental Setting

4.4.1.1 *Regulatory Framework*

Federal and State

Endangered Species Act

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

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

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, capture, possession, or trade of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. Hunting and poaching are also prohibited. The taking and killing of birds resulting from an activity is not prohibited by the MBTA when the underlying purpose of that activity is not to take birds.[14] Nesting birds are considered special-status species and are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

[14] United States Department of the Interior. "Memorandum M-37050. The Migratory Bird Treaty Act Does Not Prohibit Incidental Take." Accessed December 6, 2021. https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf.

Sensitive Habitat Regulations

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

Regional and Local

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

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

SCVHP Riparian Corridor Policies

Riparian corridors are protected by policy in the Santa Clara Valley Habitat Plan (SCVHP). The SCVHP defines "riparian habitat" as riparian vegetation associated with river, stream, or lake banks and floodplains. Condition 11 requires stream setbacks for all covered activities occurring near streams and riparian areas to minimize effects on covered species. The point from which a stream setback is measured is, in general, the top of bank or the edge of riparian vegetation, whichever is greater. All covered activities must adhere to both the applicable existing local regulations as well as SCVHP requirements. Approved development proposals in the City of San Jose that are deemed covered projects in the SCVHP are subject to its requirements and conditions.

The SCVHP defines two types of streams:

- A Category 1 stream has sufficient flow to support covered species and riparian habitat. These streams include perennial streams and some intermittent streams. These streams are typically larger than ephemeral drainages and support movement of covered species along the length of the stream. The ability of these streams to also support healthy riparian habitats bolsters the ecological value of the stream. Inside the Urban Service Area, the SCVHP states that "… the setback for Category 1 streams is 100 feet, although for parcels with slopes greater than 30 percent the setback is increased by 50 feet, and if the site supports riparian vegetation, the setback "is equal to either the riparian edge plus a 35-foot buffer or the setback as defined above, whichever is greater."
- A Category 2 stream may not have sufficient flow to support covered species and riparian habitat. These streams include all ephemeral streams and some intermittent stream reaches. These reaches provide minimum support of water-quality functions and primary breeding habitat for covered species. Category 2 streams are not specifically mapped as part of the SCVHP. They include both identified streams (named creeks and USGS blueline creeks) that

are not classified as Category 1 streams and other unmapped streams that meet certain criteria. The setback for all Category 2 streams is 35 feet regardless of location or slope. In addition, if the site supports riparian vegetation, the setback is extended to include the riparian edge plus a 35-foot buffer.

If a watercourse is not mapped by the SCVHP it will be classified as a Category 2 stream, and covered by the SCVHP if it meets the following criteria:

1. the watercourse is hydrologically connected to a waterway above and below the site or is connected to a spring, headwaters, lake, and/or bay,
2. the watercourse is within a defined channel which includes a bed, bank, and exhibits features that indicate actual or potential sediment movement,
3. the watercourse occupies a specific topographic position.

The SCVHP provides four criteria for possible exception to stream setbacks:

1. The existence of legal uses within the setback.
2. The extent to which meeting the required setback would result in a demonstrable hardship (i.e., denies an owner any economically viable use of his land or adversely affects recognized real property interests) for the applicant.
3. The extent to which meeting the required setback would require deviation from, exceptions to, or variances from other established policies, ordinances or standards regarding grading, access, water supply, wastewater treatment, disposal systems, geologic hazards, zoning, or other established code standards.
4. The stream setback exception does not preclude achieving the biological goals and objectives of the Habitat Plan or conflict with other applicable requirements of the Habitat Plan and local policies.

The minimum setback reduction possible under the SCVHP is 35 feet.

City of San José Riparian Corridor Policies

According to the City of San José's Council Policy 6-34, projects adjacent to creeks require a 100-foot development setback from the edge of riparian habitat (defined as the top of bank or the outer dripline of riparian vegetation, whichever is farther from the channel). This setback from the edge of riparian habitat can be reduced if:

1. Developments located within the boundaries of the Downtown area, as those boundaries are defined in the General Plan.
2. Urban infill locations where most properties are developed and are located on parcels that are equal to or less than one acre.
3. Sites adjacent to small lower order tributaries whose riparian influences do not extend to the 100-foot setback.
4. Sites with unique geometric characteristics and/or disproportionately long riparian frontages in relation to the width of the minimum Riparian Corridor setback.

5. Pre-existing one- or two-family residential lots, or typical yard area, but only where a frontage road is infeasible to buffer Riparian Corridors from these and the Building Setbacks are consistent with all Riparian Corridor setback requirements.
6. Sites that are being redeveloped with uses that are similar to the existing uses or are more compatible with the Riparian Corridor than the existing use, and where the intensity of the new development will have significantly less environmental impacts on the Riparian Corridor than the existing development.
7. Instances where implementation of the project includes measures that can protect and enhance the riparian value more than the minimum setback.

Envision San José 2040 General Plan

The Envision San José 2040 General Plan contains the following policies which are specific to biology and applicable to the proposed project:

Envision San José 2040 Relevant Biological Policies

Policy	Description
ER-4.1	Preserve and restore, to the greatest extent feasible, habitat areas that support special-status species. Avoid development in such habitats unless no feasible alternatives exist and mitigation is provided of equivalent value.
ER-4.4	Require that development projects incorporate mitigation measures to avoid and minimize impacts to individuals of special-status species.
ER-5.1	Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
ER-6.3	Employ low-glare lighting in areas developed adjacent to natural areas, including riparian woodlands. Any high-intensity lighting used near natural areas will be placed as close to the ground as possible and directed downward or away from natural areas.
ER-6.6	Encourage the use of native plants in the landscaping of developed areas adjacent to natural lands.
ER-6.8	Design and construct development to avoid changes in drainage patterns across adjacent natural areas and for adjacent native trees, such as oaks.

4.4.1.2 *Existing Conditions*

Hydrology and Riparian Corridors

The project site is located adjacent to the Coyote Creek Riparian area. The site is also located within the FEMA Flood Zone D, described as areas with possible but undetermined flood hazards, and where no flood hazard analysis has been conducted.

Based on field surveys conducted by the Huffman-Broadway Group in August and November of 2021, the limit of the riparian corridor of Coyote Creek near the site was established at the edge of riparian vegetation extending beyond the top of bank to the edge of the tree dripline. The trees adjacent to the riparian area on the east side of the Coyote Creek trail in the project's vicinity do not contribute to the riparian area because they do not demonstrate strong connectivity to other vegetation around the creek. This determination was based on the following information:

- Trees are spaced away from the riparian area and are separated from the top of bank vegetation
- Trees are located across the paved trail which creates a buffer from the riparian area.
- Trees are not a riparian-only species
- The area was historically fully forested, and there is no indication that the existing root system is growing toward the riparian area
- There is a topographic relief (ie steep slope) separating upland and riparian trees.

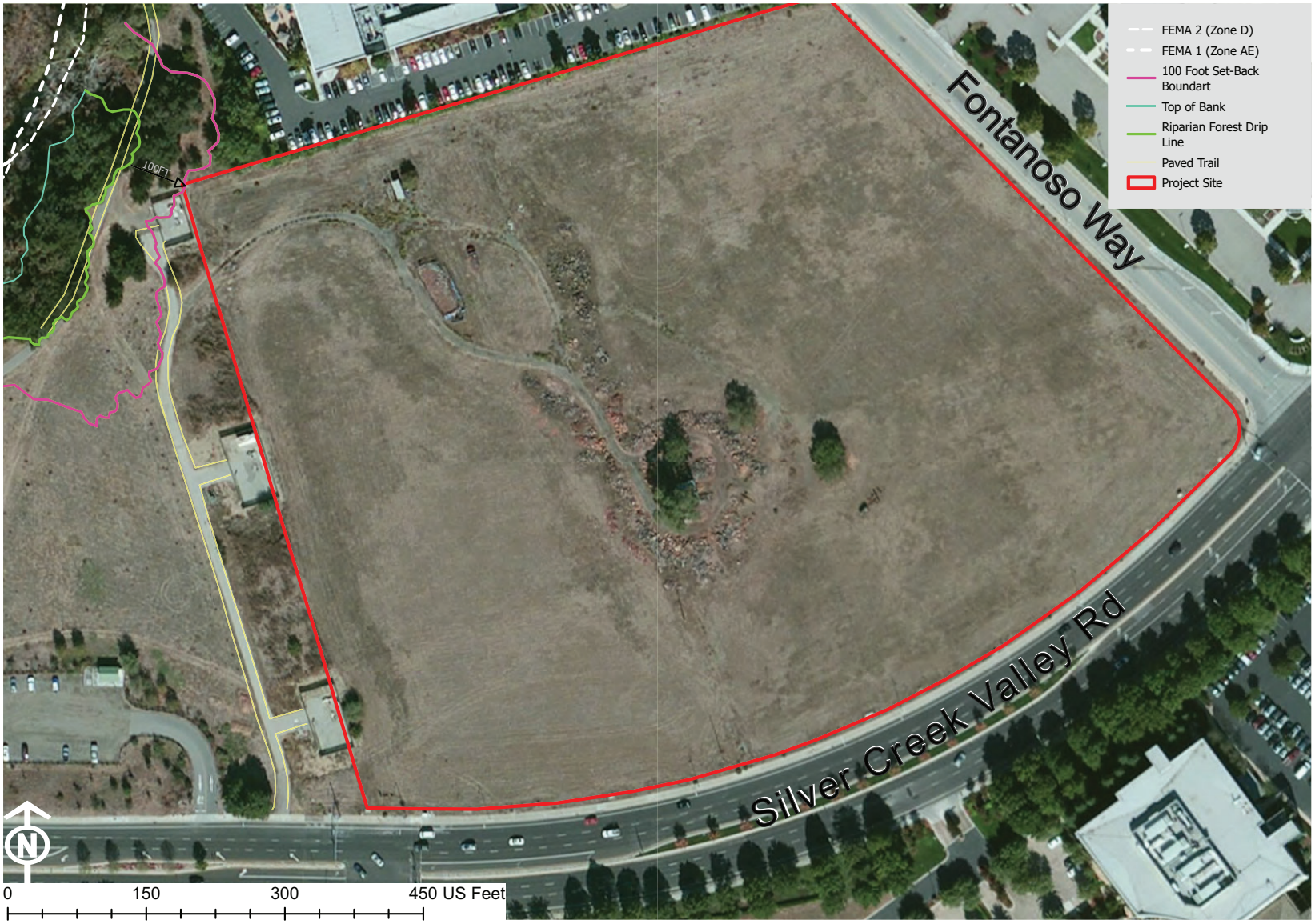
Figure 4.4-1 shows that a 100-foot buffer zone from the Coyote Creek riparian area would slightly encroach into the northwest corner of the project site for a total of approximately 10 square feet. The closest distance from the northwest corner of the property to the edge of the riparian corridor is 97 feet.

Plant Communities

The project site contains a plant habitat type of non-native grassland. During a field survey of the site, conducted by the Huffman-Broadway Group in August and November of 2021, the primary species found on site included:

- Wild oats (*Avena fatua*)
- Common vetch (*Vicia sativa*)
- Rip-gut brome (*Bromus diandrus*)
- Perennial rye grass (*Festuca perennis*)
- Field bindweed (*Convolvulus arvensis*)
- Foxtail barley (*Hordeum murinum*)
- Field mustard (*Brassica rapa*)
- Wild radish (*Raphanus sativus*)
- Common mallow (*Malva neglecta*)

The site also features scattered trees along the boundaries of the project area, less than 38 inches diameter at breast height (DBH), and some scattered shrubbery including coyote brush (*Baccharis pilularis*). The tree species on-site include those listed in Table 4.4-1 below.



Source: Huffman-Broadway Group, Inc., January 2022.

RIPARIAN BUFFER ZONE

FIGURE 4.4-1

Table 4.4-1 Size of On-site Trees		
Common Name	**Scientific Name**	**Diameter at Breast Height**
Coast live oak	*Quercus agrifolia*	30 inches (multi stem)
Blue elderberry	*Sambucus mexicana*	2.3 inches
Walnut	*Juglans sp*	16.5 inches
Walnut (dead)	*Juglans sp*	3 inches

The trees bordering the project site to the northwest that make up part of the Coyote Creek riparian corridor feature several riparian species including:

- Valley oak (*Quercus lobata*)
- Coast live oak (*Quercus agrifolia*)
- Fremont's cottonwood (*Populus fremontii*)
- Walnut (*Juglans sp.*)
- Arroyo willow (*Salix lasiolepis*)
- Blue elderberry (*Sambucus mexicana*)
- California sycamore (*Platanus racemosa*)

There is a remnant oak woodland area west of the project site located between the boundary of the site and the Coyote Creek riparian area, which predominantly features grasses and Coast live oak, walnut, and blue elderberry with a lack or riparian conditions. Additionally, there are several dead orchard trees located throughout the site.[15]

Animal Populations

The project site provides limited habitat for wildlife species due to its disturbed nature and open areas. The vegetation is not suitable for nesting habitat or roosting sites for birds, nor does it provide good foraging opportunities or cover for other small species. Bird species that could populate the site would include mostly species adapted for urban environments and disturbed conditions. Additionally, species of reptiles and mammals on site would predominately be those which are adapted to disturbed conditions such as ground rodents, grass snakes, and other small urban mammals. Dens of Botta's pocket gopher (*Thomomys bottae*) and California vole (*Microtus californicus*) were observed on the site during the 2021 field reviews.[16]

Off-site, the trees within the Coyote Creek riparian area would be suitable nesting sites and foraging areas for a variety of migratory and resident species. A nest house for a dusky-footed woodrat (*Neotoma fuscipes annectens*) was found during the field survey along the edge of the Coyote Creek oak woodland habitat approximately 35 feet from the northwest corner of the site.[17]

[15] Huffman-Broadway Group, Inc. Biological Resources Report. January 2022.
[16] Huffman-Broadway Group, Inc. Biological Resources Report. January 2022.
[17] Huffman-Broadway Group, Inc. Biological Resources Report. January 2022.

Special Status Species

Special status species include those species listed by the federal and state governments as endangered, threatened, or rare or candidate species for these lists. Endangered or threatened species are protected by the federal Endangered Species Act of 1973 as amended, the California Native Plant Protection Act of 1977, and the California Endangered Species Act of 1970. CEQA provides additional protection for unlisted species that meet the "rare" or "endangered" criteria defined in Title 14, California Code of Regulations Section 15380. Special status species also include those species listed by CDFW as Species of Concern (species that face extirpation in California if current population and habitat trends continue), those listed as Fully Protected by CDFW (a designation that provides additional protection to those animals that were rare or faced possible extinction), and bird species designated as Bird Species of Conservation Concern by the USFWS.

Plant Species

The project site is a vacant field vegetated with weedy species. The project site is not suitable habitat for native species and is not expected to support special status plant species. Serpentine soils do not occur on the project site, and the California Natural Diversity Database (CNDDB) shows no known occurrences of special status plant species within 0.25 mile of the project site. Congdon's tarplant is a special status species which exists in alkaline soils in valley and foothills grassland areas similar to the area of the project site. The flowering period for Congdon's tarplant is from May to October. The soils on the project site are not alkaline soils, so the soils on the property are not optimally suitable for Congdon's tarplant Additionally, during the field survey conducted on the site for Congdon's tarplant, no special status species were discovered. Additionally, no special status species are expected to be established on the site in the near future.[18]

Animal Species

The only special status animal species with a potential for occurrence at the site or in the immediate vicinity, based on a California Natural Diversity Database search, are burrowing owl (*Athene cunicularia*) and tricolored blackbird (*Aegelaius tricolor*). Additionally, two species occur near the site including the steelhead trout (*Oncorhynchus mykiss*) and the San Francisco dusky-footed woodrat (*Neotoma fuscipes annectens*). Steelhead have been seen in parts of the Coyote Creek throughout the Santa Clara County and a dusky-footed woodrat nest was observed during the field survey approximately 35 feet northwest of the project site.[19]

The landcover mapped for the project site, according to the SCVHP is Golf Courses/Urban Parks.[20] There are no recent records of burrowing owl in the vicinity of the site, and the site is currently outside of the SCVHP fee area for breeding burrowing owls (i.e., more than 0.5 mile from a known breeding burrowing owl location). The site was investigated for burrowing owls and burrowing owl habitat during site survey by an HBG biologist (Appendix C). No burrowing owls were observed on the project site by the HBG biologist during the field visits. In addition, the biologist found no California ground squirrels or ground squirrel burrows on the project site. A lack of ground squirrel

[18] Huffman-Broadway Group, Inc. Biological Resources Report. January 2022.
[19] Huffman-Broadway Group, Inc. Biological Resources Report. January 2022.
[20] Santa Clara Valley Habitat Agency. Santa Clara Valley Habitat Plan. August 2012. Accessed May 16, 2022. https://www.scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan.

burrows suggests that the habitat does not support burrowing owl and is not suitable to support burrowing owl.

A portion of the project site is within 250 feet of potentially suitable habitat for a tricolored blackbird nesting colony, therefore, HBG conducted an evaluation of the habitat conditions within Coyote Creek adjacent to the site to determine if nesting habitat for a tricolored blackbird nesting colony is present in the project area. Willow trees, which can serve as nesting habitat for a colony of tricolored blackbirds, are present in the Coyote Creek channel. Although nesting by this species is not likely in this primarily urban setting and no evidence of nesting tricolored blackbirds were noted during the field visit conducted on August 13 (which is at the tail-end of the nesting season), the presence of nesting tricolored blackbird is possible.

Wetland Habitat

The field survey of the project site found no areas within the project site suitable for wetland habitat. Off-site, the Coyote Creek area was identified as a perennial, Category 1, stream which is subject to USACE Corps jurisdiction under the Clean Waters Act (CWA), RWQCB jurisdiction under the Porter-Cologne Act and CDFW jurisdiction under the Fish and Game Code.[21]

4.4.2 Impact Discussion

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

[21] Huffman-Broadway Group, Inc. Biological Resources Report. January 2022.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
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?	☐	☐	☒	☐

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

Nesting Birds

Development of the project would result in the removal of all shrubs, and some small trees, on the project site. This vegetation could provide nesting habitat for birds, including migratory birds. Trees on site that would be removed would be replaced by 141 new trees planted throughout the site. Nesting birds are protected under provisions of the MBTA and CDFW code. Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes abandonment and/or removal and site grading that disturb a nesting bird on-site or immediately adjacent to the construction zone would constitute a significant impact.

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

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

MM BIO-1.1: Prior to the issuance of any demolition, grading or building permits (whichever occurs first), the project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive).

MM BIO-1.2: If demolition and construction cannot be scheduled between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be

completed by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st inclusive). During this survey, the qualified ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. Any surveys produced prior will also be provided to the Director of Planning Building and Code Enforcement.

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

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

With implementation of MM BIO-1.1 through MM BIO-1.4, the project's impact to nesting birds would be less than significant.

Tree Removal

The proposed project would remove three living trees and one dead tree from the project site, described in Table 4.4-1 above. The proposed project includes the planting of 141 new trees including 38 evergreen trees and 97 box trees, 28-inches in size. These trees would replace the removed trees consistent with the standard permit condition below.

Standard Permit Condition

Tree Replacement. Trees removed for the project shall be replaced at ratios required by the City, as stated in Table 4.4-2 below, as amended:

Table 4.4-2: Tree Replacement Ratios

Circumference of Tree to be Removed	Replacement Ratios Based on Type of Tree to be Removed			Minimum Size of Each Replacement Tree**
	Native	Non-Native	Orchard	
38 inches or more	5:1*	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon
*x:x = tree replacement to tree loss ratio				

Note: Trees greater than or equal to 38-inch circumference measured at 54 inches above natural grade 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 replacement tree = two 15-gallon replacement trees
Single Family and Two-dwelling properties may replace trees at a ratio of 1:1.

Four trees onsite would be removed. One tree would be replaced at a 3:1 ratio, and three trees would be replaced at a 1:1 ratio. The total number and size of replacement trees required to be planted is six and the proposed project includes the planning of 141 trees.

- If there is insufficient area on the project site to accommodate the required replacement trees, one or more of the following measures shall be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement. Changes to an approved landscape plan requires the issuance of a Permit Adjustment or Permit Amendment.
- 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.
- Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of building permit(s), in accordance with the City Council approved Fee Resolution in effect at the time of payment. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

Special Status Plants

The project site is a weedy field that is not suitable habitat for native plant species and would not be expected to support special status plant species.[22] All the special status plant species common to the Santa Clara Valley require habitat conditions that are not found at the project site because it is an open field, away from riparian areas, populated by invasive weeds. Although the site may support marginally suitable habitat for Congdon's tarplant, the field survey of the project site for Congdon's tarplant on August 13, 2021 (during the flowering period of the species) determined that this species is not present. Additionally, the soil types on site do not feature alkalinity adequate for Congdon's tarplant to establish a community. No special status plant species occur on the subject property, therefore no impacts to special status plants would result from development of the proposed project. The proposed project would not substantially reduce the number or restrict the range of a rare, endangered, or threatened plant species.

Special Status Animals

The existing environment of the project site has the potential for Burrowing Owls and the Tricolored Blackbird. Additionally, areas around Coyote Creek have the potential to provide habitat for Steelhead and Dusky-footed woodrat.

[22] Huffman-Broadway Group, Inc. Biological Resources Report. January 2022.

Burrowing Owl

Field surveys performed for the project site found no presence of squirrel burrows on site.[23] Additionally, the site reconnaissance found no evidence of other burrows which could be utilized by burrowing owls as burrows. Therefore, it can be determined that burrowing owls do not currently occupy the site, and there is no suitable habitat for burrowing owls in the form of ground squirrel burrows. The proposed project would not result in impacts to burrowing owls or suitable habitat.

Steelhead

Steelhead likely occasionally pass by the site within Coyote Creek. Without proper retention, erosion and consequent siltation of creeks can result in impacts to steelhead by covering of spawning gravels, a decreased respiratory function in fish, increasing water cloudiness and diminishing light penetration to underwater vegetation, and raising of water temperature. None of these impacts to steelhead would result from development of the project as the proposed project will provide a 100-foot setback from the edge of the Coyote Creek riparian corridor and Best Management Practices will applied to construction activities to prevent erosion and stream sedimentation (See impact areas b) and d) for further discussion)

Dusky-footed woodrat

A nest of San Francisco dusky-footed woodrat was noted in the edge of the Coyote Creek oak woodland habitat approximately 35 feet from the northwest corner of the site during field surveys.[24] No construction would take place within the riparian corridor of Coyote Creek or adjacent areas that include the small oak woodland where the woodrat nest was found, as these areas will be protected within the development setback from the Coyote Creek riparian area. Additionally, the nest area is adjacent to a parking lot serving the recreational area and is near a utilities bunker served by city vehicles on a frequent basis. The disturbance associated with construction would not result in a significantly larger disturbance to the nest area, therefore, no impacts to nest houses of San Francisco dusky-footed woodrat would occur as a result of the proposed project.

Tricolored Blackbird

The project site does not contain habitat suitable for nesting sites of tricolored blackbird.[25] Additionally, no tricolored blackbirds were found either on the site or within the Coyote Creek riparian corridor during a nesting season survey of the site on August 13, 2021. Although no specimens were found during these surveys, Coyote Creek is mapped in the SCVHP as habitat potentially suitable to support tricolored blackbird, and minimally suitable habitat for a nesting colony in the form of willow trees was observed within Coyote Creek during field studies.

If a nesting colony of tricolored blackbird was found adjacent to the site within Coyote Creek, indirect impacts would be possible if construction were to occur within 250-feet of the nesting colony. Although nesting by this species is not likely in this primarily urban setting and no evidence

[23] Huffman-Broadway Group, Inc. Biological Resources Report. January 2022.
[24] Huffman-Broadway Group, Inc. Biological Resources Report. January 2022.
[25] Huffman-Broadway Group, Inc. Biological Resources Report. January 2022.

of nesting tricolored blackbirds were noted during the field visit, the presence of nesting tricolored blackbird cannot be ruled out.

Impact BIO-2: Construction during the nesting season (February 1st to August 31st, inclusive) would indirectly impact nesting tricolored blackbird if a nesting colony was found within Coyote Creek within 250 feet of construction activities.

Mitigation Measures: The proposed project would implement MM BIO-1.1 through MM BIO-1.4 which would require pre-construction surveys to identify if nesting birds are located in vegetation on or near the construction area. If found, a buffer would be established for the blackbird habitat. Therefore, with mitigation implemented, the proposed project would have a less than significant impact on special status species.

The proposed project would not result in impacts to special status plant species because they are not found on-site. Additionally, the proposed project would not impact burrowing owls or dusky-footed woodrats due to their lack or presence on-site and limited habitat. Through mitigation, the impacts on nesting birds near the site, including the tricolored blackbird, would be reduced to a less than significant level. **(Less than Significant Impact with Mitigation Incorporated)**

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

The project site is partially located within the 100-foot riparian buffer area established for Coyote Creek. Specifically, approximately 10 square feet of the project site would fall within the 100-foot riparian corridor buffer area of Coyote Creek. Preliminary development plans for the project proposed landscaping within this area of encroachment, located in the northwest corner of the site (see Figure 4.4-1). The project plans have been revised to remove the proposed landscaping development from the approximately 10-square-foot area of encroachment into the riparian setback, and the project will observe the full 100-foot setback required from Coyote Creek. Thus, no setback exception is requested or required for the proposed project.

Several previously constructed features are present within the area between the project site and the Coyote Creek riparian corridor, including a publicly-owned pump station, an unpaved access road, and the paved Coyote Creek trail. Given these existing disturbances within the riparian setback between the project site and Coyote Creek, and the fact that the approximately 10-square-foot portion of the project site located within this riparian setback area at the northwest corner of the project site would remain undeveloped, it is not expected that the proposed by project would result in significant indirect biological impacts to the riparian habitat.

Consistent with the SCVHP policy (Condition 11), the City of San José's Council Policy 6-34 requires a 100-foot setback from the edge of the riparian habitat of Coyote Creek (defined as the top of bank or the outer dripline of riparian vegetation, whichever is further from the channel). To further ensure that development activities would not occur in the riparian area, the proposed project would be required to implement the Condition of Approval below.

Condition of Approval

The proposed project will fence off the potion of the project site within the riparian setback area during construction to prevent development activities from encroaching within the riparian buffer.

By excluding design features and construction activities of the proposed project to comply with the riparian setback, the proposed project would have a less than significant impact on riparian habitats or other sensitive natural communities. **(Less than Significant Impact)**

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

Development of the proposed project would not result in filling of any area that would be subject to the Clean Water Act jurisdiction of the U.S. Army Corps of Engineers, the state CWA 401 and Porter-Cologne Act jurisdictions of the RWQCB, or Section 1602 Fish and Game Code jurisdiction of CDFW. No permits from the USACE, RWQCB, or CDFW would be required. **(No Impact)**

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

The project site is an open field vegetated with weedy species in an urban setting. Although some bird species adapted for open fields and disturbed areas were observed on the site, and other wildlife adapted to urban environments are expected, the project site provides little habitat for wildlife. Nevertheless, nesting by various bird species adapted to the on-site conditions is possible within the on-site habitat. The adjacent riparian corridor of Coyote Creek and oak trees in the vicinity of the riparian habitat may provide substrate for nesting birds or cavities that could support nesting birds or roosting bats.

The bird species that would occupy the project site would not represent a substantial native resident population and the proposed project would not affect the ability for these species to move or migrate in the areas around the project site. Additionally, a 100-foot buffer zone along the edge of riparian habitat of Coyote Creek (or slightly reduced with an approved exception) would ensure that indirect impacts to nesting birds, roosting bats, or other wildlife species do not occur. The buffer zone from Coyote Creek would ensure that construction of the proposed project would not result in substantial change in animal populations near the project site. Therefore, the proposed project would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. **(Less than Significant Impact)**

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

The project would not conflict with any local policies related to protection of natural resources. No living trees on-site are “ordinance-size trees” under San Jose’s Tree Ordinance (Municipal Code

Chapter 13.32), which applies to any native or non-native trees having a circumference of 38 inches at 54 inches above the natural grade of slope; a permit to remove any trees covered by the ordinance is required. The several small oak and blue elderberry shrubs in the center and north side of the site, less than 10 inches diameter at breast height (DBH), do not meet this definition of a tree.

In addition to these shrubs, the site contains several standing dead walnut trees in the center of the property which are remnants of a former walnut orchard. Removal of these trees would not require replacement trees to be planted because they are not living specimens. All work would take place consistent with requirements of the SCVHP and the General Plan and Zoning Ordinance of the City of San Jose, therefore, the proposed project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. **(Less than Significant Impact)**

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

The proposed project falls within the SCVHP Permit Area and would be required to comply with the SCVHP conditions and fees, including the measures discussed above to mitigate impacts to the riparian corridor and tri-colored blackbird.

Standard Permit Condition:

1. The project may be subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant shall submit the Santa Clara Valley Habitat Plan Coverage Screening Form (https://www.scv-habitatagency.org/DocumentCenter/View/151/Coverage-SCreening-Form?bidId=) to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of applicable fees prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at https://www.scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan.

Through compliance with the condition above, the project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. **(Less than Significant Impact)**

4.5 CULTURAL RESOURCES

The information in this section is based in part on the Cultural Resources Evaluation prepared by Archaeological Resource Management on December 10, 2021. This document contains sensitive information and is on file with the City of San José.

4.5.1 Environmental Setting

4.5.1.1 *Regulatory Framework*

Federal and State

National Historic Preservation Act

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

California Register of Historical Resources

The California Register of Historical Resources (CRHR) is administered by the State Office of Historic Preservation and encourages protection of resources of architectural, historical, archeological, and cultural significance. The CRHR identifies historic resources for state and local planning purposes and affords protections under CEQA. Under Public Resources Code Section 5024.1(c), a resource may be eligible for listing in the CRHR if it meets any of the NRHP criteria.[26]

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

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

[26] California Office of Historic Preservation. "CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6." Accessed March 15, 2022. http://www.ohp.parks.ca.gov/pages/1069/files/technical%20assistance%20bulletin%206%202011%20update.pdf.

California Native American Historical, Cultural, and Sacred Sites Act

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

Public Resources Code Sections 5097 and 5097.98

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

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

Local

Envision San José 2040 General Plan

The Envision San José 2040 General contains the following policies which are specific to cultural resources and applicable to the proposed project:

Envision San José 2040 Relevant Cultural Resources Policies

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

4.5.1.2 *Existing Conditions*

Archeological Setting

Native Americans occupied Santa Clara Valley and the greater Bay Area for more than 5,000 years. The exact time period of the Ohlone (originally referred to as Costanoan) migration into the Bay Area is debated by scholars. Dates of the migration range between 3,000 B.C. and 500 A.D. Regardless of the actual time frame of their initial occupation of the Bay Area and, in particular, Santa Clara Valley, it is known that the Ohlone had a well-established population of approximately 7,000 to 11,000 people with a territory that ranged from the San Francisco Peninsula and the East Bay south through the Santa Clara Valley and down to Monterey and San Juan Bautista. Artifacts pertaining to the Ohlone occupation of San José have been found primarily along the City's major waterways.

The cultural resource evaluation conducted by Archeological Resource Management on December 10, 2021 determined that the project site does not contain previously identified archeological or historic sites.[27] The study also determined that seven archeologically significant sites are located within a quarter mile of the project site. During a site reconnaissance, there were no cultural materials, prehistoric or historic, identified as present on site. The site is located adjacent to the Coyote Creek which is a known area of archaeological sensitivity. Therefore, the project site would be moderately sensitive for the presence of archaeological resources.

Historical Resources

The project site contains no built structures and, therefore, does not contain historic resources. There are no designated historic resources on properties surrounding the site, the nearest designated historic resource is Hayes Mansion, located approximately 1.7 miles northwest of the site. The site did contain agricultural buildings from the 1930's to the 1990's however these have been torn down and are no longer present on the site. The prior site occupation may have resulted in the presence of historical artifacts below grade, on-site.

4.5.2 Impact Discussion

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

[27] Archaeological Resource Management. Cultural Resources Evaluation. December 10, 2021.

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

The project site is vacant and does not contain structures of historical significance. Additionally, there are no historic structures located adjacent to the project site. Therefore, the proposed project would have no impact on historically significant structures pursuant to CEQA Guidelines Section 15064.5. **(No Impact)**

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

The proposed project would require site clearing, grading, and minor trenching during construction which may result in disturbance of cultural resources if they are present on-site. The location of the site in relation to Coyote Creek and adjacency of recorded archeological sites indicates that the project site would be moderately sensitive for archeological resources, therefore construction on site would have a risk of disturbing archeological resources. In accordance with General Plan policy ER-10.3, the proposed project would be subject to the following condition to reduce or avoid impacts to subsurface cultural resources.

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 the Director of PBCE or the Director's designee, the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel should not collect or move any cultural materials.

Therefore, through the compliance with the above standard permit condition, the proposed project would protect any archaeological resources discovered during construction and would result in a less than significant impact. **(Less than Significant Impact)**

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

As stated above the proposed project would require ground disturbing activities within an area of moderate archeological sensitivity. Consistent with General Plan policy ER-10.2, the proposed project would be required to comply with the following conditions to ensure human remains would not be disturbed.

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

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

Through compliance with the standard permit condition above, the proposed project would result in less than significant impacts to human remains which may be present on site. **(Less than Significant Impact)**

4.6 ENERGY

The information in this section is based in part on the information provided in the 5977 & 6001 Silver Creek Valley Road Project Energy Assessment prepared by Kimley Horn in February 2022. This report is available as Appendix C of this document.

4.6.1 Environmental Setting

4.6.1.1 *Regulatory Framework*

Federal and State

Energy Star and Fuel Efficiency

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

Renewables Portfolio Standard Program

In 2002, California established its Renewables Portfolio Standard Program, with the goal of increasing the percentage of renewable energy in the state's electricity mix to 20 percent of retail sales by 2010. Governor Schwarzenegger issued Executive Order (EO) S-3-05, requiring statewide emissions reductions to 80 percent below 1990 levels by 2050. In 2008, EO S-14-08 was signed into law, requiring retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 requires retail sellers and publicly owned utilities to procure 50 percent of their electricity from renewable sources by 2030. SB 100, passed in 2018, requires 100 percent of electricity in California to be provided by 100 percent renewable and carbon-free sources by 2045.

Executive Order B-55-18 To Achieve Carbon Neutrality

In September 2018, Governor Brown issued an executive order, EO-B-55-18 To Achieve Carbon Neutrality, setting a statewide goal "to achieve carbon neutrality as soon as possible, and no later than 2045, and achieve and maintain net negative emissions thereafter." The executive order requires CARB to "ensure future Scoping Plans identify and recommend measures to achieve the carbon neutrality goal." EO-B-55-18 supplements EO S-3-05 by requiring not only emissions reductions, but also that, by no later than 2045, the remaining emissions be offset by equivalent net removals of CO_2 from the atmosphere through sequestration.

California Building Standards Code

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6 of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately

every three years.[28] Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[29]

California Green Building Standards Code

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

Advanced Clean Cars Program

CARB adopted the Advanced Clean Cars program in 2012 in coordination with the EPA and National Highway Traffic Safety Administration. The program combines the control of smog-causing pollutants and GHG emissions into a single coordinated set of requirements for vehicle model years 2015 through 2025. The program promotes development of environmentally superior passenger cars and other vehicles, as well as saving the consumer money through fuel savings.[30]

Regional and Local

Climate Smart San José

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

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

Envision San José 2040 General Plan

The Envision San José 2040 General Plan contains the following policies which are specific to energy and applicable to the proposed project:

[28] California Building Standards Commission. "California Building Standards Code." Accessed March 15, 2022. https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo.
[29] California Energy Commission (CEC). "2019 Building Energy Efficiency Standards." Accessed March 3, 2022. https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2019-building-energy-efficiency.
[30] California Air Resources Board. "The Advanced Clean Cars Program." Accessed March 3, 2022. https://www.arb.ca.gov/msprog/acc/acc.htm.

Envision San José 2040 Relevant Energy Policies

Policy	Description
MS-2.2	Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.
MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
MS-2.4	Promote energy efficient construction industry practices.
MS-2.6	Promote roofing design and surface treatments that reduce the heat island effect of new and existing development and support reduced energy use, reduced air pollution, and a healthy urban forest. Connect businesses and residents with cool roof rebate programs through City outreach efforts.
MS-2.7	Encourage the installation of solar panels or other clean energy power generation sources over parking areas.
MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).

4.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 7,788 trillion British thermal units (Btu) in the year 2019, the most recent year for which this data was available.[31] Out of the 50 states, California is ranked second in total energy consumption and 46th in energy consumption per capita. The breakdown by sector was approximately 19 percent (1,456 trillion Btu) for residential uses, 19 percent (1,468 trillion Btu) for commercial uses, 23 percent (1,805 trillion Btu) for industrial uses, and 39 percent (3,059 trillion Btu) for transportation.[32] This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

Electricity

Electricity in Santa Clara County in 2019 was consumed primarily by the commercial sector (74 percent), followed by the residential sector consuming 26 percent. In 2020, a total of approximately 16,435 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[33]

San José Clean Energy (SJCE) is the electricity provider for residents and businesses in the City of San José. SJCE sources the electricity and the Pacific Gas and Electric Company (PG&E) delivers it

[31] United States Energy Information Administration. "State Profile and Energy Estimates, 2019." Accessed January 10, 2022. https://www.eia.gov/state/?sid=CA#tabs-2.
[32] United States Energy Information Administration. "State Profile and Energy Estimates, 2019." Accessed January 10, 2022. https://www.eia.gov/state/?sid=CA#tabs-2.
[33] California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed January 10, 2022. http://ecdms.energy.ca.gov/elecbycounty.aspx.

to customers over their existing utility lines. SJCE customers are automatically enrolled in the GreenSource program, which provides 80 percent GHG emission-free electricity. Customers can choose to enroll in SJCE's TotalGreen program at any time to receive 100 percent GHG emission-free electricity form entirely renewable sources.

Natural Gas

PG&E provides natural gas services within the City of San José. In 2020, approximately two percent of California's natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada.[34] In 2019 residential and commercial customers in California used 33 percent of the state's natural gas, power plants used 26 percent, the industrial sector used 35 percent, and other uses used six percent.[35] Transportation accounted for one percent of natural gas use in California. In 2019, Santa Clara County used approximately two percent of the state's total consumption of natural gas.[36]

Fuel for Motor Vehicles

In 2019, 15.4 billion gallons of gasoline were sold in California.[37] The average fuel economy for light-duty vehicles (autos, pickups, vans, and sport utility vehicles) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 24.9 mpg in 2019.[38] Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was updated in March 2020 to require all cars and light duty trucks achieve an overall industry average fuel economy of 40.4 mpg by model year 2026. [39,]

Existing On-Site Energy Consumption

The project site is currently vacant and does not have existing energy consumption.

[34] California Gas and Electric Utilities. 2020 *California Gas Report.* Accessed January 10, 2022. https://www.socalgas.com/sites/default/files/2020-10/2020_California_Gas_Report_Joint_Utility_Biennial_Comprehensive_Filing.pdf.
[35] United States Energy Information Administration. "State Profile and Energy Estimates, 2019." Accessed August 2, 2021. https://www.eia.gov/state/?sid=CA#tabs-2.
[36] California Energy Commission. "Natural Gas Consumption by County." Accessed January 10, 2022. http://ecdms.energy.ca.gov/gasbycounty.aspx.
[37] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed January 10, 2022. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.
[38] United States Environmental Protection Agency. "The 2020 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." January 2021. https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1010U68.pdf
[39] United States Department of Energy. *Energy Independence & Security Act of 2007.* January 10, 2022. http://www.afdc.energy.gov/laws/eisa.

4.6.2 Impact Discussion

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

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

Construction

The energy consumption associated with construction of the proposed project includes primarily diesel fuel consumption from on-road hauling trips and off-road construction diesel equipment, and gasoline consumption from on-road worker commute and vendor trips. Temporary electric power for as-necessary lighting and electronic equipment (such as computers inside temporary construction trailers, and heating, ventilation, and air conditioning) would be powered by gasoline-powered generators. The amount of electricity used during construction would be minimal; typical demand would stem from the use of electrically powered hand tools and several construction trailers by managerial staff during the hours of construction activities. The majority of the energy used during construction would be from petroleum.

Operational

The energy consumption associated with the project would include building electricity, water, and natural gas usage, as well as fuel usage from on-road vehicles. The operational energy consumption for the project is displayed in Table 4.6-1. Operation of the proposed project would annually consume approximately 3,590 MWh of electricity, 11,781 therms of natural gas, 155,231 gallons of diesel, and 83,395 gallons of gasoline.[40]

[40] Kimley Horn. 5977 & 6001 Silver Creek Valley Road Project Energy Assessment. February 2022.

Table 4.6-1 Operational Energy Consumption		
Source	**Operational Energy Usage**	**Percentage Increase Countywide**
Electricity Use		
Area	3,292 MWh	0.200
Water	298 MWh	0.018
Total Electricity	3590 MWh	0.218
Natural Gas Use		
Area	11,781 Therms/year	0.003
Diesel Use		
Mobile	155,231 Gallons/year	0.15
Gasoline Use		
Mobile	83,395 Gallons/year	0.014
Source: Kimley Horn. 5977 & 6001 Silver Creek Valley Road Project Energy Assessment. February 2022.		

The proposed project is consistent with the general plan land use designation for the site and would be consistent with the energy consumption assumed in the General Plan EIR. The project incorporates the following design and operational features to reduce the wasteful, inefficient, or unnecessary consumption of energy: area for solar panels, power efficient. Therefore, the proposed project would not result in wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation. **(Less than Significant Impact)**

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

The proposed project would be required to be built in conformance with City of San José policies and plans, including Council Policy 6-32 *Private Sector Green Building Policy* which governs green building requirements for private development. The project would be required to comply with existing regulations, including applicable measures from the City's General Plan, or would be directly affected by the outcomes of these plans and policies such as making vehicle trips and energy consumption less carbon intensive due to statewide compliance with future low carbon fuel standard amendments and increasingly stringent Renewable Portfolio Standards. The proposed project would also enroll in SJCE GreenSource, which includes 60 percent renewable energy, and include the capability for renewable energy to be added to the site in the form of solar panels. As such, the proposed project would not conflict with any other state-level regulations pertaining to energy. The proposed project would comply with existing State energy standards and would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency, therefore, the proposed project would result in a less than significant impact. **(Less than Significant Impact)**

4.7 GEOLOGY / SOILS

The information in this section is based in part on the Geotechnical Investigation Report prepared by Kleinfelder in March 2022. This report is included as Appendix D of this document.

4.7.1 Environmental Setting

4.7.1.1 *Regulatory Framework*

State

Alquist-Priolo Earthquake Fault Zoning Act

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

Seismic Hazards Mapping Act

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

California Building Standards Code

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

California Division of Occupational Safety and Health Regulations

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

Public Resources Code Section 5097.5

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

Local

Envision San José 2040 General Plan

The Envision San José 2040 General Plan contains the following policies which are specific to geology and applicable to the proposed project:

Envision San José 2040 Relevant Geology Policies

Policy	Description
EC-3.2	Within seismic hazard zones identified under the Alquist-Priolo Fault Zoning Act, California Seismic Hazards Mapping Act and/or by the City of San José, complete geotechnical and geological investigations and approve development proposals only when the severity of seismic hazards have been evaluated and appropriate mitigation measures are provided as reviewed and approved by the City of San José Geologist. State guidelines for evaluating and mitigating seismic hazards and the City-adopted California Building Code will be followed.
EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.
EC-4.2	Approve development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, are 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 15.

EC-4.7	Consistent with the San José Geologic Hazard Ordinance, prepare geotechnical and geological investigation reports for projects in areas of known concern to address the implications of irrigated landscaping to slope stability and to determine if hazards can be adequately mitigated.

4.7.1.2 *Existing Conditions*

Geologic Context

The project site is located on the southern end of the Santa Clara Valley. This area is underlain by Holocene age alluvium consisting of gravel, sand, and clay soils. Based on the paleontological sensitivity diagram in the 2040 General Plan FEIR, these rock types are expected to have the potential for paleontological resources at depth. Groundwater on site was found at depths of approximately 23 to 26 feet below existing surface grade, based on surveys conducted in July 2021, although the depth to groundwater fluctuates seasonally.

Seismicity

There are three major faults that trend in a northwest direction through the Bay Area, which have generated approximately 12 earthquakes per century large enough to cause significant structural damage. These faults are part of the San Andreas fault system that extends for approximately 700 miles along the California Coast, and includes the San Andreas, Hayward, and Calaveras faults. The nearest zoned active fault to the site is the Hayward fault, located approximately 3.0 miles northeast of the site. Additionally, the Silver Creek fault is the closest active fault to the site, located approximately 1.9 miles northeast of the project area. Moderate to major earthquakes generated on the Hayward, the Silver Creek, and other faults in the region can be expected to cause strong ground shaking at the site. The project site is located approximately 600 feet southwest of the County Fault Rupture Hazard Zone boundary, which is outside the zone of County ordinance required investigation.

Liquefaction and Landslides

Liquefaction occurs when water-saturated soils lose structural integrity due to seismic activity. Soils that are most susceptible to liquefaction are loose to moderately dense, saturated granular soils with poor drainage. Based on the Santa Clara County Geologic Hazard Zones Map, the project area is not located within a liquefaction zone.[41] The project area is relatively flat, and the project site is not located within a potential landslide zone. Therefore, the probability of landslides occurring on-site during a seismic event is low.

Soils

Exploratory borings on the project site encountered medium stiff to very stiff, low plasticity clay and silt to silty sand layers in the upper 10 to 18 feet. These soils are underlain by mostly medium stiff to very stiff, low to medium plasticity clay to sandy clay. A layer of loose, low plasticity clayey sand layer (variable thickness) was encountered between depths of approximately 37 and 42 feet.

[41] County of Santa Clara. "Santa Clara County Geologic Hazard Zones." Map 37. Accessed March 11, 2022. https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf.

4.7.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
– Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42)?	☐	☐	☐	☒
– Strong seismic ground shaking?	☐	☐	☒	☐
– Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
– Landslides?	☐	☐	☐	☒
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	☐	☐	☒	☐
d) Be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?	☐	☐	☒	☐
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒
f) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?	☐	☐	☒	☐

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

Seismic Ground Failure

According to the geotechnical report prepared for the project, the site is not located within an Earthquake Fault Zone as defined by the California Geological Survey in accordance with the Alquist-Priolo Earthquake Fault Zone Act of 1972.

The United States Geological Survey (2021) also identifies the Coyote Creek fault zone located approximately 1.9 miles northeast of the site. According to the U.S. Geological Survey, the fault is not considered a source of seismic shaking. The County of Santa Clara has incorporated the Coyote Creek fault zone in their County Geologic Hazard Zonation program and the project site is located approximately 600 feet southwest of the County Fault Rupture Hazard Zone boundary, which is outside the zone of County ordinance required investigation. Based on this information, the potential for ground rupture is low to non-existent for the proposed project.

Strong Seismic Shaking

The project site would be subject to strong seismic ground shaking and seismic-related ground failure. Consistent with the City's General Plan and Municipal Code, to avoid and/or minimize potential damage from seismic shaking, the proposed project would be built using standard engineering and seismic safety design techniques. Consistent with these requirements, the following condition shall be implemented to ensure the proposed development is designed to address seismic hazards.

Standard Permit Condition:

- Seismic Hazards. To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.

Therefore, through compliance with the standard permit condition above the proposed project would not experience a substantial risk of loss of life or property as a result of seismic activity causing ground failure or strong shaking. **(Less than Significant Impact)**

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

The City's NPDES Municipal Permit, urban runoff policies, and the Municipal Code are the primary means of enforcing erosion control measures through the grading and building permit process. The Draft Program EIR for the General Plan concluded that with the regulatory programs currently in place, the possible impacts of accelerated erosion during construction would be less than significant[42]. The City shall require all phases of the project to comply with all applicable City regulatory programs pertaining to construction related erosion, including the following standard permit conditions:

Standard Permit Conditions:

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

Therefore, through compliance with the NPDES Municipal Permit, the proposed project would have a less than significant impact on soil erosion or loss of topsoil. **(Less than Significant Impact)**

[42] City of San José. *Draft Program Environmental Impact Report for the Envision San José 2040 General Plan*. SCH# 2009072096. Page 515.

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

Landslides

The proposed project would be located on a flat site area which is not near any hillsides which may experience landslides. Therefore, the proposed project would not result in instability which may cause landslides.

Lateral Spreading

Lateral spreading is a potential hazard commonly associated with liquefaction where extensional ground cracking and settlement occur as a response to lateral migration of subsurface liquefiable material. These phenomena typically occur adjacent to free faces such as slopes and creek channels. There are no significant open earth faces within 200 feet of the warehouse building site where lateral spreading could occur. Although Coyote Creek flows approximately 230 feet from the northwest corner of the parcel, the potential for lateral spreading to affect the building site is less than significant.

Liquefaction

Liquefaction-induced settlement estimates were calculated to be insubstantial between the ground surface and a depth of about 38 feet. Based on the geotechnical report, soil layers encountered in some of the explorations at depths below 38 feet may liquefy with settlement estimates ranging from about one-half inch to one inch, however, the liquefaction of these deeper materials would not result in significant settlement near the ground surface or adversely affect the building's shallow foundations or slabs. Additionally, these soils would not be expected to create ground surface disruption such as liquefaction-related sand boils or ground oscillation to happen at this site. Therefore, the proposed project would result in less than significant impacts related to liquefaction.

Another type of seismically induced ground failure that can occur as a result of seismic shaking is dynamic compaction, or seismic settlement. Such phenomena typically occur in unsaturated, loose granular material or uncompacted fill soils. As soils encountered above the design groundwater depth of 20 feet were predominantly cohesive soils, the potential for seismic shaking-related dynamic compaction is less than significant.

In addition, the proposed project would be required to comply with the standard permit condition below requiring design measures to account for soil conditions on site.

Standard Permit Condition:

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

Therefore, based on the site conditions and with the implementation of the standard permit condition above, the proposed project would have a less than significant impact on the stability of the site geologic unit. **(Less than Significant Impact)**

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

Soils on the project site were determined to have a medium potential for expansion with changes in moisture content. Structures supported by this type of soil are exposed to cycles of heave and settlement which may result in damage if structures are not constructed with proper structural design. As stated under project impact a), building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. This would include constructing the project in such a manner as to reduce the effects of underlying expansive soils. Therefore, through compliance with standard measures established in the California Building Code, and the standard permit conditions as adopted by the City, the proposed project would result in a less than significant impact associated with expansive soils. **(Less than Significant Impact)**

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

The proposed project would not include septic systems or other alternative wastewater disposal systems because adequate sewage systems are available within the area of the project site. Therefore, the proposed project would have no impact regarding soils needed for septic systems. **(No Impact)**

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

The General Plan EIR recognized that while development allowed under the General Plan could directly impact paleontological resources, implementation of General Plan policies and existing regulations and programs would reduce potential impacts to a less than significant level. The General Plan identified the site as a sensitive for paleontological resources at depth. The proposed project would require shallow excavation for on-site utilities trenching therefore, the following standard permit condition would be applied to the proposed project to reduce and avoid impacts to unidentified paleontological resources.

Standard Permit Condition:

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

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

Therefore, through implementation of the standard permit condition above, the proposed project would result in a less than significant impact to paleontological resources. **(Less than Significant Impact)**

4.8 GREENHOUSE GAS EMISSIONS

Information in this section is based in part on the 5977 & 6001 Silver Creek Valley Road Project Greenhouse Gas Emissions Assessment prepare by Kimley Horn in February 2022. This report is included in Appendix E of this document.

4.8.1 Environmental Setting

4.8.1.1 *Background Information*

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

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

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

4.8.1.2 *Regulatory Framework*

State

Assembly Bill 32

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

In 2016, SB 32 was signed into law, amending the California Global Warming Solution Act. SB 32, and accompanying Executive Order B-30-15, require CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its Climate Change Scoping Plan in December of 2017 to express the 2030 statewide target in terms of million metric tons of CO_2e ($MMTCO_2e$). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 $MMTCO_2e$.

Senate Bill 375

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

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

Regional and Local

2017 Clean Air Plan

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

CEQA Air Quality Guidelines

The BAAQMD CEQA Air Quality Guidelines are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. The jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing GHG impacts developed by BAAQMD within the CEQA Air Quality Guidelines. The

guidelines include information on legal requirements, BAAQMD rules, methods of analyzing impacts, and recommended mitigation measures.

Climate Smart San José

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

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

Reach Building Code

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

San José 2030 Greenhouse Gas Reduction Strategy

The 2030 Greenhouse Gas Reduction Strategy (GHGRS) is the latest update to the City's GHGRS and is designed to meet statewide GHG reduction targets for 2030 set by Senate Bill 32. As a qualified Climate Action Plan, the 2030 GHGRS allows for tiering and streamlining of GHG analyses under CEQA. The GHGRS identifies General Plan policies and strategies to be implemented by development projects in the areas of green building/energy use, multimodal transportation, water conservation, and solid waste reduction. Projects that comply with the policies and strategies outlined in the 2030 GHGRS, would have less than significant GHG impacts under CEQA.[43]

Envision San José 2040 General Plan

The Envision San José 2040 General contains the following policies which are specific to greenhouse gas emissions and applicable to the proposed project:

[43] City of San José. Greenhouse Gas Reduction Strategy. November 2020. https://www.sanjoseca.gov/your-government/department-directory/planning-building-code-enforcement/planning-division/environmental-planning/greenhouse-gas-reduction-strategy.

Envision San José 2040 Relevant Greenhouse Gas Emissions Policies

Policy	Description
MS-1.7	Encourage retrofits for existing buildings throughout San José to use green building principles in order to mitigate the environmental, economic, and social impact of those buildings, to achieve greenhouse gas reductions, and to improve air and water quality.
MS-2.1	Develop and maintain policies, zoning regulations, and guidelines that require energy conservation and use of renewable energy sources.
MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
MS-2.7	Encourage the installation of solar panels or other clean energy power generation sources over parking areas.

4.8.1.3 *Existing Conditions*

Unlike emissions of criteria and toxic air pollutants, which have regional and local impacts, emissions of GHGs have a broader, global impact. Global warming is a process whereby GHGs accumulating in the upper atmosphere contribute to an increase in the temperature of the earth and changes in weather patterns. The site is currently vacant and generates no GHGs.

4.8.2 Impact Discussion

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

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

Construction Emissions

Construction activities on-site would result in temporary GHG emissions. Construction-related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel. Neither the City of San José nor BAAQMD has established a quantitative threshold or standard for determining whether a project's construction related GHG emissions are significant. Project construction would occur over a period of approximately 13 months and would result in a temporary 730 $MTCO_2e$ increase in

emissions. Since these impacts would only occur during construction the proposed project would not result in a significant contribution to GHG emission in the air basin. The proposed project construction activity and resulting GHG emissions would not interfere with the implementation of SB 32.

Operational Emissions

Since the project is consistent with the General Plan land use designation for the site and planned growth from build out of the 2040 General Plan, the project's GHG emissions would be accounted for in the citywide GHG emissions inventory addressed in the GHGRS, provided the project complies with applicable GHG reduction measures identified in the GHGRS. As discussed in more detail below under question b), the project applicant has completed the Greenhouse Gas Reduction Strategy Consistency Checklist, which documents the project's compliance with the GHGRS and demonstrates the project would result in a less than significant GHG emissions impact.

As stated above, the proposed project would result in temporary GHG emissions during construction which would not contribute to interference with AB 32 and the project's ongoing operational GHG emissions would be covered by the GHGRS given the project is consistent with the General Plan and the project incorporates applicable requirements of the GHGRS. Therefore, the proposed project would result in a less than significant GHG impact during construction and operations of the proposed project. **(Less than Significant Impact)**

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

2030 Greenhouse Gas Reduction Strategy

As mentioned previously, projects that are consistent with the GHGRS would have a less than significant impact related to GHG emissions through 2030. The proposed project is within the development capacity approved by the Envision 2040 General Plan FEIR; therefore, the project would be consistent with the 2030 GHGRS.

The GHGRS includes seven strategies for emissions reductions. These include use of San José Clean Energy, achieving zero net carbon for residential construction, renewable energy development, retrofits of existing buildings to remove natural gas demands, achieving a zero-waste goal, modernization of Caltrain, and water conservation. The proposed project would enroll in San José Clean Energy, which represents the largest reduction in GHG emissions identified in the reduction strategy.

While the proposed project is within the development capacity approved by the Envision 2040 General Plan FEIR, the proposed project would comply with specific measures of the GHGRS. The proposed project is consistent with the Land Use/Transportation Diagram designation of General Plan. The proposed project also incorporates all applicable mandatory measures of the GHGRS (refer to Appendix F, including installing 32 bicycle parking spaces and retention of the existing Class II bike lanes on both sides of Silver Creek Valley Road. Additionally, the proposed project would include Tier 2 multi-modal infrastructure that would help reduce vehicle miles traveled (VMT) and mobile greenhouse gas emissions. The proposed project would also be consistent with the 2030 GHG

Reduction Strategy through compliance with the State's Model Water Efficient Landscape Ordinance and the City's Water-Efficient Landscape Ordinance (Chapter 15.11 of the San José Municipal Code), and would include landscaping and landscaped shading of the parking areas and walkways. Additionally, the project would include low-flow fixtures and appliances and would utilize recycled water for the outdoor landscaping based on availability.

The project would be constructed in accordance with the latest California Building Code, green building regulations/CalGreen, the City's Council Policy 6-32 and the City's Green Building Ordinance. Additionally, project construction and demolition waste would be diverted to exceed City requirements and least 75 percent of construction and demolition waste and 100 percent of metal would be recycled. The project would also be enrolled in the San José Clean Energy (SJCE) GreenSource program which includes 60 percent renewable energy and would meet U.S. Green Building Council LEED Silver requirements through various credits related to optimized energy performance and other sustainable features. With these measures, the proposed project would meet most of the requirements for the 2030 GHGRS, however, the largest reduction in greenhouse gas emissions results from enrollment in 100 percent renewable energy programs and the proposed project would not meet this requirement.

Impact GHG-1 The proposed project would not be compliant with the 2030 Greenhouse Gas Reduction Strategy and could result in cumulative increases in greenhouse gas emissions.

Mitigation Measure

MM GHG-1: The project applicant shall prepare an Electricity Provision Plan that demonstrates 100% carbon free electricity supply for site operations. The Electricity Provision Plan shall be submitted to the Director of the City of San José Department of Planning, Building, and Code Enforcement or Director's designee prior to issuance of certificate of occupancy. The plan shall demonstrate that there would be sufficient carbon-free electricity supply for tenant operations such that 100% of the electricity used for site operations is carbon free. For example, this could be achieved by the following measures:

- Enrollment in San José Clean Energy (SJCE) TotalGreen program which includes 100 percent renewable energy;
- Installation of a solar photovoltaic (PV) system or other source of renewable energy generation on-site, or otherwise acquire energy from the local utility that has been generated by renewable sources, that would provide 100 percent of the expected building load. The PV requirement is subject to the utility provider agreeing to serve and facilitate the use of PV. Should utility provider limit the off-site export, the proposed project may utilize a battery energy storage system (BESS) to lower off-site export while maintaining on-site renewable generation to off-set consumption;
- A combination of an on-site PV system and utility provided carbon-free electricity.

By incorporating the MM GHG-1 and other GHGRS standards as stated above, the proposed project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs.

Climate Smart San José

Climate Smart San José, adopted by the City, is a community-wide initiative intended to create a more sustainable, connected, and economically inclusive City. Climate Smart San José is aligned with General Plan growth patterns and General Plan policies which prioritize automobile-alternative transportation modes, encourage denser development, and ensure energy-efficient features are included in new buildings.

As discussed in Section 4.6 Energy, the project would be designed and constructed in compliance with the City of San José Council Policy 6-32 and the City's Green Building Ordinance. In addition, Action MS-2.11 of the General Plan requires new development to incorporate energy conservation and efficiency through site design, architectural design, and construction techniques. The proposed project is within a portion of the City development area which is served by transit. For these reasons, the project is consistent with the City's climate action goals as set forth in Climate Smart San José. **(Less than Significant Impact with Mitigation Incorporated)**

4.9 HAZARDS & HAZARDOUS MATERIALS

Information in this section is based in part on the 5977 & 6001 Silver Creek Valley Road Project Phase I Environmental Site Assessment and Pesticide Soil Sampling Report prepared by APEX in September 2021. This report is included in Appendix G of this document.

4.9.1 Environmental Setting

4.9.1.1 *Regulatory Framework*

Overview

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and state laws. In California, the EPA has granted most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (CalEPA). In turn, local agencies have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program.

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

Federal and State

Federal Aviation Regulations Part 77

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

Comprehensive Environmental Response, Compensation, and Liability Act

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted by Congress on December 11, 1980. This law created a tax on the chemical and petroleum industries and provided broad federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. Over five years, $1.6 billion was collected and the tax went to a trust fund for cleaning up abandoned or uncontrolled hazardous waste sites. CERCLA accomplished the following objectives:

- Established prohibitions and requirements concerning closed and abandoned hazardous waste sites;
- Provided for liability of persons responsible for releases of hazardous waste at these sites; and
- Established a trust fund to provide for cleanup when no responsible party could be identified.

The law authorizes two kinds of response actions:

- Short-term removals, where actions may be taken to address releases or threatened releases requiring prompt response; and
- Long-term remedial response actions that permanently and significantly reduce the dangers associated with releases or threats of releases of hazardous substances that are serious, but not immediately life-threatening. These actions can be completed only at sites listed on the EPA's National Priorities List.

CERCLA also enabled the revision of the National Contingency Plan (NCP). The NCP provided the guidelines and procedures needed to respond to releases and threatened releases of hazardous substances, pollutants, or contaminants. The NCP also established the National Priorities List. CERCLA was amended by the Superfund Amendments and Reauthorization Act on October 17, 1986.[44]

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA), enacted in 1976, is the principal federal law in the United States governing the disposal of solid waste and hazardous waste. RCRA gives the EPA the authority to control hazardous waste from the "cradle to the grave." This includes the generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA also sets forth a framework for the management of non-hazardous solid wastes.

The Federal Hazardous and Solid Waste Amendments (HSWA) are the 1984 amendments to RCRA that focused on waste minimization, phasing out land disposal of hazardous waste, and corrective action for releases. Some of the other mandates of this law include increased enforcement authority for the EPA, more stringent hazardous waste management standards, and a comprehensive underground storage tank program.[45]

Government Code Section 65962.5

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

[44] United States Environmental Protection Agency. "Superfund: CERCLA Overview." Accessed May 11, 2020. https://www.epa.gov/superfund/superfund-cercla-overview.
[45] United States Environmental Protection Agency. "Summary of the Resource Conservation and Recovery Act." Accessed May 11, 2020. https://www.epa.gov/laws-regulations/summary-resource-conservation-and-recovery-act.

substance release sites identified by the Department of Toxic Substances Control (DTSC) and State Water Resources Control Board (SWRCB).[46]

Toxic Substances Control Act

The Toxic Substances Control Act (TSCA) of 1976 provides the EPA with authority to require reporting, record-keeping and testing requirements, and restrictions relating to chemical substances and/or mixtures. Certain substances are generally excluded from TSCA, including, among others, food, drugs, cosmetics, and pesticides. The TSCA addresses the production, importation, use, and disposal of specific chemicals including polychlorinated biphenyls (PCBs), asbestos, radon, and lead-based paint.

California Accidental Release Prevention Program

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

Asbestos-Containing Materials

Friable asbestos is any asbestos-containing material (ACM) that, when dry, can easily be crumbled or pulverized to a powder by hand, allowing the asbestos particles to become airborne. Common examples of products that have been found to contain friable asbestos include acoustical ceilings, plaster, wallboard, and thermal insulation for water heaters and pipes. Common examples of non-friable ACMs are asphalt roofing shingles, vinyl floor tiles, and transite siding made with cement. The EPA phased out use of friable asbestos products between 1973 and 1978. National Emission Standards for Hazardous Air Pollutants (NESHAP) guidelines require that potentially friable ACMs be removed prior to building demolition or remodeling that may disturb the ACMs.

CCR Title 8, Section 1532.1

The United States Consumer Product Safety Commission banned the use of lead-based paint in 1978. Removal of older structures with lead-based paint is subject to requirements outlined by the Cal/OSHA Lead in Construction Standard, CCR Title 8, Section 1532.1 during demolition activities. Requirements include employee training, employee air monitoring, and dust control. If lead-based paint is peeling, flaking, or blistered, it is required to be removed prior to demolition.

Local

Envision San José 2040 General Plan

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

[46] California Environmental Protection Agency. "Cortese List Data Resources." Accessed April 4, 2022. https://calepa.ca.gov/sitecleanup/corteselist/.

Envision San José 2040 Relevant Hazards Policies

Policy	Description
EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.
EC-7.5	On development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and state requirements.
EC-7.6	The City will encourage use of green building practices to reduce exposure to volatile or other hazardous materials in new construction materials.
EC-7.11	Require sampling for residual agricultural chemicals, based on the history of land use, on sites to be used for any new development or redevelopment to account for worker and community safety during construction. Mitigation to meet appropriate end use such as residential or commercial/industrial shall be provided.

4.9.1.2 *Existing Conditions*

Historic Uses of the Project Site

Prior to 1930, according to aerial photography and topographic maps, the project site was undeveloped. In 1939, two small buildings near the center of the project site can be seen in aerial photographs and the site was used for farming at this time. The project site remained largely unchanged until the 1970s when several outbuildings were added on the site surrounding the existing structures. In the 1990s, the existing buildings and any associated agricultural land uses were removed from the project site and the project site continued to be vacant to the present date.[47]

Organochlorine pesticides (OCPs) were used extensively from the 1940s through the 1960s in the agricultural industry and these chemicals may be present in soils on the project site. Based on a site-specific Pesticide Soil Sampling Report prepared by APEX, May 2022, the levels of these chemicals would not exceed Environmental Screening Levels (ESLs) for Organochlorine Pesticides.[48]

[47] APEX. 5977 & 6001 Silver Creek Valley Road Project Phase I Environmental Site Assessment. September 2021.
[48] APEX. 5977 & 6001 Silver Creek Valley Road Project Pesticide Soil Sampling Report. May 2022.

Existing Uses of the Project Site

The existing condition of the project site is vacant with the exception of a tree cutting operation at the center of the site. The project site was studied as part of a Phase I Hazardous Materials investigation prepared by Apex that determined that the project site is not included on hazardous materials databases and does not currently have any recognized environmental concerns. There are two damaged, abandoned vehicles located on site due to a fire that occurred in 2017. There were no hazardous conditions observed around these vehicles during a site visit performed July 8, 2021 by Apex.

Lead and Asbestos

The site does not contain structures constructed with lead or asbestos containing materials.

Groundwater

Groundwater below the project site ranges from 23 to 26 feet below the ground surface, flowing locally north, based on surveys taken in July 2021. There are no known conditions affecting groundwater under the project site or upgradient from the site.[49]

Historic Uses of the Surrounding Areas

In 1939, the area surrounding the project site was primarily agricultural with a few residential structures. In 1950 aerial photographs, the surrounding sites began to accumulate more structures throughout the agricultural fields and Highway 101 can be seen half a mile to the southwest. In the 1970s a large greenhouse like structure was constructed on a site to the south of the project site and a trailer park south of Coyote Creek was constructed in 1973. In the 1980s a residential neighborhood was developed southwest of Coyote Creek, the other sites remain unchanged. In the 1990s three water wells were present on the site to the west of the project site. Additionally, the site to the south of the project site is being developed and large office buildings can be seen north, northeast, and east of the project site. From the 2000's to present, the areas around the project site became more developed with office space and light industrial uses.

Existing Uses of the Surrounding Areas

Based on a review of existing environmental search databases, several sites of environmental concern appeared within a half mile radius of the project site. These sites were not located on adjacent parcels and were not located upgradient based on the flow of groundwater under the project site. Additionally, no open cases were identified within a half mile of the project site. Therefore, the Phase I study did not identify existing environmental conditions on surrounding sites that represent a risk of contamination on the project site.

Wildfire Zone

The project site is not located in a wildfire hazard severity zone according to the Fire Hazard Severity Zone Viewer.[50]

[49] Kleinfelder. Geotechnical Investigation Report. March 4, 2022.
[50] Cal Fire. Fire Hazard Severity Viewer. Accessed April 5, 2021. https://egis.fire.ca.gov/FHSZ/.

4.9.2 Impact Discussion

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

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

The proposed project would construct an industrial building on a vacant site that could be used by a variety of uses including manufacturing and warehousing. The precise operational occupant of the site is not currently determined, however, based on the existing land use designations for the project site, the proposed project would not be used for the storage or transport of hazardous materials. The industrial building would contain small amounts of cleaning supplies and would create increased operations of large diesel vehicles during deliveries, which could result in minor fuel spills. However, these uses are common and subject to a broad array of existing regulations from state and

local governments noted above in Regulatory Setting, and would not result in significant hazards to the public or environment and would result in a less than significant impact. **(Less than Significant Impact)**

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

Agricultural Chemicals

Given the project site was used for agricultural purposes until approximately 1989, there is potential that agricultural chemicals, such as pesticides, herbicides and fertilizers were used on site. Soils on-site and groundwater beneath the site could be contaminated with agricultural chemicals, which could be released into the environment and expose construction workers and adjacent land uses to contamination.

Based on the Pesticide Soil Sampling Report prepared by APEX for the project site, the soils on site were studied for the presence of organochlorine pesticides and associated metals (arsenic and lead) related to its historical agricultural use. Five soil borings were taken to a depth of one-foot. These were tested against ESL levels for the expected soil contaminants and the results of the testing determined that the levels of arsenic and lead were all below the established naturally-occurring background concentration of 11 mg/kg. Additionally, the level of pesticides contaminants were found to be below respective ESLs for human health direct contact under commercial and construction worker exposure scenarios.

Therefore, because the project site does not contain agricultural hazards in excess of established ESLs, the proposed project would result in a less than significant impact resulting from reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. **(Less than Significant Impact)**

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

The proposed project would be located approximately 0.7 mile southeast of the nearest school, Edenvale Elementary School. Therefore, the proposed project would result in a less than significant impact from handling hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. **(Less than Significant Impact)**

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

The project site was not identified to be on current lists of hazardous materials sites pursuant to Government Code Section 65962.5. Therefore, the proposed project would not result in a significant

hazard to the public or the environment as a result of being included on a list of existing hazardous materials sites. **(Less than Significant Impact)**

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

The project site is located approximately five miles southeast the nearest airport, the Reid-Hillview County Airport. The proposed project would be located outside the noise contours of the airport and would not be located within the airport safety zones. Therefore, the proposed project would result in less than significant impacts from hazards associated with nearby airports. **(Less than Significant Impact)**

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

The proposed project would develop a vacant site consistent with the existing General Plan designation of the site and would not alter evacuation routes. In addition, the project would be constructed in accordance with current building and fire codes and would be required to be maintained in accordance with applicable City policies identified in the General Plan FEIR to avoid unsafe building conditions. Therefore, the proposed project would be consistent with existing emergency response plans and emergency evacuation plans and would have a less than significant impact **(Less than Significant Impact)**

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

The proposed project would not be constructed in a High Fire Severity Zone as established by Cal Fire. Therefore, the proposed project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires. **(Less than Significant Impact)**

4.10 HYDROLOGY AND WATER QUALITY

4.10.1 Environmental Setting

4.10.1.1 *Regulatory Framework*

Federal and State

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

National Flood Insurance Program

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

Statewide Construction General Permit

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

Regional and Local

San Francisco Bay Basin Plan

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

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

Municipal Regional Permit Provision C.3

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

In addition to water quality controls, the MRP requires new development and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation, or other impacts to local rivers, streams, and creeks. Projects may be deemed exempt from these requirements if they do not meet the minimized size threshold, drain into tidally influenced areas or directly into the Bay, or drain into hardened channels, or if they are infill projects in subwatersheds or catchment areas that are greater than or equal to 65 percent impervious.

Water Resources Protection Ordinance and District Well Ordinance

Valley Water operates as the flood control agency for Santa Clara County. Their stewardship also includes creek restoration, pollution prevention efforts, and groundwater recharge. Permits for well construction and destruction work, most exploratory boring for groundwater exploration, and projects within Valley Water property or easements are required under Valley Water's Water Resources Protection Ordinance and District Well Ordinance.

2016 Groundwater Management Plan

This 2016 Groundwater Management Plan (GWMP) describes the Valley Water's comprehensive groundwater management framework, including existing and potential actions to achieve basin sustainability goals and ensure continued sustainable groundwater management. The GWMP covers the Santa Clara and Llagas subbasins, which are located entirely in Santa Clara County. Valley Water manages a diverse water supply portfolio, with sources including groundwater, local surface water, imported water, and recycled water. About half of the county's water supply comes from local sources and the other half comes from imported sources. Imported water includes the District's State Water Project and Central Valley contract supplies and supplies delivered by the San Francisco Public Utilities Commission (SFPUC) to cities in northern Santa Clara County. Local sources include

[51] MRP Number CAS612008

natural groundwater recharge and surface water supplies. A small portion of the county's water supply is recycled water.

Local groundwater resources make up the foundation of the county's water supply, but they need to be augmented by the District's comprehensive water supply management activities to reliably meet the county's needs. These include the managed recharge of imported and local surface water and in-lieu recharge through the provision of treated surface water, acquisition of supplemental water supplies, and water conservation and recycling.[52]

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

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

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

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

Dam Safety

Since August 14, 1929, the State of California has regulated dams to prevent failure, safeguard life, and protect property. The California Water Code entrusts dam safety regulatory power to California Department of Water Resources, Division of Safety of Dams (DSOD). The DSOD provide oversight to the design, construction, and maintenance of over 1,200 jurisdictional sized dams in California.[53]

As part of its comprehensive dam safety program, Valley Water routinely monitors and studies the condition of each of its 10 dams. Valley Water also has its own Emergency Operations Center and a response team that inspects dams after significant earthquakes. These regulatory inspection programs reduce the potential for dam failure.

[52] Valley Water. *2016 Groundwater Management Plan, Santa Clara and Llagas Subbasins*. November 2016.
[53] California Department of Water Resources, Division of Safety of Dams. https://water.ca.gov/Programs/All-Programs/Division-of-Safety-of-Dams#:~:text=Since%20August%2014%2C%201929%2C%20the,Safety%20of%20Dams%20(DSOD). Accessed June 9, 2020.

Construction Dewatering Waste Discharge Requirements

Each of the RWQCBs regulate construction dewatering discharges to storm drains or surface waters within its Region under the NPDES program and Waste Discharge Requirements.

Envision San José 2040 General Plan

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

Envision San José 2040 Relevant Hydrology and Water Quality Policies

Policy	Description
MS-20.3	Protect groundwater as a water supply source through flood protection measures and the use of stormwater infiltration practices that protect groundwater quality. In the event percolation facilities are modified for infrastructure projects, replacement percolation capacity will be provided.
ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
ER-8.4	Assess the potential for surface water and groundwater contamination and require appropriate preventative measures when new development is proposed in areas where storm runoff will be directed into creeks upstream from groundwater recharge facilities.
ER-8.5	Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.
ER-8.6	Eliminate barriers to and enact policies in support of the reuse of stormwater runoff for beneficial uses in existing infrastructure and future development in San José.
ER-8.7	Encourage stormwater reuse for beneficial uses in existing infrastructure and future development through the installation of rain barrels, cisterns, or other water storage and reuse facilities.
ER-8.10	Participate in the Santa Clara Valley Urban Runoff Pollution Prevention Program (SVURPPP) and take other necessary actions to formulate and meet regional water quality standards which are implemented through the National Pollution Discharge Elimination System (NPDES) permits and other measures.
ER-9.5	Protect groundwater recharge areas, particularly creeks and riparian corridors.
EC-5.1	The City shall require evaluation of flood hazards prior to approval of development projects within a Federal Emergency Management Agency (FEMA) designated floodplain. Review new development and substantial improvements to existing structures to ensure it is designed to provide protection from flooding with a one percent annual chance of occurrence, commonly referred to as the "100-year" flood or whatever designated benchmark FEMA may

adopt in the future. New development should also provide protection for less frequent flood events when required by the State.

EC-5.7	Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.
EC-5.11	Where possible, reduce the amount of impervious surfaces as a part of redevelopment and roadway improvements through the selection of materials, site planning, and street design.
EC-5.14	Implement the requirements of FEMA relating to construction in Special Flood Hazards Areas as illustrated on Flood Insurance Rate Maps. Periodically update the City's Flood Hazard Regulations to implement FEMA requirements.
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.
EC-5.17	Implement the Hydromodification Management requirements of the City's Municipal NPDES Permit to manage runoff flow and volume from project sites.

4.10.1.2 *Existing Conditions*

Site Drainage

The project site does not contain surface water resources within the boundaries of the site. The nearest waterway, Coyote Creek, is located approximately 250 feet to the northwest of the project site. Water from the project site would primarily infiltrate into the bare ground surface on the site or surface flow across the site into the City's established drainage system or Coyote Creek.

According to the EPA[54], the Coyote Creek is currently listed on the 303(d) list of impaired waterways for Diazinon toxicity and trash.

Flooding

The project site is located within a Zone D flood hazard zone as established on FEMA flood hazard maps. The Zone D designation is an undefined flood zone which is not expected to experience flooding during the 100-year storm. The City of San José does not have established guidelines for Zone D flood hazard zones.

Dam Failure

The project site is located in the Anderson Dam failure inundation hazard zones.[5556]

[54] United States Environmental Protection Agency. Waterbody Quality Assessment Report for 2018 Waterbody Report for Coyote Creek (Santa Clara Co.). 2016. Accessed December 9, 2021. https://mywaterway.epa.gov/waterbody-report/CA_SWRCB/CAR2053002119990218112824/2018.
[55] Santa Clara Valley Water District. "Anderson Dam Flood Inundation Maps." Accessed December 9, 2021. https://www.valleywater.org/sites/default/files/Anderson%20Dam%20Inundation%20Maps%202016.pdf.
[56] 43 Santa Clara Valley Water District. "Lexington Dam Flood Inundation Maps." Accessed December 9, 2021. https://www.valleywater.org/sites/default/files/Lexington%20Dam%20Inundation%20Map%202016.pdf.

Seiches, Tsunamis, and Mudflows

A seiche is the oscillation of water in an enclosed body of water such as a lake or the San Francisco Bay. There are no landlocked bodies of water near the project site that would affect the site in the event of a seiche.

A tsunami is a sea wave generated by an earthquake, landslide, or other large displacement of water in the ocean. There are no bodies of water near the project site that would affect the site in the event of a tsunami.[57]

A mudflow is the rapid movement of a large mass of mud formed from loose soil and water. The project site and surrounding area are relatively flat. The project site is not susceptible to mudflows.

Groundwater

Groundwater beneath the site is estimated to be between 23 to 26 feet bgs. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall, and underground drainage patterns.[58]

Hydromodification

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

The project site is located within a subwatershed with less than 65 percent impervious surfaces, therefore the project site is subject to hydromodification requirements outlined in City Council Policy No. 8-14.

4.10.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	☐	☐	☒	☐

[57] Association of Bay Area Governments. "Tsunami Maps and Information." Accessed December 9, 2021. http://resilience.abag.ca.gov/tsunamis/.
[58] Kleinfelder. Geotechnical Investigation Report. March 4, 2022.

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

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

Construction Impacts

Implementation of the proposed project would involve shallow excavation and grading activities on-site. Ground-disturbing activities would temporarily increase the amount of loose debris on-site and grading activities could increase erosion and sedimentation that could be carried by runoff into the San Francisco Bay. The project site is approximately 15.13-acres in size and would disturb more than one acre of soil; therefore, the project would be required to obtain an NPDES General Permit for Construction Activities. In addition, all development projects in the City are required to comply with the City of San José's Grading Ordinance[59] whether or not the project is required to obtain an NDPES General Construction Permit.

[59] The San José Grading Ordinance requires the use of erosion and sediment controls to protect water quality when a site is under construction.

Pursuant to City requirements, the following Standard Permit Conditions have been included in the project to reduce potential construction-related water quality impacts.

Standard Permit Condition:

Prior to the issuance of a permit for grading activity occurring during the rainy season (October 1st to April 30th), the applicant shall submit an Erosion Control Plan to the Director of Public Works for review and approval. The Erosion Control Plan shall detail BMPs that would be implemented to prevent the discharge of stormwater pollutants.

1. Consistent with the General Plan, measures shall be implemented to prevent stormwater pollution and minimize potential sedimentation during construction including, but not limited to, the following standard permit condition for construction-related water quality:
    - Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
    - Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
    - All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
    - Stockpiles of soil or other materials that can be blown away by the wind shall be watered or covered.
    - All trucks hauling soil, sand, and other loose materials shall be required to cover all trucks or maintain at least two feet of freeboard.
    - All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
    - Vegetation in disturbed areas shall be replanted as quickly as possible.
    - All unpaved entrances to the site shall be filled with rock to remove mud from truck tires prior to entering City streets. A tire wash system shall be installed if requested by the City.
    - The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

With implementation of the identified Standard Permit Condition, construction of the proposed project would have a less than significant impact on water quality.

Post-Construction Impacts

Under existing conditions, the project site is entirely comprised of pervious surface area. Upon completion of the proposed project, the site would be covered with approximately 78 percent (517,043 square feet) of impervious surfaces, a net decrease of pervious surface area of 78 percent. Construction of the project would result in the replacement of more than 10,000 square feet of impervious surface area; therefore, the project would be required to comply with the City of San José's Post-Construction Urban Runoff City Council Policy 6-29 and the MRP.

The MRP requires all post-construction stormwater runoff to be treated by numerically sized Low Impact Design (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. To treat stormwater runoff, the project proposes lined bioretention basins with underdrains. The proposed LID measures would treat 100 percent of site area.

In addition to providing LID measures, the proposed project would be required to comply with measures included in the General Plan for managing stormwater runoff. The Envision 2040 General Plan FEIR concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on stormwater quality. With inclusion of LID stormwater treatment 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.

Dewatering

The proposed project would include surface grading and minor excavation for utilities on site that would not extend beyond 10 feet below grade. The groundwater was established to be approximately 23 to 26 feet bgs and therefore, the proposed project would not require dewatering during construction.

The proposed project would implement the standard permit conditions established by the City of San José and would be constructed with LID features to capture and release stormwater during project operations. Additionally, the project would not impact groundwater and would not require groundwater dewatering. Therefore, the proposed project would result in less than significant impacts on runoff and groundwater associated with the proposed project. **(Less than Significant Impact)**

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

The proposed project is located within the Santa Clara Subbasin, one of two groundwater basins located within the City of San José Urban Growth Boundaries. Planned buildout within the scope of the 2040 General Plan does not include areas within any of the Santa Clara Valley Water District's 18 major groundwater recharge systems. The Santa Clara Subbasin has not been identified as a groundwater basin in a state of overdraft. The project site is not located within a groundwater recharge area.

Groundwater has been estimated to occur at depths of 23 to 26 feet bgs, although the depth can vary seasonally. Since construction of the project would not require substantial below-ground excavation, dewatering would not be required. Construction activities proposed by the project would therefore not substantially decrease groundwater supplies or interfere with groundwater recharge. The proposed project would increase water demand on-site but would rely on existing water delivery systems to meet its demand and would not rely on groundwater derived from beneath the site. The

project would not establish or require additional groundwater pumping, actions which could impede efforts to sustainably manage the Santa Clara Subbasin. **(Less than Significant Impact)**

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

Under existing conditions, the project site is entirely comprised of pervious surface area. Upon completion of the proposed project, the site would be covered with approximately 78 percent (517,043 square feet) of impervious surfaces, a net decrease of pervious surface area of 78 percent. The proposed project would include four LID features; one located on the north side, one on the south side, and two on east side of the project site; which would provide detention and drainage of stormwater runoff. These lined-bioretention features with underdrains would be sized appropriately to treat 100 percent of the impervious surface area added to the project site. These LID features would capture stormwater during rainfall events and would prevent surface runoff from resulting in flooding on- and off-site by retaining and releasing water slowly over time.

The proposed project would size the stormwater features consistent with Provision C.3.c.iii.(3) of the Municipal Regional Stormwater Permit which requires features to accommodate runoff of five inches per hour. This drainage rate would accommodate most storms and the project would not release water from the site during a majority of storm events and therefore, polluted runoff and erosion would not be delivered into streams or other waterways. Additionally, the proposed project would utilize source control and site design measures to direct runoff into proper drainage areas and ensure the site is clear of sources of trash or other pollutants associated with operations. The rate of runoff would be contained by the LID measures for a majority of storm events therefore, the proposed project would not release runoff at a higher rate. The proposed project is not located within an area of designated flood flows; therefore, construction of the proposed project would not result in a change in flood flows because the project would not obstruct or redirect flows. Using LID features, source control measures, and site design principles; the runoff on the project site would be contained on-site and delivered to existing stormwater infrastructure. Additionally, control of the flow rate of stormwater on-site would prevent erosion, flooding, and introduction of pollutants from local waterways near the project site. Therefore, the proposed project would have a less than significant impact on the existing drainage system or streams and rivers near the project site. **(Less than Significant Impact)**

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

The project is located in a Flood Zone D according to FEMA Flood Insurance Rate Maps. A Flood Zone D indicates undetermined flood hazard for the site and is reserved for areas where no flood hazard analysis has been conducted. The project site is located outside of the 100-year floodplain of

Coyote Creek, the closest waterway to the site, located approximately 250 feet west of the site. Based on the Valley Water dam failure inundation hazard maps, the project site within the Anderson Dam failure flood inundation hazard zone, therefore in the event that a dam failure happens, the site could become inundated. This inundation would have a potential to release pollutants into local waterways however, the dams are required to be maintained to prevent failure and the occurrence of flooding as a result of dam failure is unlikely to occur. The Anderson Dam is also undergoing retrofitting to address seismic risk and is being kept at lower water levels for the duration of the improvements. In addition, the project site is located inland of the San Francisco Bay and would not be subject to inundation following a tsunami or seiche. Therefore, the project would not risk release of pollutants due to inundation from flooding, tsunamis, or seiches. **(Less than Significant Impact)**

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

Valley Water prepared a Groundwater Management Plan (GMP) for the Santa Clara and Llagas subbasins in 2016, describing its comprehensive groundwater management framework including objectives and strategies, programs and activities to support those objectives, and outcome measures to gauge performance. The GMP is the guiding document for how Valley Water will ensure groundwater basins within its jurisdiction are managed sustainably. The Santa Clara subbasin has not been identified as a groundwater basin in a state of overdraft.

The project site is not located within, or adjacent to, a Valley Water groundwater recharge pond or facility.[60] Therefore, despite the project substantially reducing the amount of pervious surface area on the site and corresponding reduction in infiltration, implementation of the proposed project would not interfere with any actions set forth by Valley Water in its GMP regarding groundwater recharge, transport of groundwater, and/or groundwater quality. Therefore, the proposed project would not preclude the implementation of the GMP. **(Less than Significant Impact)**

[60] SCVWD. *2016 Groundwater Management Plan.* Figure 1-3. November 2016.

4.11 LAND USE AND PLANNING

4.11.1 Environmental Setting

4.11.1.1 *Regulatory Framework*

4.11.1.2 *Existing Conditions*

The project site is currently designated Industrial Park under the General Plan and zoned Industrial Park District. The site is also located within the Endenvale Area Development Policy area.

The Industrial Park General Plan designation is an industrial designation intended for a wide variety of industrial users such as research and development, manufacturing, assembly, testing and offices. This designation is differentiated from the Light Industrial and Heavy Industrial designations in that Industrial Park uses are limited to those for which the functional or operational characteristics of a hazardous or nuisance nature can be mitigated through design controls. Hospitals may be appropriate within this designation, if it can be demonstrated that they will not be incompatible with Industrial Park uses or other nearby activities. Areas identified exclusively for Industrial Park uses may contain a very limited number of supportive and compatible commercial uses, when those uses are of a scale and design providing support only to the needs of businesses and their employees in the immediate industrial area. These commercial uses should typically be located within a larger industrial building to protect the character of the area and maintain land use compatibility. Additional flexibility may be provided for retail and service commercial uses, including hotels within the North San José Development Policy area and the Edenvale Development Policy area through the City's discretionary review and permitting process. One primary difference between this use category and the "Light Industrial" category is that, through the Zoning Ordinance, performance and design standards are more stringently applied to Industrial Park uses.[61]

The Industrial Park District zoning designation is intended for a wide variety of industrial users such as research and development, manufacturing, assembly, testing, and offices. Industrial uses are consistent with this designation insofar as any functional or operational characteristics of a hazardous or nuisance nature can be mitigated through design controls. Areas exclusively for industrial uses may contain a very limited amount of supportive commercial uses, in addition to industrial uses, when those uses are of a scale and design providing support only to the needs of businesses and their employees in the immediate industrial area. These commercial uses should be located within a larger industrially utilized building to protect the character of the area and maintain land use compatibility. In addition, warehouse retail uses are allowed where they are compatible with adjacent industrial uses and will not constrain future use of the subject site for industrial purposes.[62]

[61] City of San José. Envision 2040 General Plan. November 2011.

[62] City of San José. Zoning Ordinance. Accessed December 15, 2021. https://library.municode.com/ca/san_jose/codes/code_of_ordinances?nodeId=TIT20ZO_CH20.50INZODI_PT1GE_20.50.010INZODI.

4.11.2 Impact Discussion

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

a) Would the project physically divide an established community?

The proposed project would be constructed on a vacant lot in an area predominately developed with industrial, manufacturing and office. The proposed project would not include physical barriers, new linear infrastructure like a road or rail line, or other features which would create a disturbance of connectivity of an existing community. Therefore, the proposed project would result in a less than significant impact on the connectivity of an established community. **(Less than Significant Impact)**

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

The proposed project would be consistent with the General Plan designation and Zoning District regulations covering f the parcels which make up the project site. As described in the individual sections of this document, implementation of the City's Standard Permit Conditions and the required regulatory requirements included in the Envision 2040 General Plan FEIR, the project would not cause a significant environmental impact due to a conflict with plans, policies or regulation adopted for the purpose of avoiding or mitigating an environmental effect. In addition, the project would be reviewed for compliance with applicable land use plans and policies. Based on the above, the impact is less than significant. **(Less than Significant Impact)**

4.12 MINERAL RESOURCES

4.12.1 Environmental Setting

4.12.1.1 *Regulatory Framework*

State

Surface Mining and Reclamation Act

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

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

4.12.1.2 *Existing Conditions*

The project site is located in the southern San José area which is not known to contain mineral resources of local or state importance. The nearest mineral resources identified in the General Plan are located approximately 3.2 miles northwest at Communications Hill.[63]

4.12.2 Impact Discussion

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

[63] City of San José. Envision 2040 General Plan. Chapter 3 Page 36. November 2011.

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

The project site is located in the southern San José area which is located 3.2 miles southeast of the nearest identified mineral resources, therefore, the proposed project would not result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state. **(No Impact)**

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

The project site is located in the southern San José area which is located 3.2 miles southeast of the nearest identified mineral resources, therefore the project would not 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)**

4.13 NOISE

The information in this section is based in part on the 5977 & 6001 Silver Creek Valley Road Project Acoustical Assessment prepared by Kimley Horn in February 2022. This report is available in Appendix H of this document.

4.13.1 Environmental Setting

4.13.1.1 *Background Information*

Noise

Factors that influence sound as it is perceived by the human ear, include the actual level of sound, period of exposure, frequencies involved, and fluctuation in the noise level during exposure. Noise is measured on a decibel scale, which serves as an index of loudness. The zero on the decibel scale is based on the lowest sound level that the healthy, unimpaired human ear can detect. Each 10 decibel increase in sound level is perceived as approximately a doubling of loudness. Because the human ear cannot hear all pitches or frequencies, sound levels are frequently adjusted or weighted to correspond to human hearing. This adjusted unit is known as the A-weighted decibel, or dBA.

Since excessive noise levels can adversely affect human activities and human health, federal, state, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. Noise guidelines are generally expressed using one of several noise averaging methods, including L_{eq}, DNL, or CNEL.[64] These descriptors are used to measure a location's overall noise exposure, given that there are times when noise levels are higher (e.g., when a jet is taking off from an airport or when a leaf blower is operating) and times when noise levels are lower (e.g., during lulls in traffic flows on freeways or in the middle of the night). L_{max} is the maximum A-weighted noise level during a measurement period.

Vibration

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

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

4.13.1.2 *Regulatory Framework*

State and Local

California Green Building Standards Code

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

4.13.1.3 *Existing Conditions*

Noise Environment

Existing roadway noise levels were calculated for the roadway segments in the project vicinity. This task was accomplished using the Federal Highway Administration (FHWA) Highway Traffic Noise Prediction Model and existing traffic volumes from the Project Transportation Analysis. The noise prediction model calculates the average noise level at specific locations based on traffic volumes, average speeds, roadway geometry, and site environmental conditions. The average vehicle noise rates (also referred to as energy rates) used in the FHWA model have been modified to reflect average vehicle noise rates identified for California by Caltrans. The Caltrans data indicates that California automobile noise is 0.8 to 1.0 dBA higher than national levels and that medium and heavy truck noise is 0.3 to 3.0 dBA lower than national levels.

Table 4.13-1 Roadway Traffic Noise

Roadway Segment	ADT	dBA DNL[1]
Blossom Hill Road	17,830	68.8
Silver Creek Valley Road	13,080	67.4
Hellyer Avenue North of Silver Creek Valley Road	3,190	62.2
Hellyer Avenue North of Silver Creek Valley Road	6,790	64.6

ADT = average daily trips; dBA = A-weighted decibels; DNL = day-night noise level
[1]Traffic noise levels are at 100 feet from the roadway centerline. The actual sound level at any receptor location is dependent upon such factors as the source-to-receptor distance and the presence of intervening structures, barriers, and topography
Source: Kimley Horn. Acoustical Assessment. February 2022.

The primary sources of stationary noise in the project vicinity are those associated with the operations of nearby existing commercial and industrial uses surrounding of the project site. The noise associated with these sources may represent a single-event noise occurrence, short-term noise, or long-term/continuous noise.

Sensitive Receptors

Noise exposure standards and guidelines for various types of land uses reflect the varying noise sensitivities associated with each of these uses. Residences, hospitals, schools, guest lodging,

libraries, and churches are treated as the most sensitive to noise intrusion and therefore have more stringent noise exposure targets than do other uses, such as manufacturing or agricultural uses that are not subject to impacts such as sleep disturbance. Sensitive receptors are located approximately 140 feet west at the Coyote Creek Trail, approximately 635 feet southwest at a Single-family residence, approximately 1,175 feet west at a Single-family residential community, and approximately 2,100 feet east at a Family Community Church.

4.13.2 Impact Discussion

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

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

Construction Noise

Construction of the proposed project would create noise of varying intensity at each phase of construction for a total of approximately 13 months. During construction the exterior noise levels of the area near the project site would be elevated and this could impact nearby residential areas. As described in the existing setting, the nearest sensitive receptor is the Coyote Creek Trail located 140 feet from the project site. Noise levels at all nearby sensitive receptors are displayed below in Table 4.13-2.

Table 4.13-2 Project Construction Noise Levels				
Construction Phase	**Receptor**	**Noise Level (dBA L_{eq})**	**Threshold (dBA L_{eq})**	**Exceeded?**
Site Preparation	Trail	60.2	80	No
	Industrial	65.1	90	No
	Residences	54.1	80	No
Grading	Trail	64.4	80	No
	Industrial	69.4	90	No
	Residences	58.3	80	No
Building Construction	Trail	60.8	80	No
	Industrial	65.8	90	No
	Residences	54.7	80	No
Paving	Trail	54.8	80	No
	Industrial	59.8	90	No
	Residences	48.7	80	No
Architectural Coating	Trail	51.8	80	No
	Industrial	56.8	90	No
	Residences	45.7	80	No
Source: Kimley Horn. Acoustical Assessment. February 2022.				

The City of San José does not have construction noise standards and noise impacts for mobile construction equipment are typically assessed as emanating from the center of the equipment activity or construction site.

For the proposed project, this center point would be approximately 620 feet from the nearest sensitive receptor, the Coyote Creek Trail. As shown in Table 4.13-2 noise levels are below 66 dBA at 620 feet, the distance to the nearest sensitive receptor west of the site. The highest anticipated construction noise level of 66 dBA at 620 feet is expected to occur during the building construction phase and 70 dBA at the nearest industrial uses.

Additionally, the project construction would only result in substantial noise for six of the 13 months of construction including phases such as grading and building framing as well as the less noise intensive construction phases such as site preparation, building construction, paving, and architectural coating. Construction would be limited to daytime hours when people would be out of their houses, conforming to the time-of-day restrictions of the City's Municipal Code. Consistent with City of San José General Plan Policy EC-1.7 the proposed project would be required to use best available noise suppression during construction as described in the Standard Permit Condition below.

Standard Permit Condition:

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

- Pile driving is prohibited.
- Limit construction to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific "construction

noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential use.

- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Prohibit unnecessary idling of internal combustion engines.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
- If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

Implementation of this standard permit condition will reduce the noise from 70 dBA to below 55 dBA consistent with General Plan Policy EC-1.7. The proposed project would result in noise levels below FTA thresholds, and would comply with incorporated standard conditions above, therefore, the proposed project would not result in less than significant impacts from construction noise increases exceeding local or state standards with mitigation incorporated.

Construction Traffic Noise

Construction noise may be generated by large trucks moving materials to and from the project site. Large trucks would be necessary to deliver building materials as well as remove dump materials. Construction of the proposed project would generate the highest number of daily trips during the building construction and site preparation phases. The noise analysis estimated that the project would generate approximately 18 daily worker trips during site preparation. Additionally, building construction would have 223 worker trips and 87 daily vendor trips. Due to the nature of noise levels, a doubling of the traffic volume (assuming that the speed and vehicle types do not also change) would result in a noise level increase of three dBA. Silver Creek Valley Road, east of Highway 101,

has an average daily trip volume of 13,080 vehicles. Therefore, a maximum of 310 daily project construction trips (total of 223 daily worker trips and 87 daily vendor trips) would not double the existing traffic volume per day. Construction related traffic noise would not be noticeable and would not create a significant noise impact. Further, construction would last approximately 13 months. For these reasons, project construction traffic would result in a less than significant traffic noise impact.

Operational Noise

The proposed project would create new sources of noise in the project vicinity. Major sources of noise associated with the proposed project include the following:

- Off-site traffic noise;
- Mechanical equipment;
- Delivery trucks on the project site, and approaching and leaving the loading areas;
- Activities at the loading areas (i.e., maneuvering and idling trucks, loading/unloading, and equipment noise);
- Parking areas (i.e., car door slamming, car radios, engine start-up, and car pass-by); and
- Landscape maintenance activities.

As discussed above, the closest sensitive receptors are located approximately 140 feet to the west of the project site at the Coyote Creek Trail. This area is a recreational area, which does not have operational noise standards, so for this analysis, the residential noise standards were conservatively used to determine impacts. The nearest residential sensitive receptors are 635 feet south of the project site. The City of San José's stationary source exterior Zoning Ordinance Noise Standards for industrial areas adjacent to a property used or zoned for industrial or use other than commercial or residential purposes uses is 70 dBA L_{eq}. Additionally, the noise standard for industrial next to residential uses is 55 dBA L_{eq}. Per General Plan Policy EC-1.1, land use compatibility standard for business commercial areas is up to 70 dBA DNL.

Off-Site Traffic Noise

The proposed project would generate increased traffic volumes along roadway segments near the project site. The noise analysis determined that the proposed project is expected to generate 582 average daily trips, which would result in noise increases on project area roadways. In general, a traffic noise increase of less than three dBA is barely perceptible to people, while a five-dBA increase is readily noticeable. Generally, traffic volumes on project area roadways would have to approximately double for the resulting traffic noise levels to increase by three dBA. Therefore, permanent increases in ambient noise levels of less than three dBA are considered to be less than significant.

The existing traffic-generated noise level on project area roadways is between a daily average noise level of 62.2 dBA and 68.8 dBA at 100 feet from the center of the road. Traffic noise levels for roadways primarily affected by the project were calculated using the FHWA's Highway Noise Prediction Model. With 582 average daily trips, the project would not cause any roadway volumes to double. The noise analysis determined that the proposed project would increase traffic noise during operations to a range from 62.2 dBA to 68.9 dBA, with the highest increase of 0.2 dBA on Silver

Creek Valley Road. The 0.2 dBA DNL increase is under the perceptible three dBA noise level increase per General Plan EC – 1.1. Therefore, the project would not have a significant impact on existing traffic noise levels.

Stationary Noise Sources

The project would include mechanical equipment including heating, ventilation, and air conditioning (HVAC) units which are associated with operational noise. In addition to the mechanical equipment, the proposed project is an industrial facility which would include the arrival and departure of delivery trucks resulting in approximately 582 daily trips including personal vehicles of employees. The loading area would be located approximately 285 feet from the nearest sensitive receptor and these truck operations would generate noise of approximately 64 dBA at a distance of 50 feet during daytime hours. The parking lot areas of the site would result in the generation of instantaneous noise levels ranging from 53 to 61 dBA at 50 feet resulting from car passbys, engine start up, and people talking in the parking lot. Finally, the project landscaping activities would cause brief periods of increased noise up to 61 dBA at 50 feet from the operation of lawnmowers and other gardening equipment. The operational noise levels compared to established standards are displayed below in Table 4.13-3.

Table 4.13-3 Stationary Source Noise Levels

Nearest Land Use	Distance[1]	Policy EC-1.1		Policy EC-1.2	
		Noise Level at Receiver	Exterior Noise Standard [2 3]	Combined Noise at Receiver	Noise Increase[4]
Mechanical Equipment					
Industrial	250 feet	38 dBA	70 dBA	66.2 dBA	0.0 dBA
Coyote Creek	620 feet	30 dBA	65 dBA	51.5 dBA	0.0 dBA
Residences	1350 feet	23 dBA	65 dBA	51.5 dBA	0.0 dBA
Loading Area					
Industrial	250 feet	52 dBA	70 dBA	66.4 dBA	0.2 dBA
Coyote Creek	620 feet	49 dBA	65 dBA	53.4 dBA	1.9 dBA
Residences	1350 feet	35 dBA	65 dBA	51.5 dBA	0.0 dBA
Parking Areas					
Industrial	250 feet	39 dBA	70 dBA	66.2 dBA	0.0 dBA
Coyote Creek	620 feet	45 dBA	65 dBA	52.5 dBA	1.0 dBA
Residences	1350 feet	45 dBA	65 dBA	51.6 dBA	0.1 dBA
Landscape Maintenance					
Industrial	250 feet	41 dBA	70 dBA	66.2 dBA	0.0 dBA
Coyote Creek	620 feet	36 dBA	65 dBA	51.6 dBA	0.1 dBA
Residences	1350 feet	24 dBA	65 dBA	51.5 dBA	0.0 dBA

[1] The distance is from the location of the operational noise source to the sensitive receptor property line.
[2] City of San José Municipal Code section 20.50.300 (Table 20-135), which establishes industrial use noise standards of 55 dBA when adjacent to residential zones, 60 dBA when adjacent to commercial zones, and 70 dBA when adjacent to industrial zones or use other than commercial or residential purposes.
[3] City of San José General Plan Policy EC-1.1 establishes Normally acceptable noise standards of 65 dBA for residential and recreational uses and 70 dBA for commercial office uses.
[4] Incremental noise threshold per City of San José General Plan Policy EC-1.2, which establishes incremental noise standards of five dBA where noise levels would remain "Normally Acceptable" and three dBA where noise levels would equal or exceed the "Normally Acceptable" level for land uses sensitive to increased noise levels. Normally acceptable levels are 65 dBA for recreational uses. Although the normally acceptable standard for

industrial and commercial office uses is 70 dBA, it is not considered a land use sensitive to increased noise levels per Policy EC-1.2.
Source: Kimley Horn. Acoustical Assessment. February 2022.

As shown in Table 4.13-3, stationary sources would not exceed the Land Use Compatibility Standards from GP Policy EC-1.1 or the incremental noise increases per GP Policy EC-1.2 at the adjacent industrial use or nearest recreational use. The project would not place mechanical equipment near residential uses, and noise from this equipment would not be perceptible at the closest sensitive receptor. Noise levels associated with trucks would not exceed the City's 70 dBA and 65 dBA, for industrial, commercial or nonresidential, and residential or recreational uses, respectively per GP Policy EC-1.1. Loading area noise would not result in increased noise levels exceeding three dBA per GP Policy EC-1.2. Noise associated with parking lot activities is not anticipated to exceed the 65 or 70 dBA threshold per GP Policy EC-1.1.

Therefore, noise impacts from parking lots would be less than significant. With adherence to the City's Municipal Code, impacts associated with landscape maintenance would be less than significant. Additionally, noise levels would be further attenuated by intervening structures. Impacts from mechanical equipment, loading area, parking area, and landscape maintenance would be less than significant. Therefore, the project would not result in a significant impact to operational noise. **(Less than Significant Impact)**

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

Construction Vibrations

Increases in groundborne vibration levels associated with the proposed project would result from construction-related activities. Construction on the project site would have the potential to result in varying degrees of temporary groundborne vibration, depending on the specific construction equipment used and the operations involved. Ground vibration generated by construction equipment spreads through the ground and diminishes in magnitude with increases in distance. The effect on buildings located in the vicinity of the construction site often varies depending on soil type and construction characteristics of the building experiencing the vibrations. The results from vibration can range from no perceptible effects at the lowest vibration levels, to low rumbling sounds and perceptible vibration at moderate levels, to slight damage at the highest levels.

The FTA has published standard vibration velocities for construction equipment operations. In general, depending on the building category of the nearest buildings adjacent to the construction activity, the potential construction vibration damage criteria vary. The City of San Jose General Plan Policy EC-2.3 includes a vibration limit of 0.08 in/sec PPV for sensitive historic structures and 0.20 in/sec PPV for normal conventional construction. The surrounding buildings are not listed as historical resources. Therefore, the 0.20 in/sec PPV threshold is utilized for this analysis. The vibratory levels which would be experienced by surrounding buildings is displayed in Table 4.13-4.

Table 4.13-4 Typical Construction Equipment Vibration Levels		
Equipment	**Vibratory Levels at 25 feet**	**Vibratory Levels at 140 feet**
Large Bulldozer	0.089	0.0067
Loaded Trucks	0.076	0.0057
Rock Breaker	0.059	0.0045
Jackhammer	0.035	0.0026
Small Bulldozer/ Tractor	0.003	0.0002
Source: Kimley Horn. Acoustical Assessment. February 2022.		

Based on the information in the table above, the highest vibratory levels would be created while large bulldozers are required on site. The levels of vibration associated with the operation of all equipment would not exceed the 0.20 in/sec PPV threshold at any of the sensitive receptors near the site and therefore, the proposed project would have a less than significant impact.

Operational Vibrations

Operations of the proposed project would not involve railroads or substantial heavy truck operations, based on expected size of delivery truck, and therefore would not result in vibration impacts at surrounding uses. As a result, impacts from vibration associated with project operation would be less than significant.

The construction and operational vibrations of the proposed project would not exceed the 0.20 in/second PPV significance criteria established for vibratory impacts, therefore, the proposed project would result in a less than significant vibratory impact. **(Less than Significant Impact)**

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

The proposed project is approximately five miles from the nearest airport, the Reid-Hillview County Airport. Additionally, the Norman Y. Mineta San Jose International Airport is located several miles further north. Therefore, the proposed project would not be constructed withing two miles of a public or private airport and would not expose people working in the project area to excessive noise. **(No Impact)**

4.14 POPULATION AND HOUSING

4.14.1 Environmental Setting

4.14.1.1 *Regulatory Framework*

State

Housing-Element Law

State requirements mandating that housing be included as an element of each jurisdiction's general plan is known as housing-element law. The Regional Housing Need Allocation (RHNA) is the state-mandated process to identify the total number of housing units (by affordability level) that each jurisdiction must accommodate in its housing element. California housing-element law requires cities to: 1) zone adequate lands to accommodate its RHNA; 2) produce an inventory of sites that can accommodate its share of the RHNA; 3) identify governmental and non-governmental constraints to residential development; 4) develop strategies and a work plan to mitigate or eliminate those constraints; and 5) adopt a housing element and update it on a regular basis.[65] The City of San José Housing Element and related land use policies were last updated in January 2015, and the City is currently in the process of preparing an updated Housing Element for the upcoming 8-year housing cycle, 2023-2031.

Regional and Local

Plan Bay Area 2040

Plan Bay Area 2040 is a long-range transportation, land-use, and housing plan intended support a growing economy, provide more housing and transportation choices, and reduce transportation-related pollution and GHG emissions in the Bay Area. Plan Bay Area 2040 promotes compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).[66]

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

[65] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements" Accessed February 10, 2022. http://hcd.ca.gov/community-development/housing-element/index.shtml.
[66] Association of Bay Area Governments and Metropolitan Transportation Commission. "Project Mapper." http://projectmapper.planbayarea.org/. Accessed February 10, 2022.

4.14.1.2 *Existing Conditions*

The population of San José was estimated to be approximately 1,049,187 in January 2020 with an average of 3.19 persons per household.[67] The City currently has approximately 336,507 housing units[68] and, by 2040, the City's population is projected to reach 1,337,145 and 448,310 households. [69]

The City of San José currently has a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident), but this trend is projected to reverse with full build out under the General Plan.

The project site is a comprised of vacant parcels with no existing development.

4.14.2 Impact Discussion

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

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

The proposed project would construct an industrial development that could include manufacturing and warehouse uses on a vacant site. The project site is designated as Industrial Park in the General Plan and is zoned Industrial Park District, therefore, the proposed project would be consistent with the uses proposed in the General Plan. The jobs created by the proposed project are currently accounted for in the General Plan and the proposed project would not directly contribute to residential development or population expansion. Additionally, the proposed project would not expand existing roads or infrastructure supporting population growth. Therefore, the proposed project would not induce substantial unplanned population growth. **(Less than Significant Impact)**

[67] State of California, Department of Finance. *E-5 Population and Housing Estimates for Cities, Counties, and the State – January 1, 2011 – 2020.* Sacramento, California, May 2020.
[68] Ibid.
[69] ABAG. *Projections 2040: Forecasts for Population, Household, and Employment for the Nine County San Francisco Bay Area Region*. 2017.

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

The project site is vacant; therefore, the proposed project would not displace any existing people or housing. **(No Impact)**

4.15 PUBLIC SERVICES

4.15.1 Environmental Setting

4.15.1.1 *Regulatory Framework*

State

Government Code Section 66477

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

Government Code Section 65995 through 65998

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

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

Regional and Local

Countywide Trails Master Plan

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

4.15.1.2 *Existing Conditions*

Fire Service

Fire protection services for the project site are provided by the City of San José Fire Department (SJFD). The SJFD consists of 34 stations distributed throughout the City. The closest fire station to

the project site is Station 35, located at 135 Poughkeepsie Road, which is approximately one mile southwest of the project site.

For fire protection services, the General Plan identifies a total response time goal of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.

Police Service

Police protection services are provided by the City of San José Police Department (SJPD). The police headquarters is located at 201 West Mission Street, approximately 8.9 miles northwest of the project site.

For police protection services, the General Plan identifies a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent of all Priority 2 (non-emergency) calls.

Schools

The project site is located within the San José Unified School District (SJUSD). The nearest public schools to the project site are Edenvale Elementary School, located at 285 Azucar Avenue (approximately 0.7 miles southwest of the site), Caroline Davis Intermediate School, located at 5035 Edenview Drive (approximately 1.3 miles west of the site), and Oak Grove High School, located at 285 Blossom Hill Road (approximately 1.6 mile west of the site).

Parks

The City's Department of Parks, Recreation, and Neighborhood Services is responsible for the development, operation, and maintenance of all City park facilities. The City operates and maintains a total of 3,537 acres of regional and neighborhood/community-serving parkland, including approximately 197 neighborhood-serving parks and nine regional parks.[70]

The nearest parks to the project site are Shady Oaks Park (located 0.37 miles northwest of the project site) and Silver Leaf Park (located approximately 0.66 miles south of the project site).

Libraries

The City of San José is served by the San José Public Library System. The San José Public Library System consists of one main library (Dr. Martin Luther King Jr.) and 25 branch libraries. The nearest library is the Santa Teresa Branch Library, approximately 1.5 miles southwest of the project site.

[70] City of San José. Annual Report on City Services 2020-21 Report #21-07. December 2021.

4.15.2 Impact Discussion

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

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

The project site is located adjacent to office parks and other commercial buildings which are currently served by the San José fire protection services. Additionally, the proposed project is consistent with the General Plan designation of the site and would be within planned development under the General Plan. Therefore, the proposed project would not expand the demand for fire protection services and would result in a less than significant impact on service ratios, response times, or other performance objectives for fire protection services. **(Less than Significant Impact)**

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

The project site is located adjacent to office parks and other commercial buildings which are currently served by the San José police protection services. Additionally, the proposed project is consistent with the General Plan designation of the site and would be within planned development under the General Plan. Therefore, the proposed project would not expand the demand for police protection services and would result in a less than significant impact on service ratios, response times, or other performance objectives for police protection services. **(Less than Significant Impact)**

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

The proposed project would not construct new housing or other uses that would generate students requiring school facilities. Therefore, the proposed project would not impact the ability for nearby schools to maintain acceptable service ratios, response times, or other performance objectives. **(No Impact)**

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

The proposed project would introduce manufacturing and warehouse employees to the project site, which may result in incidental use of parks near the project site, including the adjacent Coyote Creek trail. The proposed project would not create housing or increase the population of the City of San José directly, and therefore, the proposed project would not affect the service ratios of parks. Although some increased use of park facilities may occur as a result of the proposed project, many of the employees are expected to be City residents who already utilize these facilities, and the proposed project would not result in impacts to service ratios or performance objectives for parks. **(Less than Significant Impact)**

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

The proposed project would not increase population on-site and would not contribute to increased use of libraries or other public facilities. The employees occupying the site would not substantially increase demand on these facilities as many of the employees are expected to be City residents and would not affect service ratios or performance objectives associated with libraries and other City facilities. **(No Impact)**

4.16 RECREATION

4.16.1 Environmental Setting

4.16.1.1 *Regulatory Framework*

State

Government Code Section 66477

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

4.16.1.2 *Existing Conditions*

The City's Department of Parks, Recreation, and Neighborhood Services owns and maintains approximately 3,536 acres of parkland, including neighborhood parks, community parks, and regional parks. The City's Department of Parks, Recreation, and Neighborhood Services owns and maintains 199 neighborhood parks, 47 community centers, 10 regional parks, and over 61 miles of urban trails.[71] The nearest parks to the project site are Shady Oaks Park (located 0.37 miles northwest of the project site) and Silver Leaf Park (located approximately 0.66 miles south of the project site). The project site does not currently contain recreational facilities.

4.16.2 Impact Discussion

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

[71] City of San José. Annual Report on City Services 2020-21 Report #21-07. December 2021. City of San José. Fast Facts 2020-2021. January 2022.

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

The proposed project would construct an industrial structure to be occupied by manufacturing and warehouse uses which would not increase the population of the City and would not contribute to the use of parks surrounding the project site. Many of the employees are expected to be City residents who already utilize City parks. Therefore, the proposed project would not cause substantial physical deterioration of the park facilities. **(No Impact)**

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

The project does not include the expansion or construction of additional recreational facilities. In addition, due to the nature of the proposed project as an industrial building to be occupied by manufacturing and warehouse uses, the project would not require the construction or expansion of recreational facilities for the City to meet its service goals. As a result, implementation of the project would not result in an adverse physical effect on the environment. **(No Impact)**

4.17 TRANSPORTATION

The information in this section is based in part on the 5977 & 6001 Silver Creek Valley Road Development Transportation Analysis prepared by Kimley Horn in May 2022. This report is available in Appendix I of this document.

4.17.1 Environmental Setting

4.17.1.1 *Regulatory Framework*

State

Regional Transportation Plan

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

Senate Bill 743

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

SB 743 did not authorize OPR to set specific VMT impact thresholds, but it did direct OPR to develop guidelines for jurisdictions to utilize. CEQA Guidelines Section 15064.3(b)(1) describes factors that might indicate whether a development project's VMT may be significant. Notably, projects located within 0.50 mile of transit should be considered to have a less than significant transportation impact based on OPR guidance.

Regional and Local

Congestion Management Program

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

Transportation Analysis Policy (City Council Policy 5-1)

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

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

Edenvale Area Development Policy

The project site is located in Sub-Area 1 of the Edenvale Area Development Policy (EADP), and the base maximum floor area ratio (FAR) is 0.35 for development. The EADP establishes a policy framework to guide the ongoing development of the Edenvale San José area and accomplish the following goals:

- Manage the traffic congestion associated with near term development in the Edenvale Policy Area
- Promote General Plan goals for economic development, particularly high technology driven industries
- Encourage a citywide reverse commute to jobs at southerly location in San Jose
- Provide for transit-oriented, mixed-use residential and commercial development to increase internalization of automobile trips and promote transit ridership

4.17.1.2 *Existing Conditions*

Local Roadway Network

Silver Creek Valley Road

Silver Creek Valley Road is a divided arterial in the east-west direction between Highway 101 and Yerba Buena Road. Near the project site, Silver Creek Valley Road is a six-lane road with a raised median and provides direct access to commercial and industrial businesses. On-street parking is prohibited along Silver Creek Valley Road and the posted speed limit is 45mph. The road provides sidewalks and Class II bike lanes with direct access to the Coyote Creek Trail.

Blossom Hill Road

Blossom Hill Road is a divided arterial road in the east-west direction between Highway 101 in San Jose and Santa Cruz Avenue in Los Gatos. Near the project site, Blossom Hill Road is a six-lane road with a raised median. On-street parking is prohibited along Blossom Hill Road and the overcrossing bridge at Highway 101 is currently being expanded with additional travel lanes and a Class I separated shared use path.

Piercy Road

Piercy Road is a two-lane collector street in the north-south direction that provides access to various commercial and industrial businesses between Silver Creek Valley Road and Tennant Avenue. The roadway provides sidewalks but does not have bike facilities on both sides of the street.

Fontanoso Way

Fontanoso Way is a two-lane collector street in the north-south direction that provides direct access to the project site as well as various commercial and industrial businesses between Silver Creek Valley Road and Hellyer Avenue. The roadway provides sidewalks but does not have bike facilities on both sides of the street.

Hellyer Avenue

Hellyer Avenue is a four-lane arterial that provides access to various commercial and industrial businesses between Silicon Valley Boulevard and Highway 101 in the north-south direction. West of Highway 101, Hellyer Avenue becomes a two-lane residential collector street and terminates at Senter Avenue. The roadway is designated as a City Connector Street. Near the project site, the roadway has a posted speed limit of 40 mph, has sidewalks, and provides Class II bike lanes on both sides of the street.

Highway 101

Highway 101 is an eight-lane freeway that connects with State Route 85 and travels in a north-south direction in the City of San José. Access to and from the project site is provided by ramps at the intersection of Blossom Hill Road and Silver Creek Valley Road. The existing interchange at Blossom Hill Road is being expanded to provide additional travel lanes and roadway capacity.

Pedestrian and Bicycle Facilities

Pedestrian and bicycle activity within project vicinity are active along several routes surrounding the site. Connected sidewalks at least six feet wide are available on at least one side of all major City roadways in the project vicinity with adequate lighting and signing. At signalized intersections, marked crosswalks, Americans with Disabilities Act (ADA) standard curb ramps, and count down pedestrian signals provide improved pedestrian visibility and safety.

The Coyote Creek trail is a Class I shared use pathway and one of the longest trail systems extending from the Bay to the City's southern boundary. The trail runs parallel to Coyote Creek and provides both pedestrian and bicycle access to the project site. At the intersection of Silver Creek Valley Road

and Silver Creek Valley Place, a grade-separated undercrossing and crosswalk facilities are present for pedestrian and bike connectivity to the Coyote Creek trail.

Bicycle facilities in the area include Silver Creek Valley Road, Blossom Hill Road, Hellyer Avenue, and Monterey Road which consist of Class II bike lanes with striping to separate the vehicle and bike travel way. Most of these corridors feature green paint markings in potential conflict areas at the signalized intersections. Bicycle parking in the area is limited to private commercial and industrial lots. Near the project site, Silver Creek Valley Road provides sidewalk and bicycle facilities for pedestrian and bike access. Connectivity to the Coyote Creek Trail is currently provided on the northside of Silver Creek Valley Road adjacent to the project as well as on the south side with crosswalks in the east and south legs of the Silver Creek Valley Road/Piercy Road intersection. Overall, the existing pedestrian and bicycle facilities near the project have adequate connectivity and provide pedestrian and bicyclists with routes to the surrounding land uses. The San Jose Better Bike Plan 2025 indicates that a variety of bicycle facilities are planned in the project study area and the following facility improvements would benefit the project.

- Class I shared use path
    - Blossom Hill Road from Monterey Road to Coyote Road
- Class II bike lanes
    - Piercy Road from Silver Creek Valley Road to Hellyer Avenue
- Class IV protected bike lanes
    - Silver Creek Valley Road from US 101 to Yerba Buena Road
    - Hellyer Avenue from Silicon Valley Boulevard to Senter Road
    - Coyote Road from Silver Creek Valley Road to Senter Road
    - Silicon Valley Boulevard / Bernal Road from Heaton Moor Drive to Hellyer Avenue

Existing Transit Facilities

Transit services in the study area include light rail, shuttles, and buses provided by the Santa Clara Valley Transportation Authority (VTA). Per the updated February 14, 2022 service schedule, the project study area is served by the Local Bus Route Number 42. The closest bus stops to the project are located at the Silver Creek Valley Road/Fontanoso Way and Silver Creek Valley Road/Silver Creek Valley Place intersections. The site is approximately 0.65 miles from the Blossom Hill Caltrain station and 3.85 miles from the nearest LRT station.

4.17.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?	☐	☐	☒	☐

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
b) Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?	☐	☒	☐	☐
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☒	☐
d) Result in inadequate emergency access?	☐	☐	☒	☐

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

Edenvale Area Development Policy Traffic Fees

The EADP is a policy addressing the circulation system and specifically roadways serving the area. As stated in the existing conditions section, the project is located in Sub-Area 1, and per the EADP, the base maximum floor area ratio (FAR) is 0.35 for development. Based on the Project Description and latest site plan, the project site would have a FAR of 0.43 and would exceed the allowed FAR per the EADP. The proposed project would be required to implement the standard permit conditions to comply with the EADP as stated below.

Standard Permit Conditions

To be consistent with the EADP, the project would be required to pay a proportional fee contribution, before approval of grading permits, in accordance with the proposed project square footage and would need to be in conformance with the maximum FAR.

Through compliance with this condition, the proposed project would comply with the Edenvale Area Development Policy.

Pedestrian and Bicycle Facilities

The proposed project would result in modifications to the project site and would not remove access to existing pedestrian or bicycle facilities near the project site. Additionally, the proposed project would not interfere with the planned bicycle or pedestrian facilities on streets near the project site. Further, as described below, the proposed project will be required to improve the pedestrian and bicycle facilities near the site through multimodal improvements to crosswalks, bike paths, and traffic calming improvements. Therefore, the proposed project would result in a less than significant impact on pedestrian and bicycle facilities.

Transit

The proposed project would not result in reduction of transit service and would not generate a substantial increase in the use of transit services for the project area. Therefore, the proposed project would not conflict with transit programs, plans, or policies.

The proposed project would not result in conflicts with transit, roadways, bicycle lanes, and pedestrian facilities. Additionally, the proposed project would not result in design features which would prevent plans or policies from creating the planned transportation facilities. Therefore, the proposed project would result in a less than significant impact on the circulation system around the project site. **(Less than Significant Impact)**

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

The proposed project would construct an approximately 281,873 square foot industrial building to be occupied with manufacturing and warehouse uses in the City of San José. The San José City Council Policy 5-1 establishes guidelines for the generation of Vehicle Miles Traveled by new development in the City and has determined screening criteria for different land uses. Industrial projects of 30,000 square feet of floor area or less would be exempt from VMT analysis. Therefore, the proposed project would exceed this threshold and would be required to fully analyze its VMT impacts.

The proposed project was evaluated in the VMT tool assuming development of 281,873 square-feet of industrial use. This land use total includes a portion of the site dedicated to office square-foot space which is typical of a warehouse land use. The proposed project designates approximately 10,000 square-feet or 3.5% of the total square footage as office land use, and this office allocation is consistent with other recent warehouse developments in the City of San José. The project VMT compared to the City thresholds and existing conditions in the area in which the site is located is summarized in Table 4.17-1 below.

Table 4.17-1 Project VMT Analysis

Scenario	Industrial VMT per Employee	Exceeds City Threshold and VMT Impact?
City VMT Threshold	14.37	N/A
Existing Conditions	14.92	Yes
Project Conditions	14.85	Yes
Project with VMT Reduction Strategies	13.95	No

Source: Kimley Horn. 5977 & 6001 Silver Creek Valley Road Development Transportation Analysis. February 2022.

The City's VMT per employee threshold for industrial land uses is 14.37. For the surrounding land use area, the existing VMT is 14.92. The proposed project is anticipated to generate a VMT per employee of 14.85. The transportation analysis estimated that the project would exceed the City's industrial VMT per employee threshold and would trigger a significant VMT impact. The project does not include Transportation Demand Management (TDM) measures. The project will implement VMT reduction strategies to mitigate the VMT impact and reduce per employee VMT below 14.37.

Impact TRAN-1 The proposed project would exceed the industrial VMT per employee threshold during operations of the project.

Mitigation Measures:

MM-TRAN 1 Prior to issuance of grading permits, the project applicant shall mitigate the significant VMT impact by implementing a variety of VMT reduction strategies. The project applicant shall implement the following multi-modal infrastructure improvements to incentivize alternative modes of travel and reduce VMT generation for the site:

- Construct a crosswalk on the west leg of the Silver Creek Valley Road and Fontanoso Way intersection. Potential signal and utility modifications would be needed to implement the improvement. This improvement will satisfy VMT reduction strategies for Pedestrian Network Improvement by increasing pedestrian access beyond the project development frontage.
- Extend the Class IV protected bike lanes along Silver Creek Valley Road beyond the project frontage westward to the northeast corner of the US-101 Off-Ramp-Coyote Road/Silver Creek Valley Road intersection connecting to the Coyote Creek Trail per City of San José Better Bike Plan 2025. This improvement will satisfy VMT reduction strategies for Bike Access Improvement by improving access to the Coyote Creek Trail and reducing the project's distance to the nearest existing bicycle facility from approximately 300 feet to 10 feet.
- Construct a new bus stop along the project frontage at the northwest corner of the Silver Creek Valley Road/Fontanoso Way intersection (as a pair with the existing WB bus stop) to increase transit accessibility. The final design would require coordination with VTA and the City.

With construction of the above improvements, pedestrian and bicycle access to the site will be improved, encouraging non-single-occupancy vehicle travel to/from the project site. These improvements will result in a reduction in VMT from 14.82 to 13.95. This is below the City VMT threshold of 14.37 for industrial employees. Therefore, through integration of these improvements the proposed project would have a less than significant impact with mitigation incorporated. **(Less than Significant Impact with Mitigation Incorporated)**

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

The site will be accessed from two driveways along Silver Creek Valley Road and two driveways along Fontanoso Way. Project driveways are designed for truck access 40-feet wide while passenger vehicle access driveways are 26-feet wide. Based on the transportation analysis, the proposed project would provide adequate driveway dimensions for sufficient vehicle access and circulation for entering and exiting vehicles.

The proposed driveway locations optimize sight distance and spacing for the proposed site plan. Passenger vehicles, delivery trucks, trash trucks, and emergency vehicles are able to circulate within the project site without conflict. Additionally, the proposed project would not introduce vehicle uses to the site which would conflict with existing industrial and commercial uses near the site. Therefore, the proposed project would not create hazards due to geometric design features and would not introduce incompatible uses to the roadway network, and would result in a less than significant impact. **(Less than Significant Impact)**

d) Would the project result in inadequate emergency access?

The proposed project would be required to comply with the City of San José policies and ordinances requiring adequate emergency access for the project site. The proposed project would not interfere with the emergency response to the project area, therefore, the proposed project would result in a less than significant impact to emergency access to and around the project site. **(Less than Significant Impact)**

4.17.3 Non-CEQA Effects

While the evaluation of project CEQA impacts on the transportation system is focused on vehicle miles traveled (VMT), in accordance with the City of San José Transportation Policy (Council Policy 5-1), the following discussion is included for informational purposes because City Council Policy 5-1 requires preparation of a Local Transportation Analysis (LTA) to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access, and recommend needed transportation improvements.

Project Trip Generation

Trip generation for the proposed project land uses was calculated using average trip generation rates from the Institute of Transportation Engineers (ITE) Trip Generation Manual, 11th Edition (September 2021). Trip generation calculations are displayed in Table 4.17-2 below.

Per the 2020 Transportation Analysis Handbook, trip generation reduction credits were applied to the project including location-based mode-share, potential VMT reduction strategies, and existing land uses. Development of the proposed project with all applicable trip reductions and credits is anticipated to generate a net new total of 570 additional daily trips, 58 AM, and 62 PM peak hour trips to the roadway network. Total gross vehicle trips for the proposed project (excluding existing trip credit adjustments) are 643 daily trips, 67 AM peak hour trips, and 71 PM peak hour vehicle trips.

Table 4.17-2 Project Trip Generation								
			AM Peak Trips			PM Peak Trips		
Land Use	Project Size	Total Daily Trips	In	Out	Total	In	Out	Total
Manufacturing	45,000 sf	214	24	7	31	10	23	33
High-Cube Fulfillment Center Warehouse	236,873 sf	429	29	7	36	15	23	38
Baseline Project Trips		**643**	**53**	**14**	**67**	**25**	**46**	**71**
Location Based Reduction	-5%	-33	-3	-1	-4	-2	-2	-4
Project Trips After Reduction		**610**	**50**	**13**	**63**	**23**	**44**	**67**
VMT Vehicle Trip Reduction	-6.56%	-40	-4	-1	-5	-2	-3	-5
Final Project Trips After Reduction		**570**	**46**	**12**	**58**	**21**	**41**	**62**

Source: Kimley Horn. 5977 & 6001 Silver Creek Valley Road Development Transportation Analysis. February 2022.

Notes: A 5% Mode Share Reduction from San Jose Transportation Analysis Handbook 2020 was applied since the project is located in a "Suburban with Single Family Home" area.

A 6.56% VMT Reduction from San Jose Transportation Analysis Handbook 2020 was applied since the project is planning to implement Tier 2 Multimodal VMT reduction strategies. Reduction percentage obtained from City VMT Evaluation Tool.

Intersection Traffic Operations

As described under Existing Conditions, the project is located in the EADP boundary. A prior traffic study (iStar Mixed-Use Development) was completed for the EADP and identified intersection improvements that have already been completed. Based on City direction and the 2014 EADP Update, the project is not required to study any signalized intersections and their adverse effects under project conditions. For informational purposes, intersection level of service operations analysis is shown for Existing, Background, and Cumulative Conditions.

Traffic counts for 2022 were determined from new turning movement counts on collected on Wednesday, January 19, 2022 for the study intersections by Kimley Horn for the Transportation Analysis. The study intersections were assessed under Existing, Background and Cumulative scenarios. City of San José and Valley Transportation Authority Congestion Management Program intersection level of service standards and significance thresholds were used to determine adverse effects caused by the project. Impacts to intersection operations are summarized below in Table 4.17.3.

Table 4.17-3 Intersection Operations Summary for Background Plus Project Conditions					
AM Peak Hour					
Intersection	**LOS Criteria**	**LOS**	**Delay**	**V/C Ratio**	**Impact**
Blossom Hill Rd / Highway 101 SB Ramp	D	C	27.6	0.711	No
Blossom Hill Rd / Highway 101 NB Ramp	D	D	43.5	0.858	No
Silver Creek Valley Rd / Silver Creek Valley Pl	D	A	9.4	0.376	No
Silver Creek Valley Rd / Piercy Rd	D	A	8.9	0.268	No
Silver Creek Valley Rd / Fontanoso Way	D	B	19.9	0.346	No
Silver Creek Valley Rd / Hellyer Ave	D	C	27.2	0.460	No
PM Peak Hour					
Intersection	**LOS Criteria**	**LOS**	**Delay**	**V/C Ratio**	**Impact**
Blossom Hill Rd / Highway 101 SB Ramp	D	C	34.7	0.812	No
Blossom Hill Rd / Highway 101 NB Ramp	D	D	52.8	0.886	No
Silver Creek Valley Rd / Silver Creek Valley Pl	D	B	12.2	0.383	No
Silver Creek Valley Rd / Piercy Rd	D	B	19.8	0.386	No
Silver Creek Valley Rd / Fontanoso Way	D	C	28.7	0.423	No
Silver Creek Valley Rd / Hellyer Ave	D	C	32.6	0.651	No
Source: Kimley Horn. 5977 & 6001 Silver Creek Valley Road Development Transportation Analysis. February 2022.					

Vehicle and Bicycle Parking

Based on City required parking ratios, the project is required to provide a minimum total of 199 off-street vehicle parking spaces and 20 bicycle parking spaces for the proposed industrial use. Table 4.17-4 summarizes the vehicle and bicycle parking requirements for the project. The project site plan proposes a total parking supply of 210 vehicle spaces to accommodate tenant employees and a total bicycle parking supply of 32 spaces (12 short term racks and 20 long term locker spaces). The project site plan is anticipated to provide sufficient vehicle and bicycle parking per the City's off-street parking requirement.

Table 4.17-4 Project Parking Summary					
Parking Type	**Land Use**	**Parking Standard per Guideline**	**Project Size**	**Vehicle Parking**	**Bicycle Parking**
Vehicle	Warehouse	-Two spaces for under 5,000 sf -Five spaces for under 25,000 sf -One space/5,000 sf over 25,000 sf	226,873 sf	48	-
	Manufacturing	-One space per 350 sf -One space for Company Vehicle	38,250 sf	111	-
	Office	-One space per 250 sf	10,000 sf	40	-
Bicycle	Warehouse	-One space per 10 full time employees	90 employees	-	9
	Manufacturing	-One space per 5,000 sf	38,250 sf	-	8
	Office	-One space per 4,000 sf	10,000 sf	-	3
			Total	199	20
Source: Kimley Horn. 5977 & 6001 Silver Creek Valley Road Development Transportation Analysis. February 2022.					

4.18 TRIBAL CULTURAL RESOURCES

4.18.1 Environmental Setting

4.18.1.1 *Regulatory Framework*

State

Assembly Bill 52

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

Under AB 52, TCRs are defined as follows:

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

4.18.1.2 *Existing Conditions*

According to the Cultural Resources Report prepared for the proposed project, no previously recorded archaeological sites are located within the proposed project area. However, a total of seven previously recorded resources are located within a one-quarter mile radius of the proposed project site. Due to the close proximity of identified cultural sites, the project site was determined to be moderately sensitive for cultural or tribal cultural resources.

4.18.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				

a)	Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?	☐	☐	☒	☐
b)	A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☐	☒	☐

a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?

The project site is not known to contain any tribal cultural resources, however, there is the possibility that tribal cultural resources could be uncovered during project construction, which would include excavation and grading.

Assembly Bill (AB) 52 requires lead agencies to complete formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be significantly impacted by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the Lead Agency. In 2017, the City had sent a letter to tribal representatives in the area to welcome participation in the AB 52 consultation process for all ongoing, proposed, or future projects within the City's Sphere of Influence or specific areas of the City.

On June 17, 2021, Chairwoman Geary of the Tamien Nation verbally requested AB 52 notification of projects in accordance with Public Resources Code Section 21080.3.1 subd (b), for all proposed projects that require a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report. Accordingly, AB 52 notification for this particular project was sent electronically and via certified mail to Tamien Nation on December 20, 2021, and the tribe requested consultation. The Tamien Nation has specifically requested tribal cultural sensitivity training for construction crew members prior to construction activities involving ground-disturbing activity. New crew members involved in ground-disturbing activities that did not attend a cultural sensitivity training would be required attend a training by the Tamien Nation on their first day of work. The Tamien Nation has also requested that a tribal monitor be present on the site during all ground-disturbing activities. Additionally, the tribe has requested that the City include the standard permit conditions for Subsurface Cultural Resources and for Human Remains, as described above in Section 4.5 Cultural Resources.

On June 30, 2021, Kanyon Sayers-Roods of the Band of Costanoan Ohlone people verbally requested AB 52 notification for all proposed projects that require a Negative Declaration, Mitigated Negative Declaration, or an Environmental Impact Report. Accordingly, the subject project's AB 52 notification was sent electronically to the Band of Costanoan Ohlone people on December 20, 2021. The representative from the Band of Costanoan Ohlone people deferred to the Tamien Nation for recommended cultural resource protection measures for this site, and recommended measures similar to those requested by the Tamien Nation, detailed above.

As described in Section 4.5 Cultural Resources, the project would be required to implement standard permit conditions to avoid potential impacts to unknown subsurface cultural resources. These conditions would be applicable to tribal cultural resources and would function to avoid impacts to such resources if they are discovered on-site. Therefore, the proposed project would not cause a substantial adverse change in the significance of a tribal cultural resource that is listed on local or state registers. **(Less than Significant Impact)**

b) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1?

As discussed above under checklist question a), there are no known tribal cultural resources on the project site, but implementation of the project could disturb unknown subsurface resources. These resources may not be eligible for listing in the CRHR, but the City or its consultant could nonetheless determine resources uncovered during construction to be significant. The proposed project would be required to implement standard permit conditions which address any accidental disturbance of cultural resources and set forth the appropriate procedure to be followed in the event of discovery. Implementation of these conditions would ensure the project does not cause a substantial adverse change in the significance of a tribal cultural resource that is determined to be significant by the City. Therefore, the impact would be less than significant. **(Less than Significant Impact)**

4.19 UTILITIES AND SERVICE SYSTEMS

4.19.1 Environmental Setting

4.19.1.1 *Regulatory Framework*

State

State Water Code

Pursuant to the State Water Code, water suppliers providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet (approximately 980 million gallons) of water annually must prepare and adopt an urban water management plan (UWMP) and update it every five years. As part of a UWMP, water agencies are required to evaluate and describe their water resource supplies and projected needs over a 20-year planning horizon, water conservation, water service reliability, water recycling, opportunities for water transfers, and contingency plans for drought events. The City of San José adopted its most recent UWMP in June 2021.

Assembly Bill 939

The California Integrated Waste Management Act of 1989, or AB 939, established the Integrated Waste Management Board, required the implementation of integrated waste management plans, and mandated that local jurisdictions divert at least 50 percent of solid waste generated (from 1990 levels), beginning January 1, 2000, and divert at least 75 percent by 2010. Projects that would have an adverse effect on waste diversion goals are required to include waste diversion mitigation measures.

Assembly Bill 341

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

Senate Bill 1383

SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. The bill grants CalRecycle the regulatory authority required to achieve the organic waste disposal reduction targets and establishes an additional target that at least 20 percent of currently disposed edible food is recovered for human consumption by 2025.

Assembly Bill 1826 (2014)

AB 1826 sets forth the requirements of the statewide mandatory commercial organics recycling program for businesses and multi-family dwellings with five or more units that generate two or more cubic yards of commercial solid waste per week. AB 1826 sets a statewide goal for 50 percent reduction in organic waste disposal by the year 2020.

California Green Building Standards Code

In January 2010, the State of California adopted the California Green Building Standards Code, establishing mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resources efficiency, and indoor environmental quality. These standards include the following mandatory set of measures, as well as more rigorous voluntary guidelines, for new construction projects to achieve specific green building performance levels:

- Reducing indoor water use by 20 percent;
- Reducing wastewater by 20 percent;
- Recycling and/or salvaging 65 percent of nonhazardous construction and demolition ("C&D") debris, or meeting the local construction and demolition waste management ordinance, whichever is more stringent; and
- Providing readily accessible areas for recycling by occupants.

Local

Envision San José 2040 General Plan

The Envision San José 2040 General Plan contains the following policies which are specific to utilities and service systems and applicable to the proposed project:

Envision San José 2040 Relevant Utilities and Service Systems Policies

Policy	Description
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.
IN-3.5	Require development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D", to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.
IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
MS-3.2	Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply, as building codes permit. For example, promote the use of

	captured rainwater, graywater, or recycled water as the preferred source for non-potable water needs such as irrigation and building cooling, consistent with Building Codes or other regulations.
MS-3.3	Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
IN-3.10	Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES) permit.
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.

In addition to the above-listed San José General Plan policies, new development in San José is also required to comply with programs that mandate the use of water-conserving features and appliances and the Santa Clara County Integrated Watershed Management (IWM) Program, which minimizes solid waste.

Construction and Demolition Diversion Deposit Program

The Construction and Demolition Diversion Deposit Program (CDDD) requires projects to divert at least 50% of total projected project waste to be refunded the deposit. Permit holders pay this fully refundable deposit upon application for the construction permit with the City if the project is a demolition, alteration, renovation, or a certain type of tenant improvement. The minimum project valuation for a deposit is $2,000 for an alteration-renovation residential project and $5,000 for a non-residential project. There is no minimum valuation for a demolition project and no square footage limit for the deposit applicability. The deposit is fully refundable if C&D materials were reused, donated, or recycled at a City-certified processing facility. Reuse and donation require acceptable documentation, such as photos, estimated weight quantities, and receipts from donations centers stating materials and quantities. Though not a requirement, the permit holder may want to consider conducting an inventory of the existing building(s), determining the material types and quantities to recover, and salvaging materials during deconstruction.

California Green Building Standards Code Compliance for Construction, Waste Reduction, Disposal and Recycling

The City of San José requires 75 percent diversion of nonhazardous construction and demolition debris for projects that quality under CALGreen, which is more stringent than the state requirement of 65 percent (San José Municipal Code Section 9.10.2480).

San José Zero Waste Strategic Plan/Climate Smart San José

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

San José Sewer System Management Plan

The purpose of the Sewer System Management Plan (SSMP) is to provide guidance to the City in the operation, maintenance, and rehabilitation of the sewer assets of the City of San José. The SSMP includes construction standards and specifications for the installation and repair of the collection system and its associated infrastructure.

Private Sector Green Building Policy

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

4.19.1.2 *Existing Conditions*

Water Supply

Water service is provided to the City of San José by three water retailers, the San Jose Water Company, the City of San José Municipal Water System, and the Great Oaks Water Company. Water service to the project site is provided by the San José Municipal Water System. The service area of the San José Municipal Water System provides water for about 93,300 residents living in the area of San José and many businesses, and obtains its supply from a groundwater source, including wells that pump water from the Santa Clara Valley Groundwater Basin.[72] The site is vacant and does not have a utilities demand. A water line in Silver Creek Valley Road and Fontanoso Way would deliver water to the site.

Wastewater Services

Wastewater from the City of San José is treated at the San José-Santa Clara Regional Wastewater Facility (the Facility) which is administered and operated by the City's Environmental Services Department. The Facility treats an average of 110 million gallons of wastewater per day and serves 1.4 million residents.[73] The City generates approximately 69.8 million gallons per day (mgd) of dry weather sewage flow. The City's capacity allocation at the Facility is approximately 108.6 mgd, leaving the City with approximately 38.8 mgd of excess treatment capacity.

There is an existing eight-inch sanitary sewer main in Silver Creek Valley Road and Fontanoso Way, which may serve the project site. The General Plan FEIR states that average wastewater flow rates are approximately 70 to 80 percent of domestic water use and 85 to 95 percent of business use (assuming no internal recycling or reuse programs). For the purposes of this analysis, wastewater flow rates are assumed to be 95 percent of the total on-site water use.

[72] Water Zen. San Jose Municipal Water System – Evergreen-Edenvale-Coyote. Accessed January 19, 2022. https://waterzen.com/water-providers/san-jose-water-edenvale-coyote-valley/.
[73] City of San José. San José-Santa Clara Regional Wastewater Facility. Accessed January 19, 2022. http://www.sanjoseca.gov/?nid=1663.

Storm Drainage

The City of San José owns and maintains the municipal stormwater drainage system which serves the project site. The lines that serve the project site drain into Coyote Creek and carry stormwater from the storm drains into San Francisco Bay. The project site is approximately 200 feet east of Coyote Creek. There is no overland release of stormwater directly into any water body from the project site because water on site would infiltrate into the soil.

Currently, the project site is undeveloped and comprised of 100 percent pervious surfaces. There is an existing 24-inch storm drain main along the Silver Creek Valley Road Street project frontage and 66-inch storm drain main along Fontanoso Way, which would serve the project site.

Solid Waste

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California IWMB in 1996 and was reviewed in 2004 and 2007. Based on the IWMP, the County has adequate landfill capacity. In October 2007, the San José City Council adopted a Zero Waste Resolution which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022. In 2019, there were approximately 600,000 tons of material generated in San Jose that was disposed in various landfills throughout the State. Newby Island, however, only received approximately 290,000 of that tonnage. The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year. According to the IWMP, the County has adequate disposal capacity beyond 2030.[74]

All municipal solid waste in San José is landfilled at Newby Island Sanitary Landfill (NISL). The City has an existing contract with NISL through 2041 with the option to extend the contract.[75] The City has an annual disposal allocation for 395,000 tons per year. As of April 2021, NISL had approximately 13.7 million cubic yards of capacity remaining.[76]

The project site is vacant and does not currently have a utilities demand.

[74] Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report*. June 2016.
[75] North, Daniel. General Manager, Republic Services. Personal Communication. April 19, 2021.
[76] Ibid.

4.19.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☒	☐
b) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☒	☐
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☒	☐
d) Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☒	☐
e) Be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?	☐	☐	☒	☐

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

The project would construct approximately 226,873 square feet of warehouse space, 10,000 square feet of office space, and approximately 45,000 square feet of manufacturing uses and would use approximately 180,183 gpd of water.[77] Although water demand within the Muni Water service area could exceed water supply during dry and multiple dry years after 2025 from full build out, the 2040 General Plan FEIR concluded that with the implementation of existing regulations and General Plan policies, water demand would not exceed water supply. As noted previously, the project is consistent with the General Plan land use assumptions for the site, and the project's water demand has been

[77] CAlEEMod 2013 Water Usage Rates.
General Light Industry Indoor Water Use 231,250 gallons per year/1000sqft;
General Office Building Indoor Water Use:177,734/1000sqft Outdoor Water Use: 108,934/1000sqft;
Manufacturing Indoor Water Use: 231,250/1000sqft

accounted for in the water supply assessment prepared by Muni Water evaluating planned growth in the General Plan. Therefore, implementation of the proposed project would not require or result in the expansion of the existing water conveyance system or the construction of new infrastructure.

The proposed project is estimated to generate 171,173 gpd of wastewater. The project would comply with all applicable Public Works requirements to ensure sanitary sewer lines would have capacity to accommodate wastewater generated by the proposed project. Since the proposed development is consistent with planned growth in the city development boundaries, the project would not exceed the City's allocated capacity at the Facility.

Impervious surfaces on-site would increase by approximately 517,043 square feet under project conditions. The existing storm drainage system has sufficient capacity to support the current site conditions. All new and redeveloped projects, including the project, regardless of size and land use would be required to implement post-construction BMPs and TCM consistent with City Policy No. 6-29, Post-Construction Urban Runoff Management. Additionally, the project would be required to comply with the RWQCB MRP (refer to Section 4.10 Hydrology and Water Quality).

The project would comply with CALGreen and the City's Private Sector Green Building Policy and would be consistent with planned growth in the Envision 2040 General Plan. Additionally, the project would comply with the policies and regulations identified in the General Plan 2040 FEIR. The project would utilize existing utility connections to connect to the City's water, storm drainage, electric, natural gas, and telecommunications facilities. Although the project would increase the demand on existing facilities in the City, relocation of existing or construction of new facilities would not be needed to serve the proposed project. As a result, the proposed project would have a less than significant impact on these facilities. **(Less than Significant Impact)**

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

According to the General Plan FEIR, water demand within the Muni Water service area could exceed water supply with implementation of the General Plan during dry and multiple dry years after 2025. Future water demand from full build out of the General Plan in 2040 would be approximately 40,965 acre-feet per year (AFY) which represents an 89 percent increase over the system wide 2020 water production of 21,643 acre-feet. Although the projected water demand would increase, Muni Water concluded that the increase was already accounted for in Muni Water's 2020 UWMP. The General Plan 2040 FEIR concluded that implementation of General Plan policies and existing regulations would substantially reduce demand for water generated by current and future development. With implementation of the CALGreen requirements and the City's Private Sector Green Building Policy, there would be sufficient water supplies available to serve the project and planned future development within the Muni Water service area. **(Less than Significant Impact)**

c) Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

As noted above, wastewater generated by the proposed project would be treated at the Facility. All wastewater generated by the proposed project would be directed to the municipal wastewater conveyance and treatment system. The proposed project would be consistent with the growth assumptions in the General Plan 2040 FEIR and the Facility would have adequate capacity to serve 100 percent of the project's projected demand in addition to its existing commitments (please refer to Impact UTIL-1). **(Less than Significant Impact)**

d) Would the project generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

The proposed project would generate approximately 1,898 pounds of solid waste per day, a net increase of 1,898 pounds per day over existing conditions on-site.[78] This is equivalent to approximately one cubic yard per day. As mentioned previously, NISL had approximately 14.6 million cubic yards of capacity remaining in December 2019. Given NISL's remaining capacity, the City's contract with NISL, the amount of waste the City disposes at NISL, and the amount of waste the project is estimated to generate, there is sufficient capacity at NISL to serve the project. **(Less than Significant Impact)**

e) Would the project be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?

Future projects (including the proposed project) would be required to provide on-site recycling facilities, develop a construction waste management plan, salvage at least 50 percent of non-hazardous construction/demolition debris (by weight), and implement other waste reduction measures consistent with CALGreen requirements. The estimated increase in solid waste generation from future development would be avoided through implementation of the City's Zero Waste Strategic Plan. The Zero Waste Strategic Plan, in combination with existing regulations and programs, would ensure that the proposed project would not result in significant impacts on solid waste disposal capacity in excess of state or local standards or in excess of NISL capacity. **(Less than Significant Impact)**

[78] CalEEMod Waste Generation Rates:
General Light Industry: 1.24 tons per 1000sq ft per year =281.32 tons per year
General Office Building: 0.93 tons per 1000sq ft per year= 9.3 tons per year
Manufacturing: 1.24 tons per 1000sq ft per year =55.8 tons per year
346.42 tons per year=1,898 pounds per day

4.20 WILDFIRE

4.20.1 Environmental Setting

4.20.1.1 *Regulatory Framework*

State

Fire Hazard Severity Zones

CAL FIRE is required by law to map areas of significant fire hazards based on fuels, terrain, weather, and other relevant factors. Referred to as Fire Hazard Severity Zones (FHSZs), these maps influence how people construct buildings and protect property to reduce risk associated with wildland fires. FHSZs are divided into areas where the state has financial responsibility for wildland fire protection, known as state responsibility areas (SRAs), and areas where local governments have financial responsibility for wildland fire protection, known as local responsibility areas (LRAs). Homeowners living in an SRA are responsible for ensuring that their property is in compliance with California's building and fire codes. Only lands zoned for very high fire hazard are identified within LRAs.

California Fire Code Chapter 47

Chapter 47 of the California Fire Code sets requirements for wildland-urban interface fire areas that increase the ability of buildings to resist the intrusion of flame or burning embers being projected by a vegetation fire, in addition to systematically reducing conflagration losses through the use of performance and prescriptive requirements.

California Public Resources Code Section 4442 through 4431

The California Public Resources Code includes fire safety regulations that restrict the use of equipment that may produce a spark, flame, or fire; require the use of spark arrestors on construction equipment that uses an internal combustion engine; specify requirements for the safe use of gasoline-powered tools on forest-covered land, brush-covered land, or grass-covered land; and specify fire suppression equipment that must be provided onsite for various types of work in fire-prone areas. These regulations include the following:

- Earthmoving and portable equipment with internal combustion engines would be equipped with a spark arrestor to reduce the potential for igniting a wildland fire (Public Resources Code Section 4442);
- Appropriate fire suppression equipment would be maintained during the highest fire danger period, from April 1 to December 1 (Public Resources Code Section4428);
- On days when a burning permit is required, flammable materials would be removed to a distance of 10 feet from any equipment that could produce a spark, fire, or flame, and the construction contractor would maintain appropriate fire suppression equipment (Public Resources Code Section 4427); and
- On days when a burning permit is required, portable tools powered by gasoline-fueled internal combustion engines would not be used within 25 feet of any flammable materials (Public Resources Code Section 4431).

California Code of Regulations Title 14

The California Board of Forestry and Fire Protection has adopted regulations, known as SRA Fire Safe Regulations, which apply basic wildland fire protection standards for building, construction, and development occurring in a SRA. The future design and construction of structures, subdivisions and developments in SRAs are required to provide for the basic emergency access and perimeter wildfire protection measures discussed in Title 14.

Fire Management Plans

CAL FIRE has developed an individual Unit Fire Management Plan for each of its 21 units and six contract counties. CAL FIRE has developed a strategic fire management plan for the Santa Clara County Unit, which covers the project area and addresses citizen and firefighter safety, watersheds and water, timber, wildlife and habitat (including rare and endangered species), unique areas (scenic, cultural, and historic), recreation, range, structures, and air quality. The plan includes stakeholder contributions and priorities and identifies strategic areas for pre-fire planning and fuel treatment as defined by the people who live and work with the local fire issues.

Local

San José Fire Department Wildland-Urban Interface Fire Conformance Policy

Buildings proposed to be built within the SJFD WUI shall comply with all WUI materials and construction methods per CBC Chapter 7A and CRC Section R337.[79] The applicant shall, prior to construction, provide sufficient detail to demonstrate that the building proposed to be built complies with this policy. Building Permit Plans are also to be approved by the SJFD.

4.20.1.2 *Existing Conditions*

According to the CAL FIRE FRAP, the FHSZ is located outside of the boundaries of the project site.[80]

4.20.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, Would the project:				
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒

[79] San José Fire Department. *Wildland-Urban Interface (WUI) Fire Conformance Policy.* January 1, 2017. https://www.sanjoseca.gov/Home/ShowDocument?id=9345

[80] Cal Fire. Fire Hazard Severity Zone Viewer. Accessed December 7, 2021. https://egis.fire.ca.gov/FHSZ/

	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:				
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?	☐	☐	☐	☒

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones; therefore, the project would not result in wildfire impacts. **(No Impact)**

4.21 MANDATORY FINDINGS OF SIGNIFICANCE

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

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

As stated in Section 4.4, Biological Resources, the proposed project would not have an impact on sensitive species near the project site as a result of degradation of environmental quality or reduction of habitat through incorporation of mitigation measures. Additionally, the project site was determined to be absent of sensitive animal or plant species, therefore the proposed project would not reduce population of these species below a self-sustaining level. Pre-construction nesting surveys would be completed for construction activity during the avian nesting season to ensure project construction would not disturb nesting activity that may occur on or near the site. Further, the proposed project would implement standard permit conditions, as described in Section 4.5 Cultural Resources, which would prevent construction of the proposed project from causing damage to examples of California history or prehistory. Therefore, the proposed project would result in a less than significant impact on these biological and cultural resources. **(Less than Significant Impact with Mitigation Incorporated)**

b) Does the project have impacts that are individually limited, but cumulatively considerable?

Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects "that are individually limited, but cumulatively considerable." As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means "that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."

The proposed project would result in temporary biological, cultural resources, geology and soils, hazardous and hazardous materials, and hydrology and water quality, noise impacts during construction. With implementation of the identified Standard Permit Conditions, and measures identified in the General Plan 2040 FEIR, BMPs, mitigation measures, and consistency with adopted City policies, construction impacts would be mitigated to a less than significant level. Because the nature of the identified impacts is temporary, localized to the site and its immediate surroundings, and would be mitigated, the proposed project would not have a cumulatively considerable impact on biological, cultural resources, geology and soils, hazardous and hazardous materials, hydrology and water quality, noise impacts.

The project was determined to have less than significant impact on aesthetics, energy, land use, public services, and utilities. The proposed project would be served by existing energy facilities, utilities, and public services within the expected development established in the General Plan. Therefore, the proposed project would not result in cumulative impacts to these impact areas. Additionally, the proposed project's aesthetics would match the surrounding areas and would not cumulatively impact aesthetic resources in the area. The project is consistent with land uses established in the General Plan, therefore, there is no cumulative impact associated with land use.

During operations, the proposed project would result in an impact due to VMT. The proposed project would implement multi modal improvement mitigation measures to incentivize alternative forms of transit and decrease the VMT impact to less than significant. Through implementation of this mitigation measure, the proposed project would not result in an operational impact and would not contribute to a cumulative VMT impact.

The project is consistent with planned growth in the General Plan and would not, by itself, result in significant emissions of criteria air pollutants or GHG. As noted in Section 4.3 Air Quality, project operational air quality emissions would not exceed applicable daily and annual thresholds, which are used to determine whether a project would contribute to cumulative air quality impacts across the Bay Area Air Basin. As discussed in Section 4.8 greenhouse Gas Emissions, the project would comply with the City's Greenhouse Gas Reduction Strategy, and therefore would be consistent with State and City GHG reduction goals for 2030. Therefore, the project would not result in a cumulatively considerable impact related to regional criteria pollutants or global GHG emissions.

As discussed in the respective sections, the proposed project would have no impact on agriculture and forestry resources, mineral resources, population and housing, recreation, and wildfire. The

project would not have a cumulatively considerable impact on these resource areas. **(Less than Significant Impact with Mitigation Incorporated)**

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

Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. While changes to the environment that could indirectly affect human beings would be represented by all of the designated CEQA issue areas, those that could directly affect human beings include air quality, hazardous materials, and noise. Implementation of applicable regulations and policies, Standard Permit Conditions, and mitigation measures would reduce the impacts to a less than significant level. No other direct or indirect adverse effects on human beings have been identified. **(Less than Significant Impact)**

SECTION 5.0 REFERENCES

The analysis in this Initial Study is based on the professional judgement and expertise of the environmental specialists preparing this document, based upon review of the site, surrounding conditions, site plans, and the following references:

Public Resources Code Section 21009. Accessed December 6, 2021. https://codes.findlaw.com/ca/public-resources-code/prc-sect-21099.html.

California Department of Transportation. "Scenic Highways." Accessed December 6, 2021. https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways.

California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed December 6, 2021. https://maps.conservation.ca.gov/DLRP/CIFF/.

California Department of Conservation. "Williamson Act." http://www.conservation.ca.gov/dlrp/lca.

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SECTION 6.0 LEAD AGENCY AND CONSULTANTS

6.1 LEAD AGENCY

Cort Hitchens
Planner II
City of San José

6.2 CONSULTANTS

David J. Powers & Associates, Inc.
Environmental Consultants and Planners

APEX
Phase I Environmental Site Assessment

Archaeological Resource Management
Cultural Resource Evaluation

Kimley Horn
Air Quality, Noise, Energy, GHG, and Transportation Assessments

Kleinfelder
Geotechnical Investigation Report